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Federal Register

OK
Wednesday
July 6, 1983

Selected Subjects

Air Pollution Control

Environmental Protection Agency

Allens

Immigration and Naturalization Service

Animal Biologics

Animal and Plant Health Inspection Service

Communications Common Carriers

Federal Communications Commission

Cotton

Agricultural Marketing Service

Electric Utilities

Energy Department

Employment Taxes

Internal Revenue Service

Fisheries

National Oceanic and Atmospheric Administration

Freedom of Information

Federal Communications Commission

Government Procurement

General Services Administration

Government Property Management

General Services Administration

Hazardous Waste

Environmental Protection Agency

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

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 28

Revision of User Fees for Cotton Classification Service to Producers

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rulemaking.

SUMMARY: This action will revise the user fees for cotton classification services to producers as required by the Omnibus Budget Reconciliation Act of 1981. The Omnibus Budget Reconciliation Act (95 Stat. 357) contains amendments to the Cotton Statistics and Estimates Act of 1927 (7 U.S.C. 471-476) which direct the Secretary of Agriculture to provide cotton classification services to producers and recover, as nearly as practicable, the costs of providing such services including administrative and supervisory costs through the imposition of user fees. An overall increase in the fees is necessary to recover the projected costs of services to producers for the 1983 cotton crop.

DATES: Effective date: July 1, 1983.

Comment Date: USDA will accept public comments on this amendment until September 6, 1983.

ADDRESS: Comments may be addressed to Loyd R. Frazier, Chief, Marketing Services Branch, AMS, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, (202) 447-2147.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under the USDA procedure established in accordance with Executive Order 12291 of February 17, 1981, and the Secretary's Memorandum 1512-1, and has been classified "non-major" as it does not

meet the criteria contained therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Program Operations, Agricultural Marketing Service (AMS), has determined that this action will not have a significant impact on a substantial number of small business entities as defined in the Regulatory Flexibility Act (7 U.S.C. 601 *et seq.*) as (i) the increased fees merely reflect a minimal increase in the cost-per-unit as is currently borne by those entities utilizing the services; (ii) the increased fees will not affect normal competition in the marketplace; (iii) cotton classification is not a mandatory service; and (iv) the Secretary has been directed to recover the costs of such services.

It has been determined also that a situation exists which warrants publication of this section without opportunity for a prior public comment period because necessary cost and revenue projections, based in part on cotton crop volumes, to set the fees are best obtained just prior to the harvesting season. Further, the implementation of the Payment-in-Kind (PIK) program and grower participation therein has made such projections more difficult and time consuming in establishing the best projections possible. Since the harvesting of the 1983 cotton crop will begin in July, it is necessary to implement these revised fees on July 1, 1983, to insure that the costs of the program are covered by fees paid by all participating growers during the 1983 cotton season. Therefore, it has been determined that the existing situation warrants these revisions be made effective no later than July 1, 1983.

Accordingly, pursuant to the administrative procedure provisions of 5 U.S.C. 553, it is found upon good cause that notice and other public procedures are impracticable, unnecessary and contrary to the public interest and good cause is found for publishing this interim final rule effective July 1, 1983 (less than 30 days after publication), with opportunity for public comments after publication. The Department will, however, accept public comments concerning these amendments until September 6, 1983, and will consider revising these amendments should such comments demonstrate a need therefor.

The Omnibus Budget Reconciliation Act of 1981 (95 Stat. 357) amended

section 3a of the Cotton Statistics and Estimates Act, 7 U.S.C. 473a, to require that user fees shall be charged for the classification of producer cotton for fiscal years 1982, 1983, and 1984. This legislation directed the Secretary to set the user fee at a level that when combined with the proceeds from the sale of samples submitted for classification would recover, as nearly as practicable, the cost of the service provided, including administrative and supervisory costs. The Secretary was also directed to take necessary action to insure that the Government cotton classification system continues to operate to provide an official quality description for the United States cotton crop. The fee for classification of producers' cotton was set at 67 cents per sample during the 1982 harvest season (47 FR 50843-50845).

This proposal will increase the classification fee for manual classification services to producers in § 28.909 from 67 cents to \$1.15 per sample. This increase in the fee is necessary due to the following conditions: (1) Appropriated funds covered part of the classing costs for the 1981 and 1982 crops (approximately 17%) during the first two years of implementation of the user fee. No classing fee had been charged to producers prior to the 1981 crop, and the continuation of appropriations to cover part of the costs of the program allowed the user fee to be kept to a minimum during the initial period. No appropriations have been allocated for the 1983 crop. This change accounts for the largest portion of the required increase in fees (approximately 63%); (2) anticipated volume of cotton to be classed from the 1983 crop is substantially below normal, primarily as a result of grower participation in the PIK program. In the 1982 crop, 12 million bales were produced. The present projections indicate that only 8.4 million bales will be produced from the 1983 crop. The unit cost of classing is affected by the volume of classings inasmuch as there are certain fixed costs which will remain constant whether volume decreases or increases; (3) a smaller volume of samples acquired for classification purposes will be accumulated for sale, the proceeds from which are used to defray a portion of the classing costs; (4) operating costs for providing classification services to

producers have increased. There has been an overall 4.0 percent increase in salaries since the last fee revision as well as increases in expenditures for rent, utilities, communications, supplies and materials.

In setting the fee, there are a number of cost and revenue projections which must be made at this time on the basis of incomplete information. These include: (1) The size of the 1983 crop, (2) the percentage of the 1983 crop for which classification service will be requested, (3) the volume of baled samples to be sold and the price to be received therefor, and (4) the ability to collect classing fees. In recognition of these variables, an adjustment in the per sample classing fee could become necessary during the year.

Cotton classification services have traditionally consisted of determinations for grade, staple, and micronaire. This traditional service is referred to as manual classification because grade and staple are determined by a USDA cotton classer. In addition to the manual classification service, USDA has made High Volume Instrument (HVI) classification service available to growers in some areas on an optional trial basis. HVI classification consists of determination for grade, staple, length, length uniformity, color, trash, strength and micronaire. All determinations are instrument measurements except grade and trash which are determined manually by a USDA classer. Grower reaction to HVI classing has been favorable and the service is being expanded on an optional basis to other areas as equipment becomes available. The fee in § 28.909 for HVI classification services to growers, except those served by the Lamesa, Texas classing facility, will be an additional 45 cents per sample. HVI classing costs are higher than manual classification due primarily to the costs of the additional equipment used and some additional labor charges.

In § 28.909 the fee for HVI classification services for growers served by the Lamesa, Texas Marketing Service will be \$1.15 per sample. The Lamesa, Texas classing facility was established on a trial basis in 1980 as the first automated USDA cotton classing facility equipped to instrument class all cotton received. HVI classing equipment for the facility was purchased through a cooperative funding agreement under the Federal-State Marketing Improvement Program (FSMIP) in which a substantial amount of funds came from cotton growers served by the Lamesa facility.

The purpose of the FSMIP agreement with Lamesa growers was to establish a large scale evaluation of HVI classing.

Until such time that it is determined that the Lamesa growers have been appropriately recompensed for their investment, the fee for HVI classing to Lamesa growers will be the same as the fee for manual classification to growers.

The proposed fee in § 28.910 for issuance of a new memorandum of classification at the request of the owner of the cotton for the business convenience of the owner without the reclassification of such cotton is increased from \$1.90 to \$2.00 per sheet due to increased costs of providing this service.

The proposed fee for a manual review classification in § 28.911 is being increased from \$1.05 to \$1.10 per sample and the proposed HVI review classification will be \$1.55 per sample except for growers served by the Lamesa facility. For the reasons stated above, Lamesa growers will pay \$1.10 per sample for HVI review classification. The Lamesa growers presently pay \$1.05 per sample for HVI review classification.

Section 28.909 provides that USDA will bill the grower or such agent as the grower designates for the cost of the service. Substantial savings in USDA's costs for accounting, billing, and collections have resulted from cotton gins, warehouses, and other agents who have volunteered to serve as collection agents for the user fee because of the economies of scale involved therein. USDA's cost per sample for performing these functions on an individual grower account basis is significantly higher. Therefore a discount of 5 cents per sample will be applied for those services in § 28.909 billed to a voluntary collection agent.

List of Subjects in 7 CFR Part 28

Grades, Staples.

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

Accordingly, 7 CFR Part 28 is amended as follows:

Subpart D—Cotton Classification and Market News Services for Producers

1. Section 28.909 is amended by revising paragraph (b) and adding paragraphs (c) and (d) to read as follows:

§ 28.909 Costs.

(b) The cost for manual cotton classification service to producers is \$1.15 per sample.

(c) The cost for High Volume Instrument classification to producers is the cost for manual cotton classification

service plus an additional 45 cents per sample, except in the Lamesa, Texas classing facility where no additional fee will be charged for High Volume Instrument classification.

(d) The Division will periodically bill producers or the voluntary agents designated by producers for the cost of classification. A discount of 5 cents per sample will be granted for services provided under this section when billing is made to voluntary agents.

2. Section 28.910 is amended by revising paragraph (b) to read as follows:

Classification

§ 28.910 Classification of samples and issuance of memoranda.

(b) Upon the request of an owner of cotton for which classification memoranda have been issued under this subpart, a new memorandum shall be issued for the business convenience of such owner without the reclassification of the cotton. Such rewritten memorandum shall bear the date of its issuance and the date or inclusive dates of the original classification. The fee for a new memorandum shall be \$2.00 per sheet.

3. Section 28.911 is revised to read as follows:

§ 28.911 Review classification.

A producer may request one manual review classification for each bale of eligible cotton. The fee for manual review classification is \$1.10 per sample. The fee for High Volume Instrument (HVI) review classification provided by any classing facility except Lamesa is \$1.55 per sample. The fee for HVI review classification from the Lamesa facility is \$1.10 per sample. Samples for review classification must be drawn by gins or warehouses licensed pursuant to §§ 28.20–28.22, or by employees of the United States Department of Agriculture. Each sample for review classification shall be taken, handled, and submitted according to § 28.908 and to supplemental instructions issued by the Director or an authorized representative of the Director. Costs incident to sampling, tagging, identification, containers, and shipment for samples for review classification shall be assumed by the producer. After classification the samples shall become the property of the Government unless the producer requests the return of the samples. The proceeds from the sale of samples that become Government property shall be used to defray the costs of providing the services under this subpart. Producers who request

return of their samples after classing will pay a fee of 25 cents per sample in addition to the fee established above in this section.

(Sec. 10, 42 Stat. 1519, Sec. 3c, 50 Stat. 62; 7 U.S.C. 61, 473c, and Sec. 156, 95 Stat. 357, unless otherwise noted)

Dated: June 30, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-18000 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 180

Plant Variety Protection Act; Expanded Eligibility for Protection of Foreign Varieties

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Plant Variety Protection Act of 1970 provides legal protection to breeders of sexually-reproduced plant varieties. In conformance with the International Union for the Protection of New Varieties of Plants (UPOV), the Department modifies and extends for all breeders the period during which a foreign variety is eligible for protection in the United States. Eligibility will be determined from the date of the marketing of the variety in a foreign country, and the breeder will have 6 years in the case of woody plants or 4 years for all other plants to file an application in the United States. The rule also extends all the rights under the Act to nationals and residents of UPOV member states. These changes will assure that the plant variety protection regulations conform with the provisions of UPOV treaty and thus obtain the benefits of UPOV membership for U.S. breeders of sexually-reproduced varieties and make more varieties available for U.S. agriculture.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Evans, Acting Commissioner, Plant Variety Protection Office, Livestock, Meat, Grain, and Seed Division, AMS, National Agricultural Library Building, Room 500, Beltsville, Maryland 20705, telephone: (301) 344-2518.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on pages 4797 and 4798 of the Federal Register of February 3, 1983, and invited comments for 60 days ending April 4, 1983. Comments were received from six sources representing the seed industry, seed certification and the government. All comments were in favor of the

proposed rule. The Plant Variety Protection Board, representing farmers and the private and public sectors of the seed industry, recommended adoption of these regulations in their September 28 and 29, 1982, meeting.

The comments were all supportive; however, they pointed out that the Department had not completely achieved its stated objective of bringing the regulations into conformance with the UPOV convention because reciprocity was limited on the basis of genus and species, and because protection was not extended to residents of UPOV member countries. The comments also pointed out simpler ways of achieving the stated goal. Accordingly, minor revisions are made in the final rule. Residents as well as nationals of UPOV member countries are afforded national status, and the circumstances under which foreign applicants must provide copies and translations of foreign laws are reduced.

These rules have been reviewed under USDA procedures established to implement Executive Order 12291 and the secretary's Memorandum 1512-1 and has been determined to be "nonmajor." It will not result in an annual effect on the economy of \$100 million or more; or in a major increase in production costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or have significant adverse effect on competition, employment, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601) full consideration has been given to the potential economic impact upon small businesses. A number of breeders of novel varieties fall within the confines of "small businesses" as defined in the Regulatory Flexibility Act.

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 increased eligibility of foreign varieties and expanded reciprocity can open up new markets for American breeders, increase the number of desirable varieties available to U.S. agriculture and expand the possibility of producing seed of foreign varieties for export. All of these will increase the relative profitability of U.S. agriculture. It has been determined that the economic impact upon all entities, small and large, by the increased eligibility and expanded reciprocity will not be

significant and will not affect normal competition in the marketplace.

List of Subjects in 7 CFR Part 180

Plant Variety Protection Act, Administrative practices and procedures, Fees, Reciprocity.

PART 180—REGULATIONS AND RULES OF PRACTICE UNDER THE PLANT VARIETY PROTECTION ACT

The Department amends the regulations under the Plant Variety Protection Act contained in 7 CFR Part 180 as follows:

§ 180.5 [Amended]

1. Section 180.5(a), is revised to read as follows:

(a) Protection under the Act shall be afforded only as follows:

(1) Nationals and residents of the United States shall be eligible to receive all of the protection under the Act.

(2) Nationals and residents of Member States of the International Union for the Protection of New Varieties of Plants shall be eligible to receive the same protection under the Act as is provided nationals of the United States.

(3) Persons who are not entitled to protection under paragraph (a) (1) or (2) of this section and who are nationals of a foreign state which is not a member of the International Union for the Protection of New Varieties of Plants shall be entitled to only so much of the protection provided under the Act as is afforded by such foreign state to nationals of the United States for the same genus and species under the laws of such foreign state in effect at the time that the application for protection under the Act is filed, except where further protection under the Act must be provided in order to avoid the violation of a treaty to which the United States is a party.

2. Section 180.5 is amended by adding paragraph (b)(4) to read as follows:

(b) ***

(4) For the purpose of determining the extent of reciprocity of the protection to be provided under the Act, persons filing an application for plant variety protection in the United States under the provisions of paragraph (a)(3) of this section shall, upon request¹ furnish the

¹ Copies and translations of foreign laws and regulations will be requested only if they are not in the files of the Plant Variety Protection Office. Applicants may learn whether such a request will be made by writing to the address given in paragraph (c) of this section or by calling (301) 344-2518.

Plant Variety Protection Office with a copy of the current plant variety protection laws and regulations for the country of which the applicant is a national and an accurate English translation of such laws and regulations.

3. Section 180.5(c) is revised to read as follows:

(c) Application and exhibit forms shall be issued by the Commissioner. (Copies of the forms may be obtained from the Plant Variety Protection Office, Livestock, Meat, Grain, and Seed Division, AMS, USDA, Room 500, National Agricultural Library Building, Beltsville, Maryland 20705.)

4. Section 180.7 paragraph (a)(7) and paragraph (b) are revised to read as follows:

§ 180.7 Statement of applicant.

(a) * * *

(7) He or his privies have not offered for sale or marketed the variety, with the agreement of the breeder, in a foreign state for longer than 6 years in the case of vines, forest trees, fruit trees, and ornamental trees, including, in each case, their rootstocks, or for longer than 4 years in the case of all other plants.

(b) If the same variety has been marketed with the agreement of either the applicant or his privies, the applicant shall state the names of the countries in which the variety was marketed and give the day, month, and year of first marketing in each country.

Done at Washington, D.C.: June 29, 1983.

Kenneth Latcholia,

Acting Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-18092 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 924

Fresh Prunes Grown in Designated Counties in Washington, and in Umatilla County, Oregon; Amendment of Prune Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This action increases the surface color requirement of fresh prunes shipped from the production area from prunes having at least two-thirds purplish color to at least three-fourths purplish color. This change is necessary to assure shipment of mature prunes in the interest of producers and consumers.

DATES: July 6, 1983 through August 31, 1983; comments which are received by August 5, 1983 will be considered prior to issuance of a final rule to become effective September 1, 1983.

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

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities. This action is designed to promote orderly marketing of the fresh prune crop for the benefit of producers and consumers and will not substantially affect costs for the directly regulated persons.

This amendment to Prune Regulation 19 is issued under Marketing Order No. 924 (7 CFR Part 924), regulating the handling of fresh prunes grown in designated counties in Washington, and in Umatilla County, Oregon. The order is effective under the Agricultural Marketing Agreement Act of 1937, as Amended (7 U.S.C. 601-674). This action is based upon the recommendation and information submitted by the Washington-Oregon Fresh Prune Marketing Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

The terms of this amendment would be effective July 6, 1983 through August 31, 1983. The final rule will be effective on and after September 1, 1983.

The regulation currently in effect (Prune Regulation 19) was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Washington-Oregon fresh prunes. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the Committee, and other

available information, and determine whether modification, suspension or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

The committee met on May 25, 1983, to consider supply and market conditions bearing on the marketing of the fresh prune crop. The committee reports that there is a tendency for some handlers to ship immature prunes to take advantage of the high prices early in the season. This has resulted in consumer dissatisfaction and such dissatisfaction has been reflected in reduced demand. The current regulation requires that at least two-thirds of the surface of the prune shall be purplish in color. Purplish color is an indicator of maturity of fresh prunes and unless the fruit is mature it will not properly ripen. The committee unanimously recommended that the regulation be amended to specify that at least three-fourths of the surface of the prune shall be purplish in color. This amendment is designed to assure that shipments of fresh prunes are properly mature. Except for the changes in surface color requirements, the current grade requirement applicable to fresh prune shipments would remain unchanged.

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

List of Subjects in 7 CFR Part 924

Marketing agreements and orders, Prunes, Washington, Oregon.

PART 924—[AMENDED]

Therefore, § 924.319 is revised by amending that part of paragraph (a)(1) which precedes the word *Provided* to read as follows:

§ 924.319 Prune Regulation 19.

(a) * * *

(1) Such prunes grade at least U.S. No. 1, except that at least three-fourths of the surface of the prune is required to be purplish in color, and such prunes

measure not less than 1 1/4 in diameter as measured by a rigid ring: * * *

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

Dated: June 30, 1983.

D. S. Kuryloski,

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

(FR Doc. 83-18091 Filed 7-5-83; 8:45 am)

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Parts 1901, 1944, 1948, 1980 and 1990

Guaranteed Loan Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its General and Business and Industrial Loan Program (B&I) regulations pertaining to the administration of the guaranteed loan programs. The changes are classified into two categories: those that are contained in various sections of the regulations which may affect the public and those which are administrative and involve internal Agency procedures which do not affect the public. These amendments relate to factors FmHA considers to be appropriate to assure more viable projects and to eliminate various loopholes and terminology which has caused the Agency considerable time and expense and increased potential liability for losses in the event of default. These actions are being taken in response to recommendations made to the Agency and program managers to correct these deficiencies. The effect of these actions is to strengthen overall credit factors, evaluations and servicing requirements of the FmHA B&I guaranteed loan program specifically and other FmHA guaranteed programs generally.

In addition, FmHA is removing from the Code of Federal Regulations (CFR) its regulations regarding loans for Biomass Energy and Alcohol Fuel Loans and Guarantees (BEAF) set forth under Part 1990 of this Chapter. This regulation is being removed because it is not needed and no use for it is anticipated in the future. The intended effect of this action is to remove an unneeded regulation from the CFR.

EFFECTIVE DATE: Effective July 6, 1983; however, these amendments shall not apply to any loan(s) where a Conditional Commitment for Guarantee

was issued by FmHA and accepted by the lender prior to date of publication.

FOR FURTHER INFORMATION CONTACT: Thomas D. Campbell, Supervisory Loan Specialist, Business and Industry Loan Division, USDA, FmHA, Washington, DC 20250, telephone: (202) 475-3812.

SUPPLEMENTARY INFORMATION: The final action in Part 1980 has been reviewed under USDA procedures established in the Secretary's Memorandum 1512-1 to implement Executive Order 12291 and has been determined "non-major".

The action on Part 1990 has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291 and has been determined to be exempt from those requirements since it is an internal agency management action to remove unneeded regulations from the CFR.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. The action to remove Part 1990, however, is not published for proposed rulemaking since the purpose of the action is administrative in nature and publication for comment is unnecessary.

The BEAF program regulations were published in the Federal Register in 45 FR 72049, on October 30, 1980, pursuant to the Biomass Energy and Alcohol Fuels Act of 1980 (Pub. L. 96-294, Title II). The Agency believes that to maintain this regulation is not cost effective for the following reasons:

(1) No projects have been funded under the BEAF program since its inception October 30, 1980, and the Administration does not expect to receive any applications before the act expires on September 30, 1984. The provisions of the Act and subsequent regulations were not as attractive to applicants as the FmHA Business and Industry (B&I) guaranteed loan program regulations.

(2) Applicants who were pursuing alcohol fuel projects were more interested in the B&I regulation provisions; therefore, the Agency processed and funded such applications (15 originally) under those regulations.

(3) No subsequent appropriations have been provided since the original appropriation for the Energy Act and it is unlikely Congress will provide funding for separate BEAF projects. Current Congressional appropriation actions are recommending that alcohol fuel projects be financed under the current B&I regulations rather than under the original Energy Act.

(4) This final rule amendment incorporates the necessary features in the Subpart E of Part 1980, B&I regulations, to enable the Agency to effectively administer any BEAF type applications. This arrangement is much more cost effective and efficient than trying to administer two similar but separate programs.

(5) To maintain the BEAF program regulations is a costly matter. When a change is made to the other guarantee programs under Part 1980, it almost always impacts the Part 1990 regulation. This continued administrative burden causes delays and increases publishing costs with no offsetting benefits since the program is inoperative.

(6) Finally, the OMB information collection requirements contained in the Part 1990 regulation have expired and to seek approval would not be cost effective at this time.

Subparts A and E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations are revised and Part 1990 is removed. On August 13, 1982, FmHA published in the Federal Register (47 FR 35205) a notice of proposed rulemaking setting forth the proposed changes in Part 1980 of the regulations. Interested parties were given the opportunity to submit, not later than October 12, 1982, any comments, views, or recommendations regarding the proposed changes. Having considered those factors, the Administration believes it is in the best interest of the Agency and the public to now proceed with publication of this rule.

This rule is the final action of a series of actions FmHA has taken in response to administrative policy issues identified by program managers during B&I program reviews. The amendment will explain FmHA policy and provide guidance to regulation provisions which were not initially explained in detail. This action will narrow the broad discretion previously permitted by the regulations. FmHA is convinced this amendment is both necessary and desirable to assure fair and consistent loan-making and servicing decisions by FmHA, and thereby protect the public investment. The benefit of such action will apply equally to all applicants, borrowers and lenders. Little additional cost or burden will result from the changes. The impact of the amendment is therefore considered nonmajor.

Discussion of Comments Received

In response to the notice of proposed rulemaking, written comments were received from seventy-three respondents. Twenty-nine of the comments were received following the

October 12 deadline; however, all comments were considered in the final rule.

The final rule contains no major revisions of the proposed rule. The following is a discussion of the comments received and FmHA's response.

Discussion of Final Rule—Subpart A

Section 1980.11 *Full Faith and Credit*

FmHA has added a provision which defines the term "negligent servicing." The purpose of this amendment is to provide further guidance to lenders concerning the standard of servicing FmHA has always required. This amendment should also improve the cost effectiveness of the program by reducing argument and litigation concerning the meaning of the term. One respondent, while in favor of the proposed change suggested a slight modification to the proposal. There being no unfavorable comments, the Agency chooses to adopt the proposed rule without change.

Section 1980.13 *Eligible lenders*

The change will eliminate FmHA approval of applicants who wish to become lenders. Only those categories of lenders specifically mentioned in the regulations will be considered eligible lenders. Four respondents were not in favor of the proposed changes. However, since performance of some of the prior approved lenders in carrying out their loan servicing functions has been very marginal and in some cases totally inadequate, the Agency has chosen to adopt the proposed rule with only slight modification. Such modification is for the purpose of further clarifying the eligibility requirements and to include Credit Unions for Farmer Program loans. Credit Unions were inadvertently omitted from the proposed change.

Section 1980.41 *Equal Opportunity and Nondiscrimination requirements*

The change adds the words "race, color, religion, national origin and age" to paragraph (a) of this section. These words are added for clarification and compliance with Title V of Pub. L. 93-495, the Equal Credit Opportunity Act.

Paragraph (b)(6) *Compliance reviews* of this section is amended to clarify the procedure for the making of compliance reviews. Specifically, it directs actions to be completed by the Compliance Review Officer rather than the borrower or lender reporting all facts to FmHA.

Section 1980.60 *Conditions precedent to issuing the Loan Note Guarantee*

The change as proposed adds additional conditions precedent to issuing the Loan Note Guarantee. However, the likelihood of success of the project is far greater if the guarantee is not issued until all the conditions are met by the borrower and lender. Since there were no negative responses, the Agency amends § 1980.60 as proposed without change.

Section 1980.62 *Lender's sale or Assignment of Guaranteed portion of the Loan*

The change as proposed will eliminate certain lenders from selling or assigning loans that are in default. FmHA proposed to restrict lenders from selling or assigning loans that were in default since it lessened their risks. FmHA never intended to permit lenders to trade negotiable instruments to third parties on loans in default. No comments having been received from the public on this issue, the Agency adopts the proposed rule without change.

Section 1980.80 *Method of Review*

In order to prevent the Agency from becoming the arbitrator of disputes between the borrower and lender and to prevent unnecessary appeals, FmHA proposed to strengthen its regulations by requiring that any appeal of an adverse decision must come as a coordinated effort by both the borrower and the lender.

One respondent was not in favor of the proposed change. However, the Agency takes the position that when problems exist between the borrower and lender, the problems need to be resolved between them rather than appealing to FmHA. Thus, the Agency will adopt the proposed rule without change.

Section 1980.84 *Replacement of FmHA Forms 449-34, "Loan Note Guarantee," or Form FmHA 449-36, "Assignment Guarantee Agreement."*

A new section was proposed to be added in the regulations to address the occasional problem arising when there has been a loss, theft, destruction, mutilation or defacement of either the Loan Note Guarantee or the Assignment Guarantee Agreement.

There were no comments received from the public; therefore, the Agency chooses to adopt the proposed rule by adding this new section.

Appendix A—Form FmHA 449-34, "Loan Note Guarantee"

The form is revised for consistency with regulations. Such revisions clarify the describing of notes and amounts when the multi-note system is used; voids the guarantee when notes contain provisions for paying interest on interest; prohibits the disbursement of loan funds other than for purposes approved in the Conditional Commitment; defines negligent servicing; prohibits FmHA paying interest on a note to the holder(s) after 90 days from the date of the demand letter from the lender or FmHA to the holder(s) requesting tender of the guaranteed portion of the loan. There were two respondents who objected to the proposal of not allowing the charging of interest upon interest. However, all other comments were generally in favor of the proposed changes; thus, FmHA will adopt the proposed rule without change.

Appendix B—Form FmHA 449-35, "Lender's Agreement"

The Form FmHA 449-35 is revised to reflect changes in the regulations. These changes include the following:

1. The guarantee will be void when the guaranteed notes contain provisions for assessment of interest upon interest.
2. The guarantee will be unenforceable when loan funds are disbursed by the lender for purposes other than those approved by FmHA in its Conditional Commitment for Guarantee or if negligent servicing as defined in the regulations has occasioned a loss.
3. The lender may not sell or assign any portion of a loan which is in default. Nor may a lender cure a default in order to facilitate a sale.
4. The lender will be required to notify the borrower and FmHA of any noncompliance with covenants and provisions governing the loan.
5. The words "County Supervisor" are removed and replaced with the phrase "FmHA office servicing such borrower."
6. The lender must notify FmHA when a borrower is 30 days (90 days for a guaranteed rural housing loan) past due on a payment.
7. Requires the lender to obtain FmHA concurrence for proposed subsequent loans, and temporary reductions in interest rates.
8. Prohibits the assessment of interest on guaranteed loans after 90 days from the date of demand letter of the lender or FmHA to the holder(s) requesting tender of the guaranteed portion.
9. Requires servicing fees assessed by the lender against a holder(s) to be

collected only from installments received by the lender from the borrower.

10. Requires the lender to advise FmHA in writing of its proposed method of liquidation of a guaranteed loan, and requires FmHA's written response, and provides for negotiations between lender and FmHA in case of disagreements.

11. Requires the lender to apply liquidation proceeds in calculating an estimated loss payment against the outstanding principal balance owed on the guaranteed debt when the lender is conducting liquidation and is requesting an estimated loss settlement from FmHA.

12. Requires that the lender not release the borrower from the debt when FmHA pays a loss.

13. Clarifies the section on liquidation costs.

Again there were two respondents who took exception to the proposed change in the Lender's Agreement. However, the exceptions were focused upon the provisions of prohibiting interest charged upon interest. FmHA will adopt the changes as proposed.

Appendix C—Form FmHA 449-36, "Assignment Guarantee Agreement"

This form is revised to reflect changes in the regulations. The changes are as follows:

1. Requires the holder(s) of the guaranteed portion of the loan to provide written notice to the lender in the event the holder(s) wishes to resell the assigned portion of the loan.

2. Provides that the Loan Note Guarantee will not cover note interest on guaranteed loans to the holder(s) after 90 days from the date of the demand letter of the lender or FmHA to the holder(s) requesting the holder(s) to tender the guaranteed portion.

3. Removes the words "County Supervisor" from the Form and replaces the words "FmHA Office Servicing the Borrower."

The proposed revision drew negative comments from two respondents.

The respondents suggested that the 90-day requirement should be applicable only when the demand is made by FmHA. This position would allow interest to continue to run indefinitely if the lender was making the demand. Since FmHA might ultimately be responsible for part of this additional interest, the suggestion was not adopted.

Discussion of Proposed Rule Subpart E

Section 1980.411 Loan Purposes.

Since no comments were received, this section has been revised as

proposed to specifically define agricultural production and prohibit the use of loan funds for working capital and debt refinancing of integrated poultry and livestock operations.

Section 1980.412 Ineligible Loan Purposes.

The Agency received four responses within the scheduled comment period to the proposal for amending section 1980.412. Response varied from favoring the proposal to substantial opposition to such change. Unfavorable comments focused primarily upon the issue of FmHA no longer guaranteeing loans for tourism and recreation. Some rural areas depend upon recreation and tourism as the major industry for their economy. The potential for recreational employment opportunity was significant to rural economic development in these areas.

Existing B&I regulations have few restrictions on types of business or purposes that are ineligible for financial assistance. Agency experience during the past seven years has disclosed major problems with certain businesses in which FmHA has issued guarantees. The final rule will:

1. Define agricultural production, prohibit use of loan funds for agricultural production, and cite specific exceptions to the definition. Such action will clarify an issue which has arisen on numerous occasions since the program's inception. The Agency received no unfavorable comments to this change.

2. Eliminate as eligible for assistance:

(a) Charitable and education institutions; these institutions are predominantly nonprofit oriented and often sectarian in nature. FmHA does not believe loans to these types of institutions are cost effective.

(b) Churches and fraternal organizations; such applicants (churches, organizations affiliated with or sponsored by churches and fraternal organizations) do not fall within the confines of the authorizing legislation for the program.

(c) Lending and investment institutions and insurance companies; B&I program loan requests from these applicants usually include "working capital" which would in turn be used to lend to others. The Agency has always taken the position that use of such loan funds would not meet eligibility requirements for project purposes. Relending could allow guaranteed loan funds to be passed through to ineligible borrowers. No unfavorable comments were received on item 2 (a), (b), and (c).

(d) Hotel and motel projects; Agency experience indicates that most of these projects have been tax shelters for the

wealthy and the principals do not want to personally guarantee the loans. FmHA has a high concentration of these projects in its loan portfolio and has found that such projects employ few people (many of whom are part-time) in relation to loan amount requested. There were four responses which were unfavorable to the Agency's position. The respondents were concerned generally with the overall importance of hotels and motels to the local economy. However, this concern did not outweigh FmHA's concern as to the cost effectiveness of this program.

(e) Recreational-type businesses; FmHA has found through experience that this type of applicant hires primarily seasonal employees. These projects also depend upon a stable economy. The Agency has found success with these projects to be marginal. FmHA considered more than 40 responses to the proposed change on recreational-type businesses. Over 90 percent of these respondents specifically addressed the ski industry and its importance to the local and national economy. Most responses did not take exception to the factors which resulted in the Agency experience with such projects. However, respondents asked that ski projects not be precluded from the program.

Since almost all the respondents represented the ski industry and FmHA experiences with this industry have not been favorable, the Agency does not believe it would be fair to all other recreation-type businesses if the ski industry were to be exempt from the rule; therefore, the proposed amendment is adopted unchanged.

(f) Government and military personnel when they are the major owners, directors, and officers involved in the business. These applicants were excluded to eliminate the possibility of conflict of interest. No unfavorable responses were received to this item.

(g) Any business activity where 10 percent or more of the annual revenues are derived from legalized gambling. There were only two responses which took exception to the limitations where revenues come from legalized gambling. Activities of this type are generally recreational in nature. As a result, the agency adopts the rule as proposed.

The Agency has chosen to adopt corrective actions to provide greater objectivity concerning eligibility of particular loan purposes and lessen inconsistencies in the evaluation process. In the past, numerous requests for program assistance have been for purposes which have been determined to be ineligible from the standpoint of

rural development and/or agricultural production. Over the years, the Agency has accumulated enough experience with the above-mentioned business types to determine that, for the purposes of the B&I program, they should be ineligible for program assistance and, therefore, adopts the proposed rule without change.

Section 1980.413 Transactions which will not be guaranteed.

Existing regulations have never addressed the issue of loan size. The program has continued to receive large loan applications; thus, the average size loan for the program continues to increase. By continuing to make larger loans to fewer businesses, the risk increases for higher loss of jobs and increased cost to the Government should a business default.

Because of reduced program funding levels and increased demand for the limited Federal resources, it becomes increasingly necessary to preclude the possibility of a few large projects utilizing the entire allocation. Since there were no unfavorable responses to the proposed change, the Agency will adopt the proposed rule without change.

Section 1980.423 Interest rates.

Current regulations provide for the use of variable interest rates for loans guaranteed by the Agency. However, regulations are silent on the amortization of the loan in relation to the fluctuation of interest with the variable rate loan. Because of the lack of specific guidance concerning loan amortization, the Agency has become aware of loans which were not being amortized properly and are, therefore, in violation of FmHA regulations.

In order to correct the problem, regulations are revised to specifically address the use of a variable interest rate. The Agency received no unfavorable responses to the proposed change; thus, FmHA will adopt the proposed rule without change.

Another revision to this section is the removal of reference to certain loans at an interest rate of five (5) percent per annum. The revision makes reference to certain loans at a rate prescribed in FmHA Instruction 440.1 Exhibit B, a copy of which is available in any FmHA office. This Instruction is revised as interest rates for FmHA loans change.

Section 1980.424 Terms of Loan Repayment.

Two changes have been added to § 1980.424. The first deals with prohibiting the approval of any guaranteed loan when the promissory

note or any other document provides for the payment of interest upon interest.

The second change to this section focuses upon loan maturities being based upon the useful life of the collateral for the loan rather than the maximum maturities as provided in existing regulations. There were no unfavorable comments received to either of these proposed changes.

Based upon past experience with the program, the change is most cost effective in that the collateral position of the lender will be substantially improved, thus resulting in overall greater recovery in the event of liquidation. The Agency will adopt the proposed rule without change.

Section 1980.434 Equal Opportunity and Nondiscrimination Requirements.

Current regulations refer to the "County Supervisors" in reporting noncompliance to the Administrator. The proposed change removes the words "County Supervisor" and inserts the words "FmHA official." Having received no unfavorable comments, the proposed rule will be adopted without change.

Section 1980.442 Feasibility Studies.

Current regulations permit flexibility concerning requirements for feasibility studies. On loans of \$1 million or more, it has always been the intent of the Agency to require feasibility studies as part of the application.

In order to strengthen the regulation, the word "ordinarily" is removed so that the instruction will read "will be required."

Another change in the feasibility section deals with "technical feasibility." This paragraph has been revised to include an "analysis of the environmental impact" of the planned project on the loan proposal. Existing regulations do not specifically require an environmental impact analysis in the feasibility studies. Since no adverse comments were received, the Agency has chosen to strengthen the regulation to specifically address the environmental issue by adopting the proposed rule without change.

Section 1980.443 Collateral, personal and corporate guarantees, and other requirements.

FmHA has clarified paragraph (b) by including a statement that FmHA is not a coguarantor with the personal or corporate guarantors to make it clear that the personal and corporate guarantors are separate from FmHA's involvement in the case. In addition, a statement is added to specifically state that the personal and corporate

guarantees of the borrower are considered collateral for the loan. This should eliminate any misunderstanding of FmHA's intent that these guarantees are to be pursued by the lender in liquidation and the proceeds derived from such liquidated guarantees are to be applied against the outstanding guaranteed loan balance when calculating the Report of Loss claim. Having received no unfavorable comments, the proposed rule is adopted without change.

Section 1980.451 Filing and Processing Applications.

Several changes have been made for this section. They are as follows:

A preapplication may be filed by the lender under current regulations. This may be done in the form of a letter containing certain basic information concerning the project. A change on preapplications adds a sentence requesting certain basic information when the borrower is a corporation.

Another change in the preapplication section clarifies what is meant by a current balance sheet and latest profit and loss statement. The proposed change states specifically that such current documents will be no more than 60 days old.

The Agency also clarifies the phrase "any credit reports obtained by the lender of FmHA." The new language change will read: "any credit reports obtained by the lender or FmHA on the borrower, its principals and parent, affiliate and subsidiary firms."

Another change to section 1980.451 concerns language in the loan agreement between the lender and the borrower which deals with the FmHA requirement for an annual audited statement.

The change will include the requirement for an annual audited statement. The change specifically identifies what an acceptable audit is and provides clarification on opinions expressed by the auditor.

Another paragraph has been added to this section which addresses requests for debt refinancing. This change will require the lender, as a minimum, to obtain the previously held collateral as security for the guaranteed loan(s). It will also require the lender to obtain additional adequate collateral for the guaranteed loan when refinancing of unsecured or undersecured loans is unavoidable in order to accomplish the necessary strengthening of the firm's current financial position. There were no unfavorable comments received concerning this section; therefore, the proposed rule is adopted with slight editorial corrections added.

A change has also been made in the Administrative provisions to this section to provide FmHA personnel with a list of the forms and documents used in a complete application and where such material is filed in the loan docket.

Section 1980.452 FmHA Evaluation of Applications.

The revision of this section specifically requires that the planned use of loan proceeds be documented in the Form FmHA 449-14 as reflected in the application, Form FmHA 449-1. Several small modifications to the administrative obligation process have been added. There were no unfavorable comments received concerning this section; thus, the Agency adopts the rule as proposed.

Section 1980.454 Conditions Precedent to Issuance of the Loan Note Guarantee.

This section has been revised as follows:

1. *Transfer of lenders.* A paragraph has been added to provide guidance concerning the transfer of lenders when FmHA has an outstanding Conditional Commitment for Guarantee and the Loan Note Guarantee has not yet been issued. The change is permitted between eligible lenders, upon justification for the requested change, when there are no changes in the borrower's ownership or control, loan purposes, scope of project, loan terms, or loan conditions.

2. *Substitution of borrowers.* FmHA amends its regulations to prohibit the issuance of the Loan Note Guarantee if there has been an alteration of the originally approved ownership except when the only change is that the originally approved ownership is replaced with substantially the same individuals and interests as identified on the application.

3. *Change in terms and conditions in Form FmHA 449-14.* The Agency amends this section by identifying specifically when changes in terms and conditions will be allowed. It is the intent of FmHA that once the "Conditional Commitment for Guarantee" (Form FmHA 449-14) is issued and has been accepted by the lender, no modification is to be made as to the scope of the project, overall facility concept and design, project purpose, or use of proceeds.

4. *Preguarantee review.* A requirement has been added to require the lender to contact FmHA and provide documentation and certification to FmHA coincident to or immediately after loan closing to assure FmHA there are no adverse changes. Only when these actions have been taken will the Loan Note Guarantee be issued.

5. *Loan closing.* This paragraph has been revised to strike the words "County Supervisor" and refer to an "FmHA representative" instead since the County Supervisor no longer has a major responsibility for B&I loan processing and servicing.

6. *Working capital.* A final paragraph to the section has been added to prohibit the issuance of a Loan Note Guarantee for working capital prior to the completion of construction as development of the project continues.

There were no unfavorable comments received concerning this section. Thus, the Agency adopts the rule as proposed.

Section 1980.475 Bankruptcy.

A section has been added to the regulations concerning bankruptcy.

The new section to the regulation further amplifies and details the lender's responsibilities for preserving the interests of itself and FmHA during bankruptcy. Further, the regulation will provide for the reimbursement of certain fees and expenses, incurred by the lender to be deducted from liquidation value of the collateral. There were no unfavorable comments received concerning this section; thus, the Agency adopts the rule as proposed.

Section 1980.476 Transfer and assumptions.

The Agency has chosen to amend its regulations to include a new paragraph on transfer and assumptions for less than full loan and provide for the lender, if it is the holder, to file an estimated Report of Loss to recover its pro rata share of the actual loss at the time of transfer. There were no unfavorable comments received concerning this section. Thus, the Agency adopts the rule as proposed.

Section 1980.488 Guaranteed industrial development bond issues.

This section is revised to prohibit the use of loan funds for debt refinancing, working capital, and other miscellaneous charges or services in connection with guaranteed loans to public bodies. Such loans will only be used for constructing and equipping industrial plants for lease to private businesses engaged in industrial manufacturing. The lessee must provide necessary capital and sufficient strength to provide for a sound project. There were no unfavorable comments received concerning this section. Thus, the Agency adopts the rule as proposed.

Section 1980.495 FmHA forms and guides.

This is a new paragraph and includes Forms FmHA 449-1, "Application for

Loan and Guarantee." Form FmHA 449-1 will now be referred to as "Appendix A" and the Certificate of Incumbency and Signature as "Appendix B."

In order to implement the new regulation changes, the Agency had to revise its Form FmHA 449-1, "Application for Loan and Guarantee." The changes are mostly cross reference and editorial. The Form FmHA 449-1 is referred to as "Appendix A."

Appendix E was inadvertently not included in this subparagraph and has been added.

The new regulation changes also caused the Agency to revise its Form FmHA 449-14, "Conditional Commitment for Guarantee." Since this form is the document which commits the Agency to the project, sets forth the terms and conditions for issuance of the Loan Note Guarantee and is used by the Agency in its obligation procedures, the form should be published and incorporated as a part of the regulations. Therefore, the Form FmHA 449-14 has been designated as "Appendix F."

In the proposed rule a new paragraph was included to add Appendix C, D, and E which were incorporated as part of the regulations for the purpose of processing loans for alcohol fuel production facilities projects. No unfavorable comments were received concerning these appendices. However, the Agency will adopt them with minor changes primarily editorial and for purposes of clarification. Such changes include:

Appendix C, provides further clarification of a "positive energy balance".

Appendix D (1) refers to "the lender" along with the borrower and/or FmHA throughout the appendix, (2) requires that an independent engineer be acceptable to the Lender and FmHA when the borrower or project engineer has designed or constructed any portion of the project, (3) requires lender and FmHA concurrence in certain leasing arrangements, (4) provides further clarification on specifications and contract documents, (5) clarifies requirements for performance and payment bonds, (6) provides guidance involving changes in the project which require lender and FmHA approval, (7) discusses certain covenants of a lease agreement or contract which is essential to the successful operation of the project during the life of the loan, and (8) clarifies the requirements on guarantees and warranties on equipment.

Appendix E removes references to clearinghouse comments in Number XI and replaces such language with "Consultation Requirements." On July 14, 1982, the President signed Executive

Order 12372, "Intergovernmental Review of Federal Programs." The order directs revocation of OMB Circular A-95, and provides for a new intergovernmental consultation system that is consistent with the President's policies concerning Federalism and regulatory relief. Under the order, States and localities will take the initiative for establishing review procedures and priorities. State and local elected officials, not the Federal Government, will determine what Federal programs and activities to review and the procedures by which the review will take place.

General Administration

The General Administrative Section is revised to incorporate administrative procedures for loan applications being reviewed by FmHA Regional Attorneys. There is also some modification to the internal process for obligating and announcing the approval of loans. These changes were not part of the Proposed Rule; however, the changes are administrative and do not affect the public.

Miscellaneous Revisions

In order to implement the amendments in Subpart A—General, certain sections contained in Part 1980 Subpart D which cross reference Subpart A are revised to conform to the changes. The two issues involve the Full Faith and Credit Provisions and the Eligible Lenders section. These changes have been added to this Amendment.

This document has been reviewed in accordance with FmHA Instruction 1901-G, "Environmental Impact Statements." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required. Approval has been received from the Office of Management and Budget for the reporting and recordkeeping requirements contained herein.

It is the policy of this Administration to remove wherever practical public burden. By removing and reserving the Part 1990 regulation, a needless regulation is removed from the CFR.

The FmHA guaranteed programs are subject to consultation with State and local governments as required by Executive Order No. 12372. OMB Bulletin No. 82015 provides interim policy guidance governing consultation with State and local governments prior to adoption of new regulations implementing Executive Order 12372.

Such programs are outlined in the Catalog of Federal Domestic Assistance (CFDA) and include: CFDA Number 10.422 Business and Industrial Loans, 10.404 Emergency Loans, 10.413 Recreation Facility Loans, 10.416 Soil and Water Loans, 10.406 Farm Operating Loans, 10.407 Farm Ownership Loans, 10.428 Economic Emergency Loans, 10.429 Above-Moderate Income Housing Loans, and No. 10.432, Biomass Energy and Alcohol Fuels Loans and Loan Guarantees.

List of Subjects

7 CFR Part 1980

Loan programs, Energy, Agriculture, Rural areas, Loan programs—Business and industry, Rural development assistance loan programs—Housing and community development.

7 CFR Part 1990

Loan programs—Energy.

Accordingly, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1901—PROGRAM RELATED INSTRUCTIONS

Subpart A—Loan and Grant Approval Authorities

§§ 1901.2 and 1901.5 [Amended]

1. Sections 1901.2 and 1901.5 are amended by removing the reference to Exhibit E in each of the Sections.

PART 1944—HOUSING

Subpart K—Technical and Supervisory Assistance Grants

§ 1944.533 [Amended]

2. Section 1944.533(e) is amended by removing the words "Form FmHA 071-1," "Project Information Card," and inserting in their place the words "Exhibit A to FmHA Instruction 2015-C (available in any FmHA Office)."

PART 1948—RURAL DEVELOPMENT

Subpart A—Area Development Assistance Planning Grants

§ 1948.35 [Amended]

3. Section 1948.35(e) is amended by removing the words, "Form FmHA 071-1," "Project Information Card," and inserting in their place the words "Exhibit A to FmHA Instruction 2015-C (available in any FmHA Office)."

Subpart B—Section 601—Energy Impacted Area Development Assistance Program

§ 1948.92 [Amended]

4. Section 1948.92(f) is amended by removing the words, "Form FmHA 071-1," "Project Information Card," and inserting in their place the words, "Exhibit A to FmHA Instruction 2015-C (available in any FmHA Office)."

5. Subpart A to Part 1980 is revised to read as follows:

PART 1980—GENERAL

Subpart A—General

Sec.

- 1980.1 Purpose.
- 1980.2–1980.5 [Reserved]
- 1980.6 Definitions and abbreviations.
- 1980.7–1980.10 [Reserved]
- 1980.11 Full faith and credit.
- 1980.12 Case and identification (ID) numbers.
- 1980.13 Eligible lenders.
- 1980.14–1980.19 [Reserved]
- 1980.20 Loan guarantee limits.
- 1980.21 Guarantee fee.
- 1980.22 Charges and fees by lenders.
- 1980.23 Prohibition of the guaranteeing of tax-exempt transactions.
- 1980.24–1980.39 [Reserved]
- 1980.40 Environmental impact assessments and statements.
- 1980.41 Equal opportunity and nondiscrimination requirements.
- 1980.42 Flood or mudslide hazard area precautions.
- 1980.43 Clean Air Act and Water Pollution Control Act requirements.
- 1980.44 National Historic Preservation Act of 1966.
- 1980.45 Other Federal, State and local requirements.
- 1980.46 Right to Financial Privacy Act of 1978.
- 1980.47–1980.59 [Reserved]
- 1980.60 Conditions precedent to issuance of the Loan Note Guarantee.
- 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.
- 1980.62 Lender's sale or assignment of guaranteed portion of the loan.
- 1980.63 Defaults by borrowers.
- 1980.64 Liquidation.
- 1980.65 Protective advances.
- 1980.66 Additional loans or advances.
- 1980.67 Lender's request to terminate Loan Note Guarantee.
- 1980.68–1980.79 [Reserved]
- 1980.80 Appeals.
- 1980.81 Access to records of lenders.
- 1980.82 State supplements to this regulation.
- 1980.83 FmHA forms.
- 1980.84 Replacement of loss, theft, destruction, mutilation, or defacement of Form FmHA 449-34, "Loan Note

Sec.

- Guarantee" or Form FmHA 449-36, "Assignment Guarantee Agreement." 1980.85-1980.99 [Reserved]
 1980.100 OMB Control Number.
 Appendix A—Form FmHA 449-34, Loan Note Guarantee.
 Appendix B—Form FmHA 449-35; Lenders Agreement.
 Appendix C—Form FmHA 449-36, Assignment Guarantee Agreement.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, (7 CFR 2.70)

Subpart A—General

§ 1980.1 Purpose.

This Subpart contains the general regulations and prescribed forms which are applicable to the Farmers Home Administration (FmHA) guaranteed loan programs authorized in Part 1980. Additional regulations for these programs are found in the various Subparts of Part 1980. These additional regulations apply to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring (if applicable), holding, servicing or liquidating such loans.

§§ 1980.2-1980.5 [Reserved]

§ 1980.6 Definitions and abbreviations.

(a) *General definitions.* The following general definitions are applicable to the terms used in this part. Additional definitions may be found in the Subparts relating to the particular type of loan involved.

(1) *A-95. Agency.* Office of Management and Budget Circular A-95 establishes project notification and review system to coordinate planning of Federal programs and projects with State and local agencies. Such agencies are referred to in this regulation as A-95 agencies.

(2) *Assignment Guarantee Agreement (Form FmHA 449-36).* The signed agreement among FmHA, the lender, and the holder, setting forth (specifically or by reference) the terms and conditions of an assignment of a guaranteed portion of a loan or any part thereof.

(3) *Borrower.* All parties liable for the loan or any part thereof.

(4) *Conditional Commitment for Guarantee (FmHA Form 449-14).* FmHA's advice to the lender that the material it has submitted is approved subject to the completion of all conditions and requirements set forth in "Conditional Commitment for Guarantee."

(5) *Finance Office.* The office which maintains the FmHA financial records. It is located at 1520 Market Street, St.

Louis, Missouri 63103 (Phone 314-279-4400).

(6) *FmHA.* The United States of America, acting through the Farmers Home Administration, an Agency of the United States Department of Agriculture. References to the National Office, Finance Office, State Office, County Office, State Director, District Director, County Supervisor, or other FmHA office or official should be read as prefaced by "FmHA."

(7) *Guaranteed loan.* A loan made and serviced by a lender for which FmHA has entered into a Form FmHA 449-35, "Lender's Agreement" and for which FmHA has issued a Form 449-34, "Loan Note Guarantee."

(8) *Hazard insurance.* Includes fire, windstorm, lightning, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, builder's risk, public liability, property damage, flood or mudslide, workmen's compensation, or any similar insurance that is available and needed to protect the security, or that is required by law.

(9) *Holder.* The person or organization other than the lender who holds all or a part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a holder when Form FmHA 449-35, "Assignment Guarantee Agreement," is used.

(10) *Insured loans.* A loan directly made and serviced by FmHA as lender with funds from the Rural Development Insurance Fund, Rural Housing Insurance Fund, or Agricultural Credit Insurance Fund.

(11) *Joint financing.* Occurs when two or more lenders (or any combination of such lenders) make separate loans to supply the funds required by one applicant. For example, such joint financing may consist of FmHA financial assistance with the Economic Development Administration (EDA), Department of Housing and Urban Development (HUD), Small Business Administration (SBA), other Federal and State agencies, and private and quasi-public financial institutions.

(12) *Lender.* The person or organization making and servicing the loan which is guaranteed under the provisions of the appropriate Subpart. The lender is also the party requesting a loan guarantee.

(13) *Lender's Agreement (Form FmHA 449-35).* The signed agreement between FmHA and the lender setting forth (specifically or by reference) the lender's loan responsibilities when the Loan Note Guarantee is issued.

(14) *Loan Note Guarantee (Form FmHA 449-34).* The signed commitment issued by FmHA setting forth (specifically or by reference) the terms and conditions of the guarantee.

(15) *Market value.* The amount for which property would sell for its highest and best use at voluntary sale.

(16) *Note.* An evidence of the debt. In those instances where FmHA makes an insured loan or guarantees a bond issue, "note" shall also be construed to include "Bond" or other evidence of indebtedness where appropriate.

(17) *Principals of borrowers.* Includes owners, officers, directors, entities and others directly involved in the operation and management or control of a business.

(18) *Transfer and assumption.* The conveyance by a debtor to an assuming party of the assets, collateral, and liabilities of the loan in return for the assuming party's binding promise to pay the debt outstanding. In relation to transfer and assumption cases, where appropriate, "liquidation" and "loan" shall be construed to mean "transfer and assumption," "promissory note" shall be construed to mean "assumption agreement," and "borrower" shall be construed to mean "assuming party" or "transferee."

(b) *Abbreviations.* The following abbreviations are applicable:

- (1) *ASCS*—Agricultural Stabilization and Conservation Service.
- (2) *B&I*—Business and Industry.
- (3) *EDA*—Economic Development Administration.
- (4) *EPA*—Environmental Protection Agency.
- (5) *EIS*—Environmental Impact Statement.
- (6) *EM*—Emergency Loans.
- (7) *FO*—Farm Ownership.
- (8) *RL*—Recreation loans.
- (9) *SW*—Soil and Water.
- (10) *OL*—Operating loans.
- (11) *OL-Y*—Operating Loans-Youth.
- (12) *FDAA*—Federal Disaster Assistance Administration.
- (13) *FIA*—Federal Insurance Administration.
- (14) *FmHA*—Farmers Home Administration.
- (15) *FMI*—Forms Manual Insert.
- (16) *OCC*—Office of the General Counsel.
- (17) *SBA*—Small Business Administration.

(18) *SBIC*—Small Business Investment Company.

(19) *USDA*—United States Department of Agriculture.

§§ 1980.7–1980.10 [Reserved]

§ 1980.11 Full faith and credit.

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the lender or holder has actual knowledge at the time it becomes such lender or holder or which lender or holder participates in or condones. A note which provides for the payment of interest on interest shall not be guaranteed. Any Loan Note Guarantee or Assignment Guarantee Agreement attached to or relating to a note which provides for payment of interest on interest is void. The guarantee and right to require purchase will be directly enforceable by holder notwithstanding any fraud or misrepresentation by the lender or any unenforceability of the Loan Note Guarantee by lender. The Loan Note Guarantee will be unenforceable by the lender to the extent any loss is occasioned by violation of usury laws, negligent servicing or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until final loss is paid. The Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder shall not cover interest accruing 90 days after the holder has demanded repurchase by the lender, nor shall the Loan Note Guarantee or Assignment Guarantee Agreement in the hands of a holder cover interest accruing 90 days after the lender or FmHA has requested the holder to surrender the evidence of debt for repurchase.

§ 1980.12 Case and identification (ID) numbers.

(a) *Case number.* The case number will be the applicant's (borrower's), or transferee's Social Security or Internal Revenue Service (IRS) tax number, whichever is appropriate.

(1) If such party is an individual, his or her Social Security number, will be used. If such party is husband and wife the husband's Social Security number will be used.

(2) If such party is a legal entity, its IRS tax number will be used.

(3) The applicant's Social Security or IRS tax number preceded by State and County Code Numbers will constitute the entire case number to be used on all FmHA forms. The County Supervisor will provide the lender with these numbers.

(b) *ID number of lender and holder.* The lender's and holder's IRS tax number will be used as its ID number in correspondence and FmHA forms relating to the guarantee.

§ 1980.13 Eligible lenders.

(a) *Local lenders.* Local lenders may participate by using the various sources of capital and segments of the money market to meet the necessary financing requirement for guaranteed loan programs. Except in paragraphs (a) (1), (2) and (3) of this section, FmHA will require that a local lender be involved for each project. A local lender is a lender in or near a community where the project is or will be located who routinely provides loan services to such community. Although the project may involve other lenders, investors, or packagers, the local lender will be the lead lender and the lender for purposes of these regulations responsible for servicing and liquidation (if necessary) of the loan. The lender may use agents, correspondents, branches, financial experts, or other institutions or persons to provide expertise to assist in carrying out its responsibilities. FmHA will use the lender as the point of contact for the administration of the program. FmHA may also permit a lender to be the lender for the loan without being local if:

(1) The lender normally makes loans in the region or geographic location in which the applicant's project being financed is located; or

(2) The lender has specific expertise in loans for the proposed project and provides evidence of such expertise to the satisfaction of FmHA; or

(3) (for B&I loans only) the lender has provided, in the past, to the applicant a substantial portion of the applicant's credit requirements on a regular basis.

(b) *An eligible lender is:* Any Federal or State chartered bank, Federal Land

Bank, Production Credit Association, Bank for Cooperatives, Savings and Loan Association, Building and Loan Association, mortgage company that is a part of a bank-holding company, or an insurance company that is regulated by the National Association of Insurance Commissioners. The above entities must be subject to credit examination and supervision by either an agency of the United States or a State. (Credit unions that are subject to credit examination and supervision by either the National Credit Union Administration or a state agency are eligible lenders only for Farmer Program Guaranteed loans.) Only those lenders listed in this paragraph are eligible to make and service guaranteed loans and such lender must be in good standing with its licensing authority and has met licensing, loanmaking, loan servicing, and other requirements of the State in which the collateral will be located, and the loanmaking and/or loan servicing office requirements in paragraph (b)(3) of this section. A lender must have the capability to adequately service the loan for which a guarantee is requested.

(1) *Participation.* Lenders who are not eligible lenders are not barred from participating in loans made by eligible lenders.

(2) *Lender notification.* Each lender will inform FmHA whether it qualifies for eligibility under this section and which agency or authority, if any, supervises such lender. This information will be furnished to FmHA in letter form with such proofs as FmHA may require.

(3) *Lender location.* Each lender must maintain an office (either its main or branch office or that of an agent) near enough to the collateral's location so it can properly and efficiently discharge its loanmaking and loan servicing responsibilities.

(4) *Ownership.* All lenders will be owned and controlled as provided in paragraph V of Form FmHA 449-35. However, in a case where a lender has had foreign ownership for at least ten years and has been in operation in the community where the project is or will be located for a similar period of time, such lender may be considered for eligibility under the provisions of this section. If such lender is determined to be eligible by FmHA, paragraph V of the Lender's Agreement will be deleted and initialed by both the lender and FmHA.

(5) *Conflict of interest.* For possible lender-borrower conflict of interest, see paragraph VI of Form FmHA 449-35. All lenders will, for each proposed loan, inform FmHA in writing and furnish such additional evidence as FmHA requests as to whether and the extent

that the lender or its principal officers (including immediate family) or the borrower or its principals or officers (including immediate family) hold any stock or other evidence of ownership in the other, FmHA shall determine whether such ownership is sufficient to likely result in a conflict of interest.

(6) *Debarment.* See Part 1924 Subpart E of this chapter.

(c) *Substitution of lenders.* With written concurrence of FmHA another eligible lender may be substituted for a lender who holds an outstanding Conditional Commitment for Guarantee provided the borrower, loan purposes, scope of project and loan terms remain unchanged. (See Part 1980, Subpart E of this chapter).

§§ 1980.14–1980.19 [Reserved]

§ 1980.20 Loan guarantee limits.

The maximum loss covered by the Loan Note Guarantee, Form FmHA 449-34 can never exceed the lesser of: 90 percent of principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), any loan subsidy due, and 90 percent of principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization; or 90 percent of the principal advanced to or assumed by the borrower under said note(s) or assumption agreement(s) and any interest due (including any loan subsidy) thereon. Lenders and applicant will propose the percentage of guarantee. The lender and applicant will be informed in writing on Form FmHA 449-14 by FmHA of any percentage of guarantee less than proposed by the lender and applicant, and the reasons therefore. FmHA will determine the percentage of guarantee after considering all credit factors involved, including but not limited to:

(a) *Applicant's management.* The applicant's management, and when appropriate, equity capital, history of operation, marketing plan, raw material requirements, and availability of necessary supporting utilities and services.

(b) *Collateral.* Collateral for the loan.

(c) *Financial condition.* Financial condition of applicant or applicants' principals, if appropriate.

(d) *Lender's exposure.* The lender's exposure before and after the loan.

(e) *Trends and conditions.* Current trends and economic conditions.

§ 1980.21 Guarantee fee.

(a) *Initial fee.* The fee will be one percent (1%) of the principal loan amount multiplied by the percent of

guarantee, paid one time only at the time the Loan Note Guarantee is issued. The fee will be paid to FmHA by the lender and is nonrefundable. The fee may be passed on to the borrower.

(b) *Substitution fee.* In the event FmHA agrees to issue a Loan Note Guarantee in substitution for a Form FmHA 449-17, "Contract of Guarantee," issued under previous regulations (see § 1980.61(b)(2)) the lender will pay to FmHA at the time the substitution is made a nonrefundable, one-time fee of one percent (1%) of the current principal loan balance multiplied by the percent of guarantee.

§ 1980.22 Charges and fees by lender.

(a) *Routine charges and fees.* The lender may establish the charges and fees for the loan, provided they are the same as those charged other applicants for similar types of transactions.

(b) *Late payment charges.* Late payment charges will not be covered by the Loan Note Guarantee. Such charges may not be added to the principal and interest due under any guaranteed note. Late payment charges may be made only if:

(1) *Routine.* They are routinely made by the lender in all types of loan transactions.

(2) *Payments received.* Payment has not been received within the customary time frame allowed by the lender. The term "payment received" means that the payment in cash or by check, money order, or similar medium has been received by the lender at its main office, branch office, or other designated place of payment.

(3) *Calculating charges.* The lender agrees with the applicant in writing that the rate or method of calculating the late payment charges will not be changed to increase charges while the Loan Note Guarantee is in effect.

§ 1980.23 Prohibition of the guaranteeing of tax-exempt transactions.

(a) FmHA will not guarantee any loan made with the proceeds of any obligation the interest on which is excludable from income under section 103 of the Internal Revenue Code of 1954, as amended (IRC). Funds generated through the issuance of tax-exempt obligations as defined above may not be used to purchase the guaranteed portion of any FmHA guaranteed loan nor may an FmHA guaranteed loan serve as collateral for a tax-exempt issue as defined above.

(b) The only time FmHA may guarantee a loan for a project which involves tax-exempt financing is when, the guaranteed loan funds are (1) used to finance a part of the project which is

separate and distinct from the part of the project which is financed by the tax-exempt issue, and (2) the guaranteed loan has at least a parity security position with the tax-exempt obligation.

§§ 1980.24–1980.39 [Reserved]

§ 1980.40 Environmental impact assessments and statements.

The need for an Environmental Impact Statement (EIS) will be determined by the FmHA State Director. The determination will be based upon FmHA's review of Form FmHA 449-10, "Applicant's Environmental Impact Evaluation," State and sub-State clearinghouse and other agency comments or other information available. If an EIS is necessary, applicants and lenders will be required to provide essential data for use in its preparation. FmHA State Director will coordinate preparation and processing of any required EIS. If joint agency financing for the proposal is involved, the lead agency will be responsible for preparation of the EIS. In all cases FmHA is responsible for assuring that requirement of section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA), and 7 CFR Subpart G of Part 1901 of this chapter are met.

§ 1980.41 Equal opportunity and nondiscrimination requirements.

(a) *Equal Credit Opportunity Act.* In accordance with Title V of Pub. L. 93-295, the Equal Credit Opportunity Act, neither the lender nor FmHA will discriminate against any applicant on the basis of race, color, religion, national origin, age, sex or marital status with respect to any aspect of a credit transaction. The lender will comply with the requirements of this Act as set forth in the Federal Reserve Board's Regulation implementing this Act. (See 12 CFR Part 202). Such compliance will be accomplished prior to loan closing.

(b) *Forms and requirements.* In accordance with Executive Order 11246, the following equal opportunity and nondiscrimination forms and requirements are applicable to certain cases involving construction as indicated. The borrower is responsible for seeing that the requirements of paragraphs (b)(1) through (5) of this section are met.

(1) *Compliance reports.* No prospective contractor or subcontractor will be eligible for a contract or subcontract financed with a guaranteed loan until he has filed all of the compliance reports required of him under any previous contracts.

(2) *Equal Opportunity agreement.* Before loan closing, each borrower

whose loan involves a construction contract of more than \$10,000 must execute Form FmHA 440-1, "Equal Opportunity Agreement."

(3) *Contract or subcontract in excess of \$10,000.* If the contract or a subcontract exceeds \$10,000.

(i) The contractor or subcontractor must submit Form FmHA 400-6, "Compliance Statement," before or as a part of the bid or negotiation.

(ii) An Equal Opportunity Clause must be part of each contract and subcontract. This clause is incorporated in Form FmHA 424-6, "Construction Contract," which may serve as a guide.

(iii) With notification of the contract award, the contractor must receive:

(A) Form FmHA 400-3, "Notice of Contractors and Applicants," signed by the County Supervisor with an attached Equal Employment Opportunity Poster. Posters in Spanish must be provided and displayed where a significant portion of the population is Spanish speaking.

(B) Form AD-425, "Contractor's Affirmative Action Plan for Equal Employment Opportunity Under Executive Order 11246 and Executive Order 11375," if the contractor or subcontractor is subject to the requirements of paragraph (b)(5) of this section.

(4) *One hundred or more employees and contract or subcontract exceeds \$10,000.* If the contractor or subcontractor has 100 or more employees and the contract or subcontract is for more than \$10,000.

(i) In addition to meeting the requirements of paragraph (b)(3) of this section, each such contractor or subcontractor must file Standard Form 100, "Equal Employment Opportunity Employer Information Report EEO-1," with the Joint Reporting Committee within 30 days of the contract or subcontract award unless this report has already been submitted within the last 12 months.

(ii) An annual report must be filed on or before March 31, as long as the contractor or subcontractor holds a contract equal to \$10,000 or more which is financed with a guaranteed loan.

Failure to file timely, complete and accurate reports constitutes noncompliance with the Equal Opportunity Clause. Report forms are distributed by the Joint Reporting Committee and any questions on this form should be addressed by the contractor or subcontractor to the Joint Reporting Committee, 1800 G Street, NW., Washington, DC 20006.

(5) *Fifty or more employees and contract or subcontract exceeds \$50,000.* If the contract or subcontract is more than \$50,000 and the contractor or

subcontractor has 50 or more employees, in addition to the requirements of paragraph (b)(3) of this section, each such contractor or subcontractor must be informed that he must develop a written affirmative action compliance program for each of his establishments and put it on file in each of his personnel offices within 120 days of the commencement of the contract or subcontract. Form AD-425 provides guidelines for the contractor or subcontractor in developing such a program.

(6) *Compliance reviews.* Compliance reviews must be made during construction inspections to determine whether the required posters are displayed, the facilities are not segregated, and there is no evidence of discrimination in employment. Findings of the borrower or lender (when inspections are made), will be shown on Form FmHA 424-12, "Inspection Report." If there is any evidence of non-compliance, the borrower or lender will be made to achieve voluntary compliance. If the effort fails, the Compliance Review Officer will report all the facts in writing to the Administrator, ATTN: Equal Opportunity Officer.

(7) *Employee complaints.* Any employee of or applicant for employment with such contractors or subcontractors may file a written complaint of discrimination with FmHA.

(i) A written complaint of alleged discrimination must be signed by the complainant and should include the following information:

(A) The name and address (including telephone number, if any) of the complainant.

(B) The name and address of the person committing the alleged discrimination.

(C) A description of the acts considered to be discriminatory.

(D) Any other pertinent information that will assist in the investigation and resolution of the complaint.

(ii) Such complaint must be filed not later than 180 days from the date of the alleged discrimination, unless the time for filing is extended by FmHA for good cause shown by the complainant.

§ 1980.42 Flood or mudslide hazard area precautions.

(a) *Project location.* Projects located in special flood or mudslide hazard areas, as designated by the Federal Insurance Administration (FIA) of the Department of Housing and Urban Development may be financed under this subpart only:

(1) If the community, as a result of such designation by FIA as a special

flood or mudslide prone area, has an approved flood plain area management plan.

(2) If the project location and construction plans and specifications for new buildings or improvements to existing buildings comply with an approved flood plain area management plan in paragraph (a)(1) of this section.

(b) *Flood insurance.* If project is located in a special flood or mudslide hazard area and if flood insurance is available it will be purchased by the borrower prior to loan closing. (See Part 1806, Subpart B of this chapter.) (FmHA Instruction 426.2.)

§ 1980.43 Clean Air Act and Water Pollution Control Act requirements.

(a) *Conditions.* As a condition for FmHA's making or guaranteeing a loan in excess of \$100,000 and unless otherwise exempted, an applicant for a loan will:

(1) Comply with all the requirements of section 114 of the Clean Air Act (42 U.S.C., 1857 C-9) and section 308 of the Federal Water Pollution Control Act (33 U.S.C., § 1318) relating to inspection, monitoring, entry, reports, and information, as well as all other requirements specified in section 114 of the Clean Air Act and section 308 of the Federal Water Pollution Control Act and all regulations and guidelines issued thereunder after the award of the contract. (Such regulations and guidelines can be found at 40 CFR 15.4 and 40 FR 17126, April 16, 1975.)

(2) Notify the FmHA of the receipt of any communication from the EPA indicating that a facility to be utilized in the carrying out of the FmHA program loan purposes is under consideration to be listed on the EPA List of Violating Facilities. (Prompt notification is required prior to the making of the loan.)

(3) Certify that any facility to be utilized in the performance of any nonexempt contract or subcontract is not listed on the EPA List of Violating Facilities pursuant to 40 CFR 15.20 as of the date of contract award.

(4) Include, or cause to be included, the criteria and requirements contained in this section in every nonexempt subcontract and will take such action as the Government may direct as a means of enforcing such provisions.

(5) Secure the service of a contractor who agrees to comply with the provisions in paragraph (a) of this section.

(b) *Solicitation.* Lender will cause to be included in all solicitation and contract provisions the stipulations contained in paragraph (a) of this section, provided the loan amount is

\$100,000 or more and not otherwise exempted.

(c) *Facility.* The term "facility", as used in this section only, means any building, plant, installation, structure, mine, vessel or other floating craft, location, or site of operations, owned, leased, or supervised by a grantee, cooperator, contractor, or subcontractor, to be utilized in the performance of a grant, agreement, contract, subgrant, or subcontract. Where a location or site of operations contains or includes more than one building, plant, installation, or structure, the entire location shall be deemed to be a facility except where the Director, Office of Federal Activities, EPA, determines that independent facilities are located in one geographical area.

(d) *Exemptions.*—(1) *Transactions \$100,000 and under.* Any contracts, subcontracts, loans, and subloans not exceeding \$100,000 are exempt.

(2) *Contracts and subcontracts for indefinite quantities.* With respect to contracts and subcontracts for indefinite quantities (including but not limited to time and material contracts, requirements contracts, and basic ordering agreements), this section shall be applicable unless the applicant or borrower has reason to believe that the amount to be ordered in any year under such contract will not exceed \$100,000.

(3) *Authority of the Administrator.* When the Administrator of the FmHA determines that the paramount interest of the United States so requires, he may exempt any individual loan, contract or subcontract for a period of 1 year, and by rule or regulation any class of loans or contracts following consultation with EPA. In the case of an individual exemption, the Administrator shall notify the Director, Office of Federal Activities, EPA, as soon before or after granting the exemption as practicable. The justification for such an exemption or any renewal thereof shall fully describe the purpose of the loan or contract and shall indicate the manner in which the paramount interest of the United States requires that the exemption be made.

(4) *Facilities located outside the United States.* This section shall not apply to the use of facilities outside the United States. The term "United States" as used herein includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territories of the Pacific Islands.

§ 1980.44 National Historic Preservation Act of 1966.

As a condition for FmHA making or guaranteeing a loan, the applicant will provide a written statement to FmHA of the effect, if any, the project will have on any district, site, or building, structure, or object that has been included in the National Register of Historic Places as maintained by the Department of Interior in accordance with the National Historic Act includes the protection, rehabilitation, restoration, and reconstruction of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology and culture. (See Part 1901 Subpart F of this chapter.)

§ 1980.45 Other Federal, State and local requirements.

In addition to the specific requirements of this Subpart, proposals for facilities financed in whole or in part with an FmHA loan or guarantee will be coordinated with all appropriate Federal, State and local Agencies in accordance with the following:

(a) *Compliance with special laws and regulations.* Applicants and/or lenders will be required to comply with any Federal, State or local laws, regulatory commission rules, ordinances, and regulations which are presently in existence or may be later adopted which affect the project including, but not limited to:

- (1) Organization and authority to design, construct, develop, operate, and/or maintain the proposed facilities;
- (2) Borrowing money, giving security therefor, and raising revenues for the repayment thereof;
- (3) Land use zoning;
- (4) Health, safety, and sanitation standards;
- (5) Protection of the environment and consumer affairs.

(b) *In compliance.* The applicant and/or lender will be in compliance with this section effective with the date of issuance of the Loan Note Guarantee.

§ 1980.46 Right to Financial Privacy Act of 1978.

(a) When the applicant is either an individual or partnership of five or fewer members and applies for financial assistance from a lender which applies to FmHA for a guarantee, the following actions must be taken:

- (1) Within 3 days of the receipt of a pre-application or complete application from a lender for a guarantee for a loan, FmHA will forward Form FmHA 410-7, "Notification to Applicant on Use of Financial Information From Financial Institution," to those applicants desiring loan assistance. If notification is made

upon receipt of a preapplication, notification will not be made upon receipt of an application for the same applicant.

(2) Notification must also be given to the lender and other financial institutions to which FmHA makes a direct request for financial records. The notification to the lender and other financial institutions will read as follows:

"I certify that the United States Department of Agriculture, acting through the Farmers Home Administration, has complied with the applicable provisions of Title XI, Public Law 95-630 in seeking financial information regarding _____ (applicant)."

Date _____
County Supervisor _____

(b) Under no circumstances may financial information obtained under this Subpart be disseminated to any other department or agency of the Federal Government (other than the Office of the Inspector General (OIG) or the Office of Equal Opportunity (OEO)) without express approval of OGC.

§§ 1980.47-1980.59 [Reserved]

§ 1980.60 Conditions precedent to issuance of the Loan Note Guarantee.

(a) *Lender certification.* Form FmHA 449-34 will not be issued until the lender certifies to FmHA that:

(1) No major changes have been made in the lender's loan conditions and requirements since the issuance of the Conditional Commitment for Guarantee, except those approved in the interim by FmHA in writing.

(2) All planned property acquisition has been completed; all development has been substantially completed in accordance with plans and specifications, and as set out in paragraph II.A.2.g. of Appendix D of Subpart E of this part. All costs have not exceeded the amounts approved by the lender and FmHA. See Appendix D for further guidelines for loans which are not Alcohol Fuel Production Facility Loans. Appendix D is mandatory for Alcohol Fuel Production Facility loans.

(3) Required hazard, flood, or prevention insurance, worker's compensation and personal life insurance when required is in effect.

(4) Truth in lending requirements have been met.

(5) All equal employment opportunity and nondiscrimination requirements have been or will be met at the appropriate time.

(6) The loan has been properly closed, and the required security instruments have been obtained, or will be obtained on any after acquired property that

cannot be covered initially under State law.

(7) The borrower has title marketable in fact to the collateral then owned by borrower, subject to the instruments securing the loan to be guaranteed and subject to any other exceptions approved in writing by FmHA.

(8) When required, the entire amount of loan for working capital has been disbursed except in cases where the State Director has approved disbursement over an extended time.

(9) When required, personal, partnership or corporate guarantees have been obtained. Copies of the guarantees will be provided to FmHA.

(10) All other requirements of the Conditional Commitment for Guarantee have been met.

(11) Lien priorities are consistent with requirements of the Conditional Commitment for Guarantee.

(12) The loan proceeds have been disbursed for purposes and in amounts consistent with the Conditional Commitment for Guarantee and as specified on Form FmHA 449-1. A copy of a detailed loan settlement statement of the lender will be attached to support this certification.

(13) Equity requirements have been met. A reconciliation of the borrower's net worth from the latest financial statement to the date of loan closing will be provided with this certification.

(14) There has been no adverse change(s) in the borrower's financial condition nor any other adverse change in the borrower during the period of time from FmHA's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee. The lender's certification must address all adverse changes of the borrower and be supported by financial statements of the borrower and its guarantors not more than 60 days old at time of certification. For purposes of this paragraph, the term "borrower" includes additionally any parent, affiliate, or subsidiary of the borrower.

(b) *Inspections.* The lender will notify FmHA of any scheduled field inspections during construction and after issuance of the Loan Note Guarantee. FmHA may attend such field inspections. Any inspections or review conducted by FmHA, including those with the lender, are for the benefit of FmHA only and not for other parties of interest. FmHA inspections do not relieve any parties of interest of their responsibilities to conduct necessary inspections, nor can these parties rely on FmHA's inspections in any manner whatsoever.

(c) *Execution of form.* The lender has executed and delivered to FmHA Form FmHA 449-35.

(d) *Plans for marketing.* The lender advises FmHA of its plans to sell or assign any part of the loan as provided in Form FmHA 449-35.

(e) *Additional requirements.* See also appropriate Subpart for additional requirements.

§ 1980.61 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.

(a) *Lender's Agreement.* If FmHA finds that all requirements have been met, the lender and FmHA will execute Form FmHA 449-35, "Lender's Agreement." The original will be delivered to FmHA and a signed duplicate original retained by the lender. There will be a Form FmHA 449-35 executed for all loans guaranteed by FmHA. The Lender's Agreement will be executed not later than the time the Loan Note Guarantee is signed and FmHA receives the guarantee fee.

(b) *Loan Note Guarantee.* (1) Upon receipt of the Form FmHA 449-35 and after all requirements have been met, FmHA will execute Form FmHA 449-34. All original(s) will be provided to the lender and attached to the note(s). A conformed copy with copies of notes attached will be retained by FmHA.

(2) In the event a lender has made a loan guaranteed by FmHA under previous regulations and has obtained a Form FmHA 449-17, "Contract of Guarantee," the lender may request the State Director to substitute a Loan Note Guarantee governed in all respects by these regulations for the previously issued Contract of Guarantee. The State Director will review the lender's written request for substitution of guarantees and may authorize the issuance of the new Loan Note Guarantee in exchange for the Contract of Guarantee. The lender will:

(i) Prepare and submit to FmHA a written request for such substituted guarantee.

(ii) Certify to FmHA that there is no adverse change in the borrower's financial situation, the collateral and terms of the loan remain the same as under the original guarantee, and the loan is in good standing.

(iii) Pay the required guarantee fee.

(iv) Certify to FmHA the outstanding principal amount of the loan.

(v) Execute Form FmHA 449-35.

(3) If the lender has selected the multi-note system as provided in paragraph III A 2 of the Lender's Agreement, a Loan Note Guarantee will be prepared and attached to each note the borrower

issues. All the notes will be listed on Form FmHA 449-34.

(4) If the lender requests a series of new notes to replace previously issued guaranteed notes as provided in paragraph III A 2(b) of the Lender's Agreement, the County Supervisor may reissue the new Loan Note Guarantees in exchange for the original Loan Note Guarantees.

(c) *Assignment Guarantee Agreement.* In the event the lender assigns the guaranteed portion of the loan to a holder(s) in accordance with the provisions of the applicable Subpart, the lender, holder, and FmHA will execute Form FmHA 449-36. The original of the agreement(s) will be provided to the holder with conformed copy(s) to the lender and FmHA. If the lender desires to assign a part(s) of the guaranteed loan to a holder(s), an Assignment Guarantee Agreement will be executed for each assigned portion. Attached to the Assignment Agreement will be a copy of the borrower's note(s) and a copy of the Loan Note Guarantee.

(d) *Refusal to execute contract.* If FmHA determines that it cannot execute the Loan Note Guarantee because all requirements have not been met, it will promptly inform the lender on Form FmHA 449-13, "Denial Letter," of the reasons, and give the lender a reasonable period within which to satisfy FmHA objections. If the lender writes FmHA within the period allowed requesting additional time to satisfy the objections, FmHA may, in writing, grant such additional time as it considers necessary and reasonable under the circumstances. If the lender satisfies the objections within the time allowed, the guarantee will be issued.

(e) *Cancellation of obligations.* If the conditions for the loan are rejected or cannot be met after completion of any appeal, FmHA will prepare and submit to the Finance Office, Form FmHA 1940-10, "Cancellation of U.S. Treasury Check and/or Obligation."

(f) *Payment of guarantee fee.* The lender will prepare and deliver a Form FmHA 1980-19, "Guaranteed Loan Closing Report," for each loan to be guaranteed and deliver the guarantee fee to the FmHA representative who concurrently delivers the Loan Note Guarantee(s).

(g) *Authorized FmHA representatives to execute forms.* State Directors, District Directors, State Program Loan Chiefs, and County Supervisors are authorized to execute the Lender's Agreement, Loan Note Guarantee, or Assignment Guarantee Agreement.

§ 1980.62 Lender's sale or assignment of guaranteed portion of the loan.

Any sale or assignment by the lender of the guaranteed portion of the loan must be accomplished in accordance with the conditions in paragraph III of Form FmHA 449-35. Only guaranteed portions of loans not in payment default as set forth in the terms of the debt instruments may be sold. Should the lender know at the time the loan application is being prepared that it plans to sell or assign any part of the guaranteed portion of the loan as provided in Form FmHA 449-35, the lender will provide this information with the application to FmHA.

§ 1980.63 Defaults by borrowers.

Refer to paragraph XI of Form FmHA 449-35.

FmHA may be required to purchase the guaranteed portion of a loan(s) from holder(s) in the event of default or servicing problems. The County Supervisor will coordinate any requests from holder(s) located in close proximity to the local lender. If several holders are located outside the area, the State Director will handle the transaction and notify the County Supervisor. The County Supervisor will prepare a Form FmHA 1980-37, "FmHA Purchase of A Guaranteed Loan Portion," for each holder(s) and follow the instructions on the reverse of the form.

§ 1980.64 Liquidation.

(a) *Reference.* Refer to paragraph XII of Form FmHA 449-35.

(b) *Lender's option.* If a lender has made a loan guaranteed by FmHA under previous regulations, and the lender concludes that liquidation of the guaranteed loan is necessary because of one or more defaults or third party actions that the borrower cannot or will not cure, the lender has the option to liquidate the loan under the provisions of this Subpart, or under the provisions of previous regulations. The lender will notify the State Director in writing within 10 days after its decision to liquidate if it desires to proceed under this Subpart.

(c) *Settlement option.* If a lender acquires title to property either through voluntary conveyance or foreclosure proceeding, FmHA may elect to permit the lender the option to calculate the final loss settlement using the net proceeds received at the time of ultimate disposition of such property. The lender must submit its written request for this option to FmHA, and FmHA must agree, prior to the lender submitting any request for estimated loss payment.

§ 1980.65 Protective advances.

Refer to paragraph XIII of Form FmHA 449-35.

§ 1980.66 Additional loans or advances.

Refer to paragraph XIV of Form FmHA 449-35.

§ 1980.67 Lender's request to terminate Loan Note Guarantee.

The lender may request FmHA to terminate the Loan Note Guarantee(s) provided the lender holds all the guaranteed portions of the loan. (See paragraph 12 of Form FmHA 449-34). The lender will provide the County Supervisor with a written notice that the loan(s) is paid in full and/or termination of the Loan Note Guarantee(s) enclosing the original Form(s) FmHA 449-34 for cancellation. Within 30 days, the County Supervisor will forward a memorandum to the Finance Office through the State Director. The memorandum will indicate that: "the loan(s) is paid in full," and/or "the Loan Note Guarantee has been cancelled at the request of the lender."

§ 1980.68-1980.79 [Reserved]**§ 1980.80 Appeals.**

(a) *General.* Any adverse decision made by FmHA which affects the borrower or lender may be appealed upon written request of the aggrieved parties in accordance with this section. Only the borrower and lender can appeal an FmHA decision and they must jointly participate in the written request for review of the alleged adverse decision made by FmHA. Parties aggrieved with decisions made prior to the effective date of this provision shall have 30 days to file a request for review under these regulations if neither party has personally filed a request for review.

(b) *Request for review.* The written request for review must be made by the borrower and lender within 30 days of the written notification of the FmHA decision causing the request for an appeal. The written request must contain a full description of the reasons the aggrieved parties believe FmHA's decision is not correct and must contain appropriate documentation and supporting information. Each issue raised by FmHA in its decision will have to be addressed by the aggrieved parties. The aggrieved parties should provide alternative recommendations for FmHA consideration.

(c) *Meetings.* No meeting will be arranged to consider appeals unless FmHA deems it necessary. If a meeting is scheduled by FmHA the aggrieved parties will provide FmHA with any additional written appeal material at least 5 days before the scheduled

meeting date in order for FmHA to have time to study the materials.

(d) *Levels of appeals.* (1) The FmHA State Director will review all appeal requests which involve an alleged adverse decision made by the FmHA County Supervisor or District Director. The aggrieved parties will present their request to the State Director within the 30-day time limit set forth in paragraph (b) of this section. The State Director's decision is final and cannot be appealed to the Administrator. The State Director will notify the aggrieved parties of his/her decision in writing within 30 days from date of receipt of the request.

(2) The FmHA Administrator or designee will review all original appeal requests which involve an alleged adverse decision made by an FmHA State Director. The aggrieved parties will send their request to the Administrator with a copy provided the State Director within the 30-day time limit set forth in paragraph (b) of this section. The State Director will furnish a full report on the matter to the Administrator. The Administrator's decision is final and no further consideration will be made once the final decision is made. The Administrator will notify the aggrieved parties of the Administrator's decision in writing within 30 days from date of receipt of the request.

§ 1980.81 Access to records of lenders.

Upon request by FmHA the lender will permit representatives of FmHA (or other agencies of the U.S. Department of Agriculture authorized by that Department) to inspect and make copies of any of the records of the Lender pertaining to FmHA guaranteed loans. Such inspection and copying may be made during regular office hours of the lender, or any other time the lender and FmHA finds convenient.

§ 1980.82 State supplements to this regulation.

FmHA State Directors may supplement this regulation subject to National Office review to the extent necessary to properly implement the program in their States.

§ 1980.83 FmHA Forms.

(a) *FmHA forms incorporated in this Subpart.* Forms FmHA 449-34, "Loan Note Guarantee," FmHA 449-35, "Lender's Agreement," and FmHA 449-36, "Assignment Guarantee Agreement," are incorporated in this Subpart A, made a part hereof, and appear as appendixes A, B and C in the Federal Register. Copies of the forms may be obtained from any FmHA office.

(b) *FmHA forms used for processing and servicing guaranteed loans.* The following FmHA forms will be used in the processing and servicing of all guaranteed loans, including those loans previously closed where FmHA has issued a loan note guarantee. This does not include all FmHA forms that are part of the guarantee loan application which are referenced in this Subpart or

appropriate program subparts. Refer to appropriate FmHA program representatives, the forms manual inserts and directions printed on the form for specific details concerning completion of the forms, number of copies, and distributions. Copies of forms may be obtained from any FmHA office.

FmHA Form No.	Title of form	Purpose and code ¹
1980-7	Notification of Transfer and Assumption of a Guaranteed Loan	Record a transfer and assumption of a guaranteed loan from one borrower to another. (1)
1980-19	Guaranteed Loan Closing Report	Used to pay guarantee fee and establish guarantee loan account. (2)
1980-24	Request Subsidy Payment to Guaranteed Loan Lender	Request subsidy payment. (3)
1980-37	FmHA Purchase of a Guaranteed Loan Portion	Used to purchase guaranteed portion of loan. (1)
1980-41	Guaranteed Loan Status Report	Used to update FmHA's records of outstanding balance of guaranteed loan. (3)
1980-42	Notice of Substitution of Lenders	Used to change FmHA record of lenders. (1)
1980-43	Lender's Guaranteed Loan Payment	Used by lender to transmit payments due FmHA as a holder. (3)
1980-44	Guaranteed Loan Borrower Default Status	Used by lender to inform FmHA of borrower default. (3)
1980-45	Notice of Liquidation Responsibility	Used by FmHA to indicate to Finance Office liquidation responsibility. (1)
1980-46	Report of Liquidation Expense	Used by FmHA to pay liquidation costs or appraisal fees. (1)
1980-47	Guaranteed Loan Borrower Adjustments	Used by FmHA to adjust guaranteed loan borrower's account. (1)
1980-49	Guaranteed Loan Status Update Adjustment	Used by FmHA to update status elements on guaranteed loans and to adjust subsidy claims. (1)
1980-50	Add, Delete, or Change Guaranteed Loan Borrower Information	Used by FmHA to update guaranteed loan borrower account information. (1)
1980-51	Add, Change, or Delete Guaranteed Loan Record	Used by FmHA to update borrower loan record information. (1)
1980-52	Report Request	Used by FmHA to request reports on guaranteed loans. (1)
449-30	Loan Note Guarantee Report of Loss	Used to claim reimbursement for losses. (2)

¹ Code: (1) FmHA use only, (2) FmHA and lender use, (3) Lender use only.

§ 1980.84 Replacement of loss, theft, destruction, mutilation, or defacement of FmHA Form 449-34, "Loan Note Guarantee," Or FmHA 449-36, "Assignment Guarantee Agreement".

(a) *Authorized representative.* Except where the evidence of debt was or is a bearer instrument, the FmHA State Director is authorized on behalf of Farmers Home Administration to issue a replacement Loan Note Guarantee(s) or Assignment Guarantee Agreement(s) which may have been lost, stolen, destroyed, mutilated, or defaced to the Lender or Holder upon receipt of an acceptable certificate of loss and an indemnity bond. After the required documentation has been received, the State Director will consult with the Regional Office of General Counsel to assure that all documents are of legal sufficiency before the reissuance of the Loan Note Guarantee(s) or Assignment Guarantee Agreement(s).

(b) *Requirements.* When a Loan Note Guarantee(s) or Assignment Guarantee Agreement(s) is lost, stolen, destroyed, mutilated, or defaced while in the custody of the lender or holder, the lender will coordinate the activities of the party who seeks the replacement documents and will submit the required documents to the State Director for processing. The requirements for replacement are as follows:

(1) A certificate of loss properly notarized which includes:

(i) Legal name and present address of the owner, who is requesting the replacement forms.

(ii) Legal name and address of lender of record.

(iii) Capacity of person certifying.

(iv) Full identification of the Loan Note Guarantee or Assignment Guarantee Agreement including the name of the borrower, FmHA case number, date of the Loan Note Guarantee or Assignment Guarantee Agreement, face amount of the evidence of debt purchased, date of evidence of debt, present balance of the loan, percentage of guarantee and if Assignment Guarantee Agreement, the original named holder and the percentage of the guaranteed portion of the loan assigned to that holder. Any existing parts of the document to be replaced should be attached to the certificate.

(v) A full statement of circumstances of the loss, theft, or destruction of the Loan Note Guarantee or Assignment Guarantee Agreement.

(vi) The holder shall present evidence demonstrating current ownership of the Loan Note Guarantee and note or Assignment Guarantee Agreement. If the present holder is not the same as the original holder, a copy of the

endorsement of each successive holder in the chain of transfer from the initial holder to present holder must be included. If copies of the endorsement cannot be obtained, best available records of transfer must be presented to FmHA (e.g., order confirmation, canceled checks, etc.).

(2) An indemnity bond acceptable to FmHA shall accompany the request for replacement except when the holder is the United States, a Federal Reserve Bank, a Federal Government Corporation, a State or Territory, or the District of Columbia. The bond may be with or without surety. The bond shall be with surety except when the outstanding principal balance and accrued interest due the present holder is less than \$1,000,000 verified by the lender in writing in a letter of Certification of balance due. The surety shall be a qualified surety company holding a certificate of authority from the Secretary of the Treasury and listed in Treasury Department Circular 580.

(3) All indemnity bonds must be issued and/or payable to the United States of America acting through the Farmers Home Administration. The bond shall be in an amount not less than the unpaid principal and interest. The bond shall save FmHA harmless against any claim or demand which might arise or against any damage, loss, costs, or expenses which might be sustained or incurred by reasons of the loss or replacement of the instruments.

(4) In those cases where the guaranteed loan was closed under the provisions of paragraph III A. 2. of Form FmHA 449-35, known as the "Multi-Note System", FmHA will not attempt to or participate in the obtaining of replacement notes from the borrower. It will be the responsibility of the holder to bear costs of note replacement if the borrower agrees to issue a replacement instrument. Should such note be replaced, the terms of the note cannot be changed. (See paragraph III A. 2. b of Form FmHA 449-35, for general conditions for reissued notes.) If the evidence of debt has been lost, stolen, destroyed, mutilated or defaced, such evidence of debt must be replaced before FmHA will replace any instruments.

Administrative

A. State Directors will review all documents when presented by the lender to assure all requirements are met.

B. The State Director will contact the Regional OGC for assistance before new guarantee instruments are issued.

C. If the decision is to reissue Loan Note Guarantee(s) or Assignment Guarantee

Agreement(s) the following procedure will be followed:

(1) *Multi-note system.* A new Form FmHA 449-34 will be prepared using the original face amounts and amounts guaranteed (not outstanding loan balance). At the top of the form type "This Loan Note Guarantee is issued to replace the original dated

_____ which was (insert "lost, stolen, destroyed, defaced or mutilated.") Only execute an original for the Holder. Copies may be conformed for the lender and FmHA file.

If borrower notes are needed they must be obtained by the holder from the borrower.

The indemnity bond must be kept in safekeeping.

(2) *Assignment Guarantee Agreement system.* A new Form FmHA 449-36 will be prepared using the original amounts except the current principal amount of the loan outstanding should be inserted at item 1 on the face of the document. At the top of the form type "This Assignment Guarantee Agreement is issued to replace the original dated _____ which was lost, stolen, destroyed, defaced or mutilated." Only execute an original for the Holder. Copies may be conformed for the lender and FmHA. If a surety bond is issued, it must be kept in safekeeping.

(3) The lender must execute the replacement forms prior to FmHA execution of the same.

(4) Certificates of Incumbency may be provided.

§§ 1980.85-1980-99 [Reserved]

§ 1980.100 OMB control number.

The collections of information requirements contained in this rule have been approved by the Office of Management and Budget and have been assigned OMB control number 0575-0024.

BILLING CODE 3410-07-M

APPENDIX A

USDA-FmHA Form FmHA 449-34 (Rev. 5-16-83) Type of Loan: _____ Applicable 7 C.F.R. Part 1980 Subpart _____ Borrower _____	State _____ County _____ Date of Note _____ FmHA Loan Identification Number _____ Lender's IRS ID Tax Number _____ Principal Amount of Loan \$ _____
LOAN NOTE GUARANTEE	
Lender _____ Lender's Address _____	

The guaranteed portion of the loan is \$ _____ which is _____ (%)

percent of loan principal. The principal amount of loan is evidenced by _____ note(s) (includes bonds as appropriate) described below. The guaranteed portion of each note is indicated below. This instrument is attached to note

_____ in the face amount of \$ _____ and is number _____ of _____.

LENDER'S IDENTIFYING NUMBER	FACE AMOUNT	PERCENT OF TOTAL FACE AMOUNT	AMOUNT GUARANTEED
	\$	%	\$

TOTAL \$ _____ 100% \$ _____

In consideration of the making of the subject loan by the above named Lender, the United States of America, acting through the Farmers Home Administration of the United States Department of Agriculture (herein called "FmHA"), pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et. seq.), the Emergency Livestock Credit Act of 1974 (7 U.S.C. note preceding 1961, P.L. 93-357 as amended), the Emergency Agricultural Credit Adjustment Act of 1978 (7 U.S.C. note preceding 1921, P.L. 95-334), or Title V of the Housing Act of 1949 (42 U.S.C. 1471 et. seq.) does hereby agree that in accordance with and subject to the conditions and requirements herein, it will pay to:

A. Any Holder 100 percent of any loss sustained by such Holder on the guaranteed portion and on interest due (including any loan subsidy) on such portion.

B. The Lender the lesser of 1. or 2. below:

1. Any loss sustained by such Lender on the guaranteed portion including:
 - a. Principal and interest indebtedness as evidenced by said note(s) or by assumption agreement(s), and
 - b. Any loan subsidy due and owing, and
 - c. Principal and interest indebtedness on secured protective advances for protection and preservation of collateral made with FmHA's authorization, including but not limited to, advances for taxes, annual assessments, any ground rents, and hazard or flood insurance premiums affecting the collateral, or
2. The guaranteed principal advanced to or assumed by the Borrower under said note(s) or assumption agreement(s) and any interest due (including any loan subsidy) thereon.

If FmHA conducts the liquidation of the loan, loss occasioned to a Lender by accruing interest (including any loan subsidy) after the date FmHA accepts responsibility for liquidation will not be covered by this Loan Note Guarantee. If Lender conducts the liquidation of the loan, accruing interest (including any loan subsidy) shall be covered by this Loan Note Guarantee to date of final settlement when the Lender conducts the liquidation expeditiously in accordance with the liquidation plan approved by FmHA.

Definition of Holder.

The Holder is the person or organization other than the Lender who holds all or part of the guaranteed portion of the loan with no servicing responsibilities. Holders are prohibited from obtaining any part(s) of the guaranteed portion of the loan with proceeds from any obligation, the interest on which is excludable from income, under Section 103 of the Internal Revenue Code of 1954, as amended (IRC). When the Lender assigns a part(s) of the guaranteed loan to an assignee, the assignee becomes a Holder only when Form FmHA 449-36, "Assignment Guarantee Agreement," is used.

Definition of Lender.

The Lender is the person or organization making and servicing the loan which is guaranteed under the provisions of the applicable Subpart 7 CFR of Part 1980. The Lender is also the party requesting a loan guarantee.

CONDITIONS OF GUARANTEE

1. **Loan Servicing.**

Lender will be responsible for servicing the entire loan, and Lender will remain mortgagee and/or secured party of record notwithstanding the fact that another party may hold a portion of the loan. When multiple notes are used to evidence a loan, Lender will structure repayments as provided in the loan agreement.

2. **Priorities.**

The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. The unguaranteed portion of the loan will not be paid first nor given any preference or priority over the guaranteed portion.

3. **Full Faith and Credit.**

The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which Lender or any Holder has actual knowledge at the time it became such Lender or Holder or which Lender or any Holder participates in or condones. If the note to which this is attached or relates provides for payment of interest on interest, then this Loan Note Guarantee is void. In addition, the Loan Note Guarantee will be unenforceable by Lender to the extent any loss is occasioned by the violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses occasioned will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

4. **Rights and Liabilities.**

The guarantee and right to require purchase will be directly enforceable by Holder notwithstanding any fraud or misrepresentation by Lender or any unenforceability of this Loan Note Guarantee by Lender. Nothing contained herein will constitute any waiver by FmHA of any rights it possesses against the Lender. Lender will be liable for and will promptly pay to FmHA any payment made by FmHA to Holder which if such Lender had held the guaranteed portion of the loan, FmHA would not be required to make.

5. **Payments.**

Lender will receive all payments of principal, or interest, and any loan subsidy on account of the entire loan and will promptly remit to Holder(s) its pro rata share thereof determined according to its respective interest in the loan, less only Lender's servicing fee.

6. **Protective Advances.**

Protective advances made by Lender pursuant to the regulations will be guaranteed against a percentage of loss to the same extent as provided in this Loan Note Guarantee notwithstanding the guaranteed portion of the loan that is held by another.

7. **Repurchase by Lender.**

The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest (including any loan subsidy) less the Lender's servicing fee. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the demand letter to the Lender requesting the repurchase. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to facilitate the accounting for funds, resolve the problem, and to permit the borrower to cure the default, where reasonable. The Lender will notify the Holder(s) and FmHA of its decision.

8. **FmHA Purchase.**

If Lender does not repurchase as provided by paragraph 7 hereof, FmHA will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest (including any loan subsidy) to date of repurchase less Lender's servicing fee, within thirty (30) days after written demand to FmHA from Holder. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the original demand letter of the Holder to the Lender requesting the repurchase. Such demand will include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest (including any loan subsidy) subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA will promptly notify the Lender of its receipt of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA with the information necessary for FmHA determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, FmHA will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the office servicing the borrower and State Director and remit the check(s) to the Holder(s).

9. Lender's obligations.

Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount including any loan subsidy then owed to any Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's rights against Lender, and that FmHA will have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. Repurchase by Lender for Servicing.

If, in the opinion of the Lender, repurchase of the guaranteed portion of the loan is necessary to adequately service the loan, the Holder will sell the portion of the loan to the Lender for an amount equal to the unpaid principal and interest (including any loan subsidy) on such portion less Lender's servicing fee. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the demand letter of the Lender or FmHA to the Holder(s) requesting the Holder(s) to tender their guarantee portion(s).

a. The Lender will not repurchase from the Holder(s) for arbitrage purposes or other purposes to further its own financial gain.

b. Any repurchase will only be made after the Lender obtains FmHA written approval.

c. If the Lender does not repurchase the portion from the Holder(s), FmHA at its option may purchase such guaranteed portions for servicing purposes.

11. Custody of Unguaranteed Portion.

The Lender may retain, or sell the unguaranteed portion of the loan only through participation. Participation, as used in this instrument, means the sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

12. When Guarantee Terminates.

This Loan Note Guarantee will terminate automatically (a) upon full payment of the guaranteed loan; or (b) upon full payment of any loss obligation hereunder; or (c) upon written notice from the Lender to FmHA that the guarantee will terminate 30 days after the date of notice, provided the Lender holds all of the guaranteed portion and the Loan Note Guarantee(s) are returned to be cancelled by FmHA.

13. Settlement.

The amount due under this instrument will be determined and paid as provided in the applicable Subpart of Part 1980 of Title 7 CFR in effect on the date of this instrument.

14. Loan Subsidy.

*In addition to the interest rate of the note attached hereto, FmHA will pay a loan subsidy of _____ percent per year. Payments will be made annually.

15. Notices.

All notice and actions will be initiated through the FmHA _____

for _____ (State) with mailing address at the date of this instrument:

UNITED STATES OF AMERICA
Farmers Home Administration

By: _____

Title: _____

(Date)

Assumption Agreement by _____ dated _____, 19____

Assumption Agreement by _____ dated _____, 19____

*If not applicable delete paragraph prior to execution of this instrument.

USDA-FmHA
Form FmHA 449-35
(Rev. 5-16-83)

APPENDIX B

FORM APPROVED
OMB NO. 0575-0024
EXPIRES 10-31-85

LENDER'S AGREEMENT

Type of Loan: _____

Applicable 7 CFR Part 1980 Subpart _____

FmHA Loan Ident. No. _____

_____ (Lender) of _____

_____ has made a loan(s) to _____

_____ (Borrower)

_____ in the principal

amount of \$ _____ as evidenced by _____ note(s)

(include Bond as appropriate) described as follows: _____

The United States of America, acting through Farmers Home Administration (FmHA) has entered into a "Loan Note Guarantee" (Form FmHA 449-34) or has issued a "Conditional Commitment for Guarantee" (Form FmHA 449-14) to enter into a Loan Note Guarantee with the Lender applicable to such loan to participate in a percentage of any loss on the loan not

to exceed _____ % of the amount of the principal advance and any interest (including any loan subsidy) thereon. The terms of the Loan Note Guarantee are controlling. In order to facilitate the marketability of the guaranteed portion of the loan and as a condition for obtaining a guarantee of the loan(s), the Lender enters into this agreement.

THE PARTIES AGREE:

I. The maximum loss covered under the Loan Note Guarantee will not exceed _____ percent of the principal and accrued interest including any loan subsidy on the above indebtedness.

II. **Full Faith and Credit.** The Loan Note Guarantee constitutes an obligation supported by the full faith and credit of the United States and is incontestable except for fraud or misrepresentation of which the Lender has actual knowledge at the time it became such Lender or which Lender participates in or condones. The note which provides for the payment of interest on interest shall not be guaranteed. Any Loan Note Guarantee or Assignment Guarantee Agreement attached to or relating to a note which provides for payment of interest on interest is void.

The Loan Note Guarantee will be unenforceable by the Lender to the extent any loss is occasioned by violation of usury laws, negligent servicing, or failure to obtain the required security regardless of the time at which FmHA acquires knowledge of the foregoing. Any losses will be unenforceable to the extent that loan funds are used for purposes other than those specifically approved by FmHA in its Conditional Commitment for Guarantee. Negligent servicing is defined as the failure to perform those services which a reasonably prudent Lender would perform in servicing its own portfolio of loans that are not guaranteed. The term includes not only the concept of a failure to act but also not acting in a timely manner or acting in a manner contrary to the manner in which a reasonably prudent lender would act up to the time of loan maturity or until a final loss is paid.

III. **Lender's Sale or Assignment of Guaranteed Loan.**

A. The Lender may retain all of the guaranteed loan. The Lender is not permitted to sell or participate any amount of the guaranteed or unguaranteed portion(s) of the loan(s) to the applicant or Borrower or members of their immediate families, their officers, directors, stockholders, other owners, or any parent, subsidiary or affiliate. If the Lender desires to market all or part of the guaranteed portion of the loan at or subsequent to loan closing, such loan must not be in default as set forth in the terms of the notes. The Lender may proceed under the following options:

This report contains certain agreements to provide future reports and information which must be agreed to by the Lender in order to obtain the benefit of an FmHA loan guarantee. This statement is furnished pursuant to P. L. 96-511.

1. **Assignment.** Assign all or part of the guaranteed portion of the loan to one or more Holders by using Form FmHA 449-36, "Assignment Guarantee Agreement." Holder(s), upon written notice to Lender and FmHA, may reassign the unpaid guaranteed portion of the loan sold thereunder. Upon such notification the assignee shall succeed to all rights and obligations of the Holder(s) thereunder. If this portion is selected, the Lender may not at a later date cause to be issued any additional notes.

2. **Multi-Note System.** When this option is selected by the Lender, upon disposition the Holder will receive one of the Borrower's executed notes and Form FmHA 449-34, "Loan Note Guarantee" attached to the Borrower's note. However, all rights under the security instruments (including personal and/or corporate guarantees) will remain with the Lender and in all cases inure to its and the Government's benefit notwithstanding any contrary provisions of state law.

a. **At Loan Closing:** Provide for no more than 10 notes, unless the Borrower and FmHA agree otherwise, for the guaranteed portion and one note for the unguaranteed portion. When this option is selected, FmHA will provide the Lender with a Form FmHA 449-34, for each of the notes.

b. **After Loan Closing:**

(1) Upon written approval by FmHA, the Lender may cause to be issued a series of new notes, not to exceed the total provided in 2.a. above, as replacement for previously issued guaranteed note(s) provided:

- (a) The Borrower agrees and executes the new notes.
- (b) The interest rate does not exceed the interest rate in effect when the loan was closed.
- (c) The maturity of the loan is not changed.
- (d) FmHA will not bear any expenses that may be incurred in reference to such re-issue of notes.
- (e) There is adequate collateral securing the note(s).
- (f) No intervening liens have arisen or have been perfected and the secured lien priority remains the same.

(2) FmHA will issue the appropriate Loan Note Guarantees to be attached to each of the notes then extant in exchange for the original Loan Note Guarantee which will be cancelled by FmHA.

3. **Participations.**

a. The Lender may obtain participation in its loan under its normal operating procedures. Participation means a sale of an interest in the loan wherein the Lender retains the note, collateral securing the note, and all responsibility for loan servicing and liquidation.

b. The Lender is required to hold in its own portfolio or retain a minimum of 10% of Farmer Program loans and 5% for Business and Industry Program loans of the total guaranteed loan(s) amount. The amount required to be retained must be of the unguaranteed portion of the loan and cannot be participated to another. The Lender may sell the remaining amount of the unguaranteed portion of the loan, except for Farmer Program loans, only through participation. However, the Lender will always retain the responsibility for loan servicing and liquidation.

B. When a guaranteed portion of a loan is sold by the Lender to a Holder(s), the Holder(s) shall thereupon succeed to all rights of Lender under the Loan Note Guarantee to the extent of the portion of the loan purchased. Lender will remain bound to all the obligations under the Loan Note Guarantee, and this agreement, and the FmHA program regulations found in the applicable Subpart of Title 7 CFR Part 1980, and to future FmHA program regulations not inconsistent with the express provisions hereof.

C. The Holder(s) upon written notice to the Lender may resell the unpaid guaranteed portion of the loan sold under provision III A.

IV. The Lender agrees loan funds will be used for the purposes authorized in the applicable Subpart of Title 7 CFR Part 1980 and in accordance with the terms of Form FmHA 449-14.

V. The Lender certifies that it is a citizen of the United States of America, or, if an organization, that the ownership of at least 51 percent of any outstanding interests of the Lender is owned by citizens of the United States. Further, such Lender certifies that any guarantees received shall be only on loans made by it, operating for itself and not on behalf of foreign citizens or organizations.

VI. The Lender certifies that none of its officers or directors, stockholders or other owners has a substantial financial interest in the borrower. The Lender certifies that neither the Borrower nor its officers or directors, stockholders or other owners has a substantial financial interest in the Lender.

VII. The Lender certifies that it has no knowledge of any material adverse change, financial or otherwise, in the Borrower, Borrower's business, or any parent, subsidiaries, or affiliates since it requested a Loan Note Guarantee.

VIII. Lender certifies that a loan agreement and/or loan instruments concurred in by FmHA has been or will be signed with the Borrower.

IX. Lender certifies it has paid the required guarantee fee.

X. **Servicing.**

A. The Lender will service the entire loan and will remain mortgagee and/or secured party of record, notwithstanding the fact that another may hold a portion of the loan. The entire loan will be secured by the same security with equal lien priority for the guaranteed and unguaranteed portions of the loan. Lender may charge Holder a servicing fee. The unguaranteed portion of a loan will not be paid first nor given any preference or priority over the guaranteed portion of the loan.

B. Disposition of the guaranteed portion of a loan may be made prior to full disbursement, completion of construction and acquisitions only with the prior written approval of FmHA. Subsequent to full disbursement, completion of construction, and acquisition, the guaranteed portion of the loan may be disposed of as provided herein.

It is the Lender's responsibility to see that all construction is properly planned before any work proceeds; that any required permits, licenses or authorizations are obtained from the appropriate regulatory agencies; that the Borrower has obtained contracts through acceptable procurement procedures; that periodic inspections during construction are made and that FmHA's concurrence on the overall development schedule is obtained.

C. Lender's servicing responsibilities include, but are not limited to:

1. Obtaining compliance with the covenants and provisions in the note, loan agreement, security instruments, and any supplemental agreements and notifying in writing FmHA and the Borrower of any violations. None of the aforesaid instruments will be altered without FmHA's prior written concurrence. The Lender must service the loan in a reasonable and prudent manner.

2. Receiving all payments on principal and interest (including any loan subsidy) on the loan as they fall due and promptly remitting and accounting to any Holder(s) of their pro rata share thereof determined according to their respective interests in the loan, less only Lender's servicing fee. The loan may be reamortized or renewed only with agreement of the Lender and Holder(s) of the guaranteed portion of the loan and only with FmHA concurrence.

3. Inspecting the collateral as often as necessary to properly service the loan.

4. Assuring that adequate insurance is maintained. This includes hazard insurance obtained and maintained with a loss payable clause in favor of the Lender as the mortgagee or secured party.

5. Assuring that: taxes, assessment or ground rents against or affecting collateral are paid; the loan and collateral are protected in foreclosure, bankruptcy, receivership, insolvency, condemnation, or other litigation, insurance loss payments, condemnation awards, or similar proceeds are applied on debts in accordance with lien priorities on which the guarantee was based, or to rebuilding or otherwise acquiring needed replacement collateral with the written approval of FmHA; proceeds from the sale or other disposition of collateral are applied in accordance with the lien priorities on which the guarantee is based, except that proceeds from the disposition of collateral, such as machinery, equipment, furniture or fixtures, may be used to acquire property of similar nature in value up to \$_____ without written concurrence of FmHA; the Borrower complies with all laws and ordinances applicable to the loan, the collateral and/or operating of the farm, business or industry.

6. Assuring that if personal or corporate guarantees are part of the collateral, current financial statements from such loan guarantors will be obtained and copies provided to FmHA at such time and frequency as required by the loan agreement or Conditional Commitment for Guarantee. In the case of guarantees secured by collateral, assuring the security is properly maintained.

7. Obtaining the lien coverage and lien priorities specified by the Lender and agreed to by FmHA, properly recording or filing lien or notice instruments to obtain or maintain such lien priorities during the existence of the guarantee by FmHA.

8. Assuring that the Borrower obtains title marketable in fact to the collateral.

9. Assuring that the Borrower (any party liable) is not released from liability for all or any part of the loan, except in accordance with FmHA regulations.

10. Providing FmHA Finance Office with loan status reports semiannually as of June 30 and December 31 on Form FmHA 1980-41, "Guaranteed Loan Status Report."

11. Obtaining from the Borrower periodic financial statements under the following schedule: _____

Lender is responsible for analyzing the financial statements, taking any servicing actions and providing copies of statements and record of actions to the FmHA office immediately responsible for the loan.

XI. Default by Borrower.

A. The Lender will notify FmHA when a Borrower is thirty (30) days (90 days for guaranteed rural housing loan) past due on a payment or if the Borrower has not met its responsibilities of providing the required financial statements to the Lender or is otherwise in default. The Lender will notify FmHA of the status of a Borrower's default on Form FmHA 1980-44, "Guaranteed Loan Borrower Default Status." A meeting will be arranged by the Lender with the Borrower and FmHA to resolve the problem. Actions taken by the Lender with written concurrence of FmHA will include but are not limited to the following or any combination thereof:

1. Deferral of principal payments (subject to rights of any Holder(s)).
2. An additional temporary loan by the Lender to bring the account current.
3. Reamortization of or rescheduling the payments on the loan (subject to rights of any Holder(s)).
4. Transfer and assumption of the loan in accordance with the applicable Subpart of Title 7 CFR Part 1980.
5. Reorganization.
6. Liquidation.
7. Subsequent loan guarantees.

8. Changes in interest rates with FmHA's, Lender's, and the Holder(s) approval; provided, such interest rate is adjusted proportionally between the guaranteed and unguaranteed portion of the loan and the type of rate remains the same.

B. The Lender will negotiate in good faith in an attempt to resolve any problem to permit the Borrower to cure a default, where reasonable.

C. The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the Borrower is in default not less than 60 days in payment of principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the Borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of the principal and accrued interest less the Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the demand letter to the Lender requesting the repurchase. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to facilitate the accounting for funds, resolve the problem, and to permit the borrower to cure the default where reasonable. The Lender will notify the Holder(s) and FmHA of its decision.

D. If Lender does not repurchase as provided by paragraph C, FmHA will purchase from Holder(s) the unpaid principal balance of the guaranteed portion herein together with accrued interest (including any loan subsidy) to date of repurchase, within 30 days after written demand to FmHA from the Holder(s). The loan note guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of original demand letter of the Holder(s) to the Lender requesting the repurchase. Such demand will include a copy of the written demand made upon the Lender.

The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the originals of the Loan Note Guarantee and note properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder(s) will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of the demand.

The FmHA office serving the Borrower will promptly notify the Lender of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA office servicing the Borrower with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment by FmHA will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, the FmHA office servicing the Borrower will review the demand and submit it to the State Director for verification. After reviewing the demand, the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the office servicing the Borrower and State Director and remit the check(s) to the Holder(s).

E. Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by the Borrower on the loan and the amount due the Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee, nor does such purchase waive any of FmHA's rights against Lender, and FmHA will have the right to set-off against Lender all rights inuring to FmHA from the Holder against FmHA's obligation to Lender under the Loan Note Guarantee. To the extent FmHA holds a portion of a loan, loan subsidy will not be paid the Lender.

F. Servicing fees assessed by the Lender to a Holder are collectible only from payment installments received by the Lender from the Borrower. When FmHA repurchases from a Holder, FmHA will pay the Holder only the amounts due the Holder. FmHA will not reimburse the Lender for servicing fees assessed to a Holder and not collected from payments received from the Borrower.

G. Lender may also repurchase the guaranteed portion of the loan consistent with paragraph 10 of the Loan Note Guarantee.

XII. Liquidation. If the Lender concludes that liquidation of a guaranteed loan account is necessary because of one or more defaults or third party actions that the Borrower cannot or will not cure or eliminate within a reasonable period of time, a meeting will be arranged by the Lender with FmHA. When FmHA concurs with the Lender's conclusion or at any time concludes independently that liquidation is necessary, it will notify the Lender and the matter will be handled as follows:

The Lender will liquidate the loan unless FmHA, at its option, decides to carry out liquidation.

When the decision to liquidate is made, the Lender may proceed to purchase from Holder(s) the guaranteed portion of the loan. The Holder(s) will be paid according to the provisions in the loan Note Guarantee or the Assignment Guarantee Agreement.

If the Lender does not purchase the guaranteed portion of the loan, FmHA will be notified immediately in writing. FmHA will then purchase the guaranteed portion of the loan from the Holder(s). If FmHA holds any of the guaranteed portion, FmHA will be paid first its pro rata share of the proceeds from liquidation of the collateral.

A. Lender's proposed method of liquidation. Within 30 days after the decision to liquidate, the Lender will advise FmHA in writing of its proposed detailed method of liquidation called a liquidation plan and will provide FmHA with:

1. Such proof as FmHA requires to establish the Lender's ownership of the guaranteed loan promissory note(s) and related security instruments.

2. Information lists concerning the Borrower's assets including real and personal property, fixtures, claims, contracts, inventory (including perishables), accounts receivable, personal and corporate guarantees, and other existing and contingent assets, advice as to whether or not each item is serving as collateral for the guaranteed loan.

3. A proposed method of making the maximum collection possible on the indebtedness.

4. If the outstanding principal B&I loan balance including accrued interest is less than \$200,000, the Lender will obtain an estimate of the market and potential liquidated value of the collateral. On B&I loan balances in excess of \$200,000, and all other loans, the Lender will obtain an independent appraisal report on all collateral securing the loan, which will reflect the current market value and potential liquidation value. The appraisal report is for the purpose of permitting the Lender and FmHA to determine the appropriate liquidation actions. Any independent appraiser's fee will be shared equally by FmHA and the Lender.

B. FmHA's response to Lender's liquidation plan. FmHA will inform the Lender in writing whether it concurs in the Lender's liquidation plan within 30 days after receipt of such notification from the Lender. If FmHA needs additional time to respond to the liquidation plan, it will advise the Lender of a definite time for such response. Should FmHA and the Lender not agree on the Lender's liquidation plan, negotiations will take place between FmHA and the Lender to resolve the disagreement. The Lender will ordinarily conduct the liquidation; however, should FmHA opt to conduct the liquidation, FmHA will proceed as follows:

1. The Lender will transfer to FmHA all rights and interests necessary to allow FmHA to liquidate the loan. In this event, the Lender will not be paid for any loss until after the collateral is liquidated and the final loss is determined by FmHA.

2. FmHA will attempt to obtain the maximum amount of proceeds from liquidation.

3. Options available to FmHA include any one or combination of the usual commercial methods of liquidation.

C. Acceleration. The Lender or FmHA, if it liquidates, will proceed as expeditiously as possible when acceleration of the indebtedness is necessary including giving any notices and taking any other legal actions required by the security instruments. A copy of the acceleration notice or other acceleration document will be sent to FmHA or the Lender, as the case may be.

D. Liquidation: Accounting and Reports. When the Lender conducts the liquidation, it will account for funds during the period of liquidation and will provide FmHA with periodic reports on the progress of liquidation, disposition of collateral, resulting costs and additional procedures necessary for successful completion of liquidation. The Lender will transmit to FmHA any payments received from the Borrower and/or pro rata share of liquidation or other proceeds, etc. when FmHA is the holder of a portion of the guaranteed loan using Form FmHA 1980-43, "Lender's Guaranteed Loan Payment to FmHA." When FmHA liquidates, the Lender will be provided with similar reports on request.

E. Determination of Loss and Payment. In all liquidation cases, final settlement will be made with the Lender after the collateral is liquidated. FmHA will have the right to recover losses of paid under the guarantee from any party liable.

1. Form FmHA 449-30 Loan Note Guarantee "Report of Loss," will be used for calculations of all estimated and final loss determinations.

2. When the Lender is conducting the liquidation, and owns any of the guaranteed portion of the loan, it may request a tentative loss estimate by submitting to FmHA an estimate of the loss that will occur in connection with liquidation of the loan. FmHA will agree to pay an estimated loss settlement to the Lender provided the Lender applies such amount due to the outstanding principal balance owed on the guaranteed debt. Such estimate will be prepared and submitted by the Lender on Form FmHA 449-30, using the basic formula as provided on the report except that the appraisal value will be used in lieu of the amount received from the sale of collateral.

After the Report of Loss estimate has been approved by FmHA, and within 30 days, thereafter, FmHA will send the original Report of Loss estimate to FmHA Finance Office for issuance of a Treasury check in payment of the estimated amount due the Lender.

After liquidation has been completed, a final loss report will be submitted on Form FmHA 449-30 by the Lender to FmHA.

3. After the Lender has completed liquidation, FmHA upon receipt of the final accounting and report of loss, may audit and will determine the actual loss. If FmHA has any questions regarding the amounts set forth in the final Report of Loss, it will investigate the matter. The Lender will make its records available to and otherwise assist FmHA in making the investigation. If FmHA finds any discrepancies, it will contact the Lender and arrange for the necessary corrections to be made as soon as possible. When FmHA finds the final Report of Loss to be proper in all respects, it will be tentatively approved in the space provided on the form for that purpose.

4. When the Lender has conducted liquidation and after the final Report of Loss has been tentatively approved:

a. If the loss is greater than the estimated loss payment, FmHA will send the original of the final Report of Loss to the Finance Office for issuance of a Treasury check in payment of the additional amount owed by FmHA to the Lender.

b. If the loss is less than the estimated loss, the Lender will reimburse FmHA for the overpayment plus interest at the note rate from date of payment.

5. If FmHA has conducted liquidation, it will provide an accounting and Report of Loss to the Lender and will pay the Lender in accordance with the Loan Note Guarantee.

6. In those instances where the Lender has made authorized protective advances, it may claim recovery for the guaranteed portion of any loss of monies advanced as protective advances and interest resulting from such protective advances as provided above, and such payment will be made by FmHA when the final Report of Loss is approved.

F. Maximum amount of interest loss payment. Notwithstanding any other provisions of this agreement, the amount payable by FmHA to the Lender cannot exceed the limits set forth in the Loan Note Guarantee. If FmHA conducts the liquidation, loss occasioned by accruing interest (including any loan subsidy) will be covered by the guarantee only to the date FmHA accepts this responsibility. Loss occasioned by accruing interest (including subsidy) will be covered to the extent of the guarantee to the date of final settlement when the liquidation is conducted by the Lender provided it proceeds expeditiously with the liquidation plan approved by FmHA. The balance of accrued interest (including any loan subsidy) payable to the Lender, if any, will be calculated on the final Report of Loss form.

G. Application of FmHA loss payment. The total amount of the loss payment remitted by FmHA will be applied by the Lender on the guaranteed portion of the loan debt. However, such application does not release the Borrower from liability. At time of final loss settlement the Lender will notify the Borrower that the loss payment has been so applied. In all cases a final Form FmHA 449-30 prepared and submitted by the Lender must be processed by FmHA in order to close out the files at the FmHA Finance Office.

H. Income from collateral. Any net rental or other income that has been received by the Lender from the collateral will be applied on the guaranteed loan debt.

I. Liquidation costs. Certain reasonable liquidation costs will be allowed during the liquidation process. These liquidation costs will be submitted as a part of the liquidation plan. Such costs will be deducted from gross proceeds from the disposition of collateral unless the costs have been previously determined by the Lender (with FmHA written concurrence) to be protective advances. If changed circumstances after submission of the liquidation plan require a revision of liquidation costs, the Lender will procure FmHA's written concurrence prior to proceeding with the proposed changes. No in-house expenses of the Lender will be allowed.

J. Foreclosure. The parties owning the guaranteed portion and unguaranteed portions of the loan will join to institute foreclosure action or, in lieu of foreclosure, to take a deed of conveyance to such parties. When the conveyance is received and liquidated, net proceeds will be applied to the guaranteed loan debt.

K. Payment. Such loss will be paid by FmHA within 60 days after the Lender has submitted the final Report of Loss form.

XIII. Protective Advances. Protective advances must constitute an indebtedness of the Borrower to the Lender and be secured by the security instrument(s). FmHA written authorization is required on all protective advances in excess of \$500. Protective advances include, but are not limited to, advances made for taxes, annual assessments, ground rent, hazard or flood insurance premiums affecting the collateral, and other expenses necessary to preserve or protect the security.

XIV. Additional Loans or Advances.

The Lender will not make additional expenditures or new loans without first obtaining the written approval of FmHA even though such expenditures or loans will not be guaranteed.

XV. Future Recovery.

After a loan has been liquidated and a final loss has been paid by FmHA, any future funds which may be recovered by the Lender, will be pro-rated between FmHA and the Lender. FmHA will be paid such amount recovered in proportion to the percentage it guaranteed for the loan and the Lender will retain such amounts in proportion to the percentage of the unguaranteed portion of the loan.

XVI. Transfer and Assumption Cases.

Refer to the applicable Subpart of Title 7 of CFR Part 1980.

If a loss should occur upon consummation of a complete transfer and assumption for less than the full amount of the debt and the transferor-debtor (including personal guarantees) is released from personal liability, the Lender, if it holds the guaranteed portion, may file an estimated Report of Loss on Form FmHA 449-30, "Loan Note Guarantee Report of Loss," to recover its pro rata share of the actual loss at that time. In completing Form FmHA 449-30, the amount of the debt assumed will be entered on line 24 as Net Collateral (Recovery). Approved protective advances and accrued interest thereon made during the arrangement of a transfer and assumption, if not assumed by the Transferee, will be entered on Form FmHA 449-30, line 13 and 14.

XVII. Other Requirements.

This agreement is subject to all the requirements of the applicable Subpart of Title 7 CFR Part 1980, and any future amendments of these regulations not inconsistent with this agreement. Interested parties may agree to abide by future FmHA regulations not inconsistent with this agreement.

XVIII. Execution of Agreements.

If this agreement is executed prior to the execution of the Loan Note Guarantee, this agreement does not impose any obligation upon FmHA with respect to execution of such contract. FmHA in no way warrants that such a contract has been or will be executed.

XIX. Notices.

All notices and actions will be initiated through FmHA for _____

(State) with mailing address at the date of this instrument _____

Dated this _____ day of _____, 19 _____

LENDER:

ATTEST: _____ (SEAL)

By _____

Title _____

UNITED STATES OF AMERICA
Farmers Home Administration

By _____

Title _____

Position 5

APPENDIX C

USDA-FmHA
Form FmHA 449-36
(Rev. 5-16-83)

FORM APPROVED
OMB NO. 0575-0024
EXPIRES 10-31-85

ASSIGNMENT GUARANTEE AGREEMENT

Type of Loan: _____ FmHA Loan Identification Number _____
Applicable 7 CFR Part 1980 Subpart _____

_____ of _____
(Lender) has made a loan to _____

in the principal amount of \$ _____ as evidenced by a note(s) dated _____
The United States of America, acting through Farmers Home Administration (FmHA) entered into a Loan Note Guarantee

(Form FmHA 449-34) with the Lender applicable to such loan to guarantee the loan not to exceed _____ %
of the amount of the principal advanced and any interest (including any loan subsidy) due thereon as provided therein.

_____ of _____

(Holder) desires to purchase from Lender _____ % of the guaranteed portion of such loan. Copies of
Borrower's note(s) and the Loan Note Guarantee are attached hereto as a part hereof.

NOW, THEREFORE, THE PARTIES AGREE:

1. The principal amount of the loan now outstanding is \$ _____. Lender hereby assigns to Holder
_____ % of the guaranteed portion of the loan representing \$ _____ of such loan now
outstanding in accordance with all of the terms and conditions hereinafter set forth. The Lender and FmHA certify to the
Holder that the Lender has paid and FmHA has received the Guarantee Fee in exchange for the issuance of the Loan Note
Guarantee.

2. **Loan Servicing.** The Lender will be responsible for servicing the entire loan and will remain mortgagee and/or
secured party of record. The entire loan will be secured by the same security with equal lien priority for the guaranteed and
unguaranteed portions of the loan.

The Lender will receive all payments on account of principal of, or interest (including any loan subsidy) on, the
entire loan and shall promptly remit to the Holder its pro rata share thereof determined according to their respective interests
in the loan, less only Lender's servicing fee.

3. **Servicing Fee.** Holder agrees that Lender will retain a servicing fee of _____ percent per annum of the unpaid
balance of the guaranteed portion of the loan assigned hereunder.

4. **Purchase by Holder.** The guaranteed portion purchased by the Holder will always be a portion of the loan which
is guaranteed. The Holder will hereby succeed to all rights of the Lender under the Loan Note Guarantee to the extent of the
assigned portion of the loan. The Lender, however, will remain bound by all the obligations under the Loan Note Guarantee
and the program regulations found in the applicable Subpart of 7 C.F.R. Part 1980 now in effect and future FmHA program
regulations not inconsistent with the provisions hereof.

5. **Full Faith and Credit.** The Loan Note Guarantee constitutes an obligation supported by the full faith and credit
of the United States and is incontestable except for fraud or misrepresentation of which the Holder has actual knowledge
at the time of this assignment, or which it participates in or condones. A note which provides for the payment of interest
on interest shall not be guaranteed. Any Assignment Guarantee Agreement attached to or relating to a note which provides
for payment of interest on interest is void.

6. **Rights and Liabilities.** The guarantee and right to require purchase will be directly enforceable by Holder not-
withstanding any fraud or misrepresentations by Lender or any unenforceability of the Loan Note Guarantee by Lender.
Nothing contained herein shall constitute any waiver by FmHA of any rights it possesses against the Lender, and the Lender
agrees that Lender will be liable and will promptly reimburse FmHA for any payment made by FmHA to Holder which, if
such Lender had held the guaranteed portion of the loan, FmHA would not be required to make. The Holder(s) upon written
notice to the Lender may resell the unpaid balance of the guaranteed portion of the loan assigned hereunder. An endorse-
ment may be added to the Form FmHA 449-36 to effectuate the transfer.

This form contains certain agreements which may require future reporting and information from the Lender
or FmHA in order to obtain the benefit of the FmHA loan guarantee. This statement is furnished pursuant
to P. L. 96-511.

7. **Repurchase by the Lender (Defaults).** The Lender has the option to repurchase the unpaid guaranteed portion of the loan from the Holder(s) within 30 days of written demand by the Holder(s) when: (a) the borrower is in default not less than 60 days on principal or interest due on the loan or (b) the Lender has failed to remit to the Holder(s) its pro rata share of any payment made by the borrower or any loan subsidy within 30 days of its receipt thereof. The repurchase by the Lender will be for an amount equal to the unpaid guaranteed portion of principal and accrued interest (including any loan subsidy), less the Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loan(s) accruing after 90 days from the date of the demand letter to the lender requesting the repurchase. Holder(s) will concurrently send a copy of demand to FmHA. The Lender will accept an assignment without recourse from the Holder(s) upon repurchase. The Lender is encouraged to repurchase the loan to facilitate the accounting for funds, resolve the problem, and to permit the borrower to cure the default, where reasonable. The Lender will notify the Holder(s) and FmHA of its decision.

8. **Purchase by FmHA.** If Lender does not repurchase as provided by paragraph 7, FmHA will purchase from Holder the unpaid principal balance of the guaranteed portion together with accrued interest (including any loan subsidy) to date of repurchase, less Lender's servicing fee, within 30 days after written demand to FmHA from the Holder. The Loan Note Guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the original demand letter of the holder to the lender requesting the repurchase. Such demand will include a copy of the written demand made upon the Lender. The Holder(s) or its duly authorized agent will also include evidence of its right to require payment from FmHA. Such evidence will consist of either the original of the Loan Note Guarantee properly endorsed to FmHA or the original of the Assignment Guarantee Agreement properly assigned to FmHA without recourse including all rights, title, and interest in the loan. FmHA will be subrogated to all rights of Holder(s). The Holder will include in its demand the amount due including unpaid principal, unpaid interest (including any loan subsidy) to date of demand and interest (including any loan subsidy) subsequently accruing from date of demand to proposed payment date. Unless otherwise agreed to by FmHA, such proposed payment will not be later than 30 days from the date of demand.

The FmHA will promptly notify the Lender of its receipt of the Holder(s)'s demand for payment. The Lender will promptly provide the FmHA with the information necessary for FmHA's determination of the appropriate amount due the Holder(s). Any discrepancy between the amount claimed by the Holder(s) and the information submitted by the Lender must be resolved before payment will be approved. FmHA will notify both parties who must resolve the conflict before payment will be approved. Such a conflict will suspend the running of the 30 day payment requirement. Upon receipt of the appropriate information, FmHA will review the demand and submit it to the State Director for verification. After reviewing the demand the State Director will transmit the request to the FmHA Finance Office for issuance of the appropriate check. Upon issuance, the Finance Office will notify the office servicing the borrower and the State Director and remit the check(s) to the Holder(s).

9. **Lender's Obligations.** Lender consents to the purchase by FmHA and agrees to furnish on request by FmHA a current statement certified by an appropriate authorized officer of the Lender of the unpaid principal and interest then owed by Borrowers on the loan and the amount then owed to any Holder(s). Lender agrees that any purchase by FmHA does not change, alter or modify any of the Lender's obligations to FmHA arising from said loan or guarantee nor does it waive any of FmHA's right against Lender, and that FmHA shall have the right to set-off against Lender all rights inuring to FmHA as the Holder of this instrument against FmHA's obligation to Lender under the Loan Note Guarantee.

10. **Repurchase by Lender for Servicing.** If, in the opinion of the Lender, repurchase of the assigned portion of the loan is necessary to adequately service the loan, the Holder will sell the assigned portion of the loan to the Lender for an amount equal to the unpaid principal and interest (including any loan subsidy) on such portion less Lender's servicing fee. The loan note guarantee will not cover the note interest to the Holder on the guaranteed loans accruing after 90 days from the date of the demand letter of the lender or FmHA to the Holder(s) requesting the Holder(s) to tender their guaranteed portion(s).

a. The Lender will not repurchase from the Holder(s) for arbitrage purpose or other purposes to further its own financial gain.

b. Any repurchase will only be made after the Lender obtains FmHA written approval.

c. If the Lender does not repurchase the portion from the Holder(s), FmHA at its option may purchase such guaranteed portions for servicing purposes.

11. **Foreclosure.** The parties owning the guaranteed portions and unguaranteed portion of the loan will join to institute foreclosure action, or in lieu of foreclosure, take a deed of conveyance to such parties.

12. **Reassignment.** Holder upon written notice to Lender and FmHA may reassign the unpaid guaranteed portion of the loan sold hereunder. Upon such notification, the assignee will succeed to all rights and obligations of the Holder hereunder.

13. **Notices.** All notices and actions will be initiated through the FmHA _____

for _____ (state) with mailing address

at the date of this assignment: _____

Dated this _____ day of _____, 19 _____.

LENDER:

ADDRESS:

ATTEST:

By _____

Title _____

(SEAL)

HOLDER:

ADDRESS:

ATTEST:

By _____

Title _____

(SEAL)

UNITED STATES OF AMERICA
Farmers Home Administration

ADDRESS: _____

By _____

Title _____

BILLING CODE 3410-07-C

Subpart D—Rural Housing Program Loans

6. Section 1980.304 and Administrative is revised and reads as follows:

§ 1980.304 Lenders.

(a) *Eligible lenders.* Eligible Lenders as defined in § 1980.13(b) of Subpart A of this part are eligible for FmHA RH loan guarantees.

(b) *Local lender.* A local lender is defined in § 1980.13(a) of Subpart A of this part and must, at a minimum, be represented in its main branch, or agent's office by a employee or agent authorized to act for the lender. A local lender who "packages" loans for or refers applicant inquiries to the lender does not meet the requirement of a local lender.

Administrative

With prior written approval of the FmHA National Office, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all original requirements including all liabilities, servicing responsibilities, and acquiring legal title to the unguaranteed portion of the loan. Such approval will be granted by the National Office only when an extreme situation requires a substitution of lender. If approved by the National Office, the State Director will submit to the Finance Office Form FmHA 1980-42, "Notice of Substitution of Lenders."

7. Subpart E to Part 1980 is revised to read as follows:

Subpart E—Business and Industrial Loan Program**Sec.**

- 1980.401 Introduction.
- 1980.402 Definitions.
- 1980.403 Citizenship of applicants.
- 1980.404 [Reserved]
- 1980.405 Rural area determinations.
- 1980.406-1980.410 [Reserved]
- 1980.411 Loan purposes.
- 1980.412 Ineligible loan purposes.
- 1980.413 Transactions which will not be guaranteed.
- 1980.414 Fees and charges by lender and others.
- 1980.415-1980.418 [Reserved]
- 1980.419 Eligible lenders.
- 1980.420-1980.422 [Reserved]
- 1980.423 Interest rates.
- 1980.424 Terms of loan repayment.
- 1980.425 Availability of credit from other sources.
- 1980.426-1980.431 [Reserved]
- 1980.432 Environmental impact assessments and statements.
- 1980.433 Flood or mudslide hazard area precautions.
- 1980.434 Equal opportunity and nondiscrimination requirements.
- 1980.435-1980.440 [Reserved]
- 1980.441 Applicant equity requirements.
- 1980.442 Feasibility studies.
- 1980.443 Collateral, personal and corporate guarantees, and other requirements.

Sec.

- 1980.444 Appraisal of property serving as collateral.
- 1980.445-1980.450 [Reserved]
- 1980.451 Filing and processing applications.
- 1980.452 FmHA evaluation of application.
- 1980.453 Review of requirements.
- 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.
- 1980.455-1980.460 [Reserved]
- 1980.461 Issuance of Lender's Agreement, Loan Note Guarantee and Assignment Guarantee Agreement.
- 1980.462-1980.468 [Reserved]
- 1980.469 Loan servicing.
- 1980.470 Defaults by borrower.
- 1980.471 Liquidation.
- 1980.472 Protective advances.
- 1980.473 Additional loans or advances.
- 1980.474 [Reserved]
- 1980.475 Bankruptcy.
- 1980.476 Transfer and assumptions.
- 1980.477-1980.480 [Reserved]
- 1980.481 Insured loans.
- 1980.482-1980.487 [Reserved]
- 1980.488 Guaranteed industrial development bond issues.
- 1980.489-1980.494 [Reserved]
- 1980.495 FmHA forms and guides.
- 1980.496-1980.499 [Reserved]

General Administrative

- 1980.500 OMB Control Number.
- Appendix A—Form FmHA 449-1, "Application for Loan and Guarantee."
- Appendix B—"Certificate of Incumbency and Signature."
- Appendix C—"Guidelines for Loan Guarantees for Alcohol Fuel Production Facilities."
- Appendix D—"Alcohol Production Facilities Planning Performing, Development and Project Control."
- Appendix E—"Environmental Assessment Guidelines."
- Appendix F—Form FmHA 449-14, "Conditional Commitment for Guarantee."

Authority: 7 U.S.C. 1989; Order of Secretary of Agriculture, 7 CFR 2.23; Order of Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70.

Note.—This subpart supplements the provisions of Subpart A of the regulations with respect to loans guaranteed by the Farmers Home Administration (FmHA).

Subpart E—Business and Industrial Loan Program**§ 1980.401 Introduction.**

(a) This subpart supplemented by Subpart A of this part, contains regulations for Business and Industrial (B&I) loans guaranteed or insured by the Farmers Home Administration (FmHA), and applies to lenders, holders, borrowers, and other parties involved in making, guaranteeing, insuring, holding, servicing, or liquidating such loans.

(b) The purpose of the B&I program is to improve, develop, or finance business, industry, and employment and improve the economic and environmental climate in rural communities, including pollution

abatement and control. This purpose is achieved through bolstering the existing private credit structure through guarantee of quality loans which will provide lasting community benefits. It is NOT intended that the guarantee authority be used for marginal or substandard loans or to "bail out" lenders having such loans.

(c) The B&I loan program, like other FmHA programs, is administered by the Administrator through a State Director serving each State through a District Director to the County Supervisor. The County Supervisor is the focal point for the program and the local contact person for processing and servicing activities, although this Subpart refers in various places to the duties and responsibilities of other FmHA employees.

(d) Throughout this Subpart there appear Administrative provisions for the State Director, District Director, and County Supervisor. These provisions establish the internal duties, responsibilities and procedures to carry out the requirements of the program. These provisions are identified as "ADMINISTRATIVE" and follow appropriate sections of this Subpart.

§ 1980.402 Definitions.

The following general definitions are applicable to the terms used in this Subpart. Additional definitions may be found in § 1980.6 of this part, Subpart A.

(a) *Applicant (for loan).* An applicant may be a cooperative, corporation, partnership, trust, or other legal entity organized and operated on a profit or nonprofit basis; an Indian Tribe on a Federal or State reservation or other Federally recognized tribal group; a municipality, county, or other political subdivision of a State; or an individual. Such applicant must be engaged in or proposing to engage in improving, developing, or financing business, industry, and employment and improving the economic and environmental climate in rural areas, including pollution abatement and control.

(b) *Community facilities.* For the purpose of this subpart, community facilities are those facilities designed to aid in the development of private business and industry in rural areas. Such facilities include, but are not limited to, acquisition and site preparation of land for industrial sites (but not for improvements erected thereon), access streets and roads serving the site, parking areas, extension or improvement of community transportation systems serving the site, and utility extensions all incidental to

site preparation. Projects eligible for assistance under Subpart A of Part 1942 of this chapter are not eligible for assistance under this subpart.

(c) *Development cost.* These costs include, but are not limited to, those for acquisition, planning, construction, repair, or enlargement of the proposed facility; purchase of buildings, machinery, equipment, land easements, rights-of-way; payment of startup operating costs, and interest during the period before the first principal payment becomes due, including interest on interim financing.

(d) *Letter of conditions.* Letter issued by FmHA to a borrower setting forth the conditions under which FmHA will make a direct (insured) loan from the Rural Development Insurance Fund.

(e) *Public body.* A municipality, political subdivision, public authority, district, or similar organization.

(f) *Rural area.* Includes all territory of a State that is not within the outer boundary of any city having a population of fifty thousand or more and its immediately adjacent urbanized and urbanizing area with a population density of more than one hundred persons per square mile, as determined by the Secretary of Agriculture according to the latest decennial census of the United States.

(g) *State.* Any of the fifty States, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(h) *Working capital.* The excess of current assets over current liabilities. It identifies the relatively liquid portion of total enterprise capital which constitutes a margin or buffer for meeting obligations within the ordinary operating cycle of the business.

§ 1980.403 Citizenship of applicants.

Loans to individuals will be made or guaranteed only to those who are citizens of the United States or reside in the United States after being legally admitted for permanent residence. At least 51 percent of the outstanding interest in any corporation or organization-type applicant must be owned by those who are either citizens of the United States or reside in the United States after being legally admitted for permanent residence.

§ 1980.404 [Reserved]

§ 1980.405 Rural area determinations.

FmHA will determine if any area is rural for purposes of the Guaranteed or Insured loan program. The following will be used by FmHA in making area

eligibility determinations when it is not clear from the geographical location of the applicant:

(a) *Urbanized area immediately adjacent to a city having a population of 50,000 or more:* An urbanized area immediately adjacent to a city having a population of 50,000 or more is an area constituting for general social and economic purposes a single community having a boundary contiguous with that of the city. Such community may be incorporated or unincorporated and will extend from the contiguous boundary(ies) to the recognizable open country, less densely settled areas, or natural boundaries such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks will be disregarded. Outer boundaries of an incorporated community will extend at least to its legal boundaries. Cities which may have a contiguous border with another city but are located across a river from such city and recognized as a separate community and are not otherwise considered a part of an urbanized or urbanizing area as defined in this section are not in a nonrural area.

(b) *Urbanizing area:* An urbanizing area is one defined as a community which is not now or within the foreseeable future not likely to be clearly separate from and independent of a city of 50,000 or more population and its immediately adjacent urbanized areas. A community will be considered as "separate from" when it is separated from the city and its immediately adjacent urbanized area by open country, less densely settled areas, or natural barriers such as forests or water. Minor open spaces such as airports, industrial sites, recreational facilities or public parks will be disregarded. A community will be considered as "independent of" when its social and economic structures (e.g., government; educational, health, and recreational facilities; business, industry, tax base, and employment opportunities) is not primarily dependent on the city and its immediately adjacent urbanized area.

(c) The State Director will proceed as follows in rural area determinations: When the FmHA State Director determines an area to be urbanizing, he must then determine the population density per square mile. If the area appears to be eligible, the State Director will request the National Office to provide him/her with the correct density figure. All such density determinations will be made on the basis of minor civil divisions or census county divisions as used by the Bureau of the Census. In making the density calculations, there will be excluded large nonresidential

tracts devoted to urban land uses such as railroad yards, airports, industrial sites, parks, golf courses, and cemeteries or land set aside for such purposes.

§§ 1980.406-1980.410 [Reserved]

§ 1980.411 Loan purposes.

Loans to borrowers with facilities located in both urban and rural areas will be limited to the amount necessary to finance the facility located in the eligible rural area.

(a) *Private entrepreneurs.* Loans may be for improving, developing, or financing business, industry, and employment and improving the economic and environmental climate, including pollution and abatement control, of rural areas, and may include but not be limited to:

(1) Business and industrial acquisitions, construction, conversion, enlargement, repair, modernization, or development cost.

(2) Purchasing and development of land, easements, rights-of-way, buildings, facilities, leases, or materials.

(3) Purchasing of equipment, leasehold improvements, machinery or supplies.

(4) Pollution control and abatement including those in connection with farming and ranching operations.

(5) Transportation services incidental to industrial development.

(6) Startup costs and working capital.

(7) The financing of housing development sites located in open country or cities, towns or villages with populations not in excess of those eligible for FmHA Rural Housing Loans, provided the community demonstrates a need for additional housing to prevent a loss of jobs in the area, or to house families moving to the area as a result of new employment opportunities.

(8) Loans, other than for working capital or debt refinancing, for meat processing facilities and integrated meat and poultry operations. Loans may not be guaranteed for agricultural production as defined in § 1980.412(e); however, applicants who are in the business of processing, marketing, or packaging agricultural products, as well as agricultural production, may be eligible for loan assistance for that portion of the business other than agricultural production provided the agricultural production aspect is separate from the rest of the business; i.e., the production aspects are handled through separate legal business entities or through maintenance of the accounting system in such manner as to clearly identify the use of and future accounting

of the loan proceeds and operation of the business.

(9) Loans, other than for working capital or debt refinancing, for commercial custom feedlot operations. As used herein, commercial custom feedlot operations mean those lots primarily feeding, on a custom basis, livestock which belongs to other than the feedlot owner-operator. This would not preclude assistance to those borrowers whose principals or members are farmers and ranchers whose individually owned livestock may be custom fed at the lot; provided, such principals' or members' personal financial conditions are not likely to adversely affect the financial success of the custom operation. In those cases where feedlot operators buy and feed for themselves, records and accounts of such operations shall be maintained in such manner that they may be identified separately from the custom feeding operation, and loan agreements and security instruments will specify that any losses incurred in the owner-operator operation will not be chargeable to the custom feeding operations.

(10) Interest (including interest on interim financing) during the period before the first principal payment becomes due or the facility becomes income producing, whichever occurs first.

(11) Feasibility studies.

(12) Debt refinancing. Lenders and FmHA must provide as part of their loan analysis the reasons for refinancing and the file must be documented accordingly. Refinancing debts may be allowed in connection with viable projects when it is determined by the Lender and FmHA that it is necessary to save existing jobs. FmHA will consider any lender's exposure as it relates to this item and may adjust the guarantee percentage accordingly. Refinancing in accordance with this paragraph may be insured or guaranteed only when:

(i) It is necessary to spread substantial debt payment over a longer period of time thereby improving the business' net cash flow and working capital position consistent with the useful life of asset(s) being refinanced, or

(ii) For payment of short-term debt when required in situations customarily financed over long periods of time (e.g., financing the purchase of real estate, machinery, or equipment with short-term debt or cash expenditures, when lenders would not extend reasonable longer terms to the business), or

(iii) It is necessary to place a permanent loan subsequent to an

interim loan for financing the construction of the project.

(13) Reasonable fees and charges only as specifically listed below and disclosed on Form FmHA 449-1, "Application for Loan and Guarantee," or on an addendum to the application at the time the request is submitted to FmHA for processing. Authorized fees include professional fees rendered by professionals generally licensed by individual State or accreditation Associations, such as Engineers, Architects, Lawyers, Accountants, and Appraisers. The amount of the fee will be what is reasonable and customary in the community or region where the project is located. For example, Architects and Engineers customarily charge fees based on a percentage of estimated project costs. Lawyers, Accountants, and Appraisers customarily charge for services on an hourly basis. Any fees for professional or expert services are to be fully documented and justified on the Form FmHA 449-1 and are subject to FmHA review and approval before the application is presented to the FmHA State Loan Review Board for action. The above approved fees and charges may be funded out of loan proceeds.

(14) FmHA guarantee fee.

(15) Acquisition of membership and/or stocks, bonds, or debentures necessary to obtain a loan from Production Credit Associations, Banks for Cooperatives, Small Business Investment Companies, and other lenders, provided such acquisition is required of all their borrowers. However, a lender which requires membership fees in such organization or the purchase of securities issued by such organization will not use such proceeds to acquire, lease or improve property which does not benefit its members.

(16) Aquaculture including conservation, development, and utilization of water for aquaculture. Aquaculture means the culture or husbandry of aquatic animals or plants by private industry for commercial purposes including the culture and growing of fish by private industry for the purpose of granting or augmenting publicly-owned and regulated stock of fish.

(b) *Public bodies.* See § 1980.481 and § 1980.488.

§ 1980.412 Ineligible loan purposes.

Loans may not be made or guaranteed if the funds are used:

(a) To pay off a creditor in excess of the value of the collateral.

(b) For distribution or payment to the owner, partners, shareholders, or beneficiaries of the applicant or

members of their families when such persons will retain any portion of their equity in the business.

(c) For projects in which such assistance exceeds \$1,000,000 and when direct employment increases more than 50 employees which is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by the operations of the applicant. This limitation will not prohibit assistance for the expansion of an existing business entity through the establishment of a new branch, affiliate, or subsidiary of such entity if the expansion will not result in an increase in the unemployment in the area of original location or in any other area where such entity conducts business operations unless there is reason to believe that such expansion is being established with the intention of closing down the operations of the existing business entity in the area of its original location or in any other area where it conducts such operations.

(d) For projects in which such assistance exceeds \$1,000,000 and when direct employment increased more than 50 employees which is calculated to or likely to result in an increase in the production of goods, materials or commodities, or the availability of services or facilities in the area when there is not sufficient demand for such goods, materials, commodities, services or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

(e) For agricultural production which means the cultivation, production (growing), and harvesting either directly or through integrated operations of agricultural products (crops, animals, birds and marine life either for fiber or food for human consumption and disposal (marketing), the raising, breeding, hatching, including the control and management of farm and domestic animals). Exceptions to this definition are:

(1) Aquaculture as identified under eligible purposes.

(2) Commercial nurseries primarily engaged in the production of ornamental plants and trees and other nursery products such as bulbs, florists' greens, flowers, shrubbery, flower and vegetable seeds, sod, the growing of vegetables from seed to the transplant stage.

(3) Forestry which includes establishments primarily engaged in the

operation of timber tracts, tree farms, forest nurseries, and related activities such as reforestation.

(4) Loans for livestock and poultry processing as identified under eligible purposes.

(5) Loans for commercial custom feedlot operations as identified under eligible purposes.

(6) The growing of mushrooms or hydroponics.

(f) For the transfer of ownership of a business unless the loan will keep the business from closing, or prevent the loss of employment opportunities in the area, or provide expanded job opportunities.

(g) For financing community antenna television services or facilities.

(h) Charitable and educational institutions, churches, organizations affiliated with or sponsored by churches, and fraternal organizations.

(i) For lending and investment institutions and insurance companies.

(j) For assistance to government employees and military personnel who are directors, officers or have a major ownership of 20 percent or more in the business.

(k) For any legitimate business activity when more than 10 percent of the annual gross revenue is derived from legalized gambling activity.

(l) For any illegal business activity.

(m) For hotels, motels, tourist homes or convention centers.

(n) For any tourist, recreation or amusement facility.

Administrative

Par. (c) and (d). The FmHA State Director will review the criteria in § 1980.412 (c) and (d) and make a written determination with supporting data and reasons as to the determination. Such review must be independent of the D.O.L. certification. The State Director will make sure the loan file contains these determinations as part of the loan analysis prior to the issuance of the Conditional Commitment for Guarantee.

§ 1980.413 Transactions which will not be guaranteed.

(a) The following transactions will not be guaranteed by FmHA:

(1) The guarantee of lease payments.

(2) The guarantee of loans made by other Federal Agencies. This does not preclude the guaranteeing of loans made by the Bank for Cooperatives, Federal Land Bank, or Production Credit Association.

(3) The guarantee or making of any B&I loan(s) when the total amount requested is in excess of \$10 million.

(4) The guarantee of making of any B&I alcohol production facilities loan(s) when the total amount requested is in excess of \$20 million.

(b) Guaranteeing of loans involved in tax-exempt obligations is set forth in § 1980.23 of Subpart A of this part.

Administrative

The State Director will consider the overall State allocations of funding authority in recommending loans for processing. Loan requests which fall within Small Business Administration (SBA) authority should continue to be referred to SBA. If the State Director decides to process SBA size loans, the loan file must be fully documented as to the reasons for such actions.

§ 1980.414 Fees and charges by lender and others.

[See Subpart A, § 1980.22]

(a) All fees and charges must be specifically documented and justified on the Form FmHA 449-1 or on an addendum to the application at the time the loan request is submitted to FmHA for processing. Allowable fees will be those reasonably and customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to FmHA review and approval.

(b) Packaging fees include services rendered by the lender or others in connection with preparation of the application and seeing the project through to final decision. These services may or may not be performed by an investment banker. If an investment banker provides needed assistance in addition to the packaging of the loan, additional charges may be added to the packaging fee. The maximum allowable packaging fees are 2 percent of the total principal amount of the loan up to \$1 million and on all amounts over \$1 million, an additional one-fourth percent up to a total maximum fee of \$50,000. Packaging fees, investment banker fees, and any other fees and charges not specifically provided for in this section are permitted subject to FmHA review and approval. Loan proceeds may be used to pay fees as specifically authorized under § 1980.411(a) (13) and (14). Packaging fees, investment banker fees, and any other fees or charges shall not be paid from loan proceeds.

§§ 1980.415-1980.418 [Reserved]

§ 1980.419 Eligible lenders.

[See Subpart A, § 1980.13.]

Administrative

A. Par. (a) of Subpart A, § 1980.13 requires National Office approval for any variations.

B. Par. (b)(2), (h) of Subpart A, § 1980.13, State Director submits information to National Office with recommendations.

C. With prior written approval of the FmHA National Office, a new eligible lender may be substituted for the original lender provided the new lender agrees to assume all original loan requirements including

liabilities, servicing responsibilities, and acquiring legal title to the unguaranteed portion of the loan. Such approval will be granted by the National Office only when a lender discontinues lending operations or other extreme situations requires a substitution of lender. If approved by the National Office, the State Director will submit to the Finance Office Form FmHA 1980-42, "Notice of Substitution of Lender."

§§ 1980.420-1980.422 [Reserved]

§ 1980.423 Interest rates.

(a) *Guaranteed loans.* Rates will be negotiated between the lender and the borrower. They may be either fixed or variable as long as they are legal. Interest rates will be those rates customarily charged borrowers in similar circumstances in the ordinary course of business and are subject to FmHA review and approval. Should any part of the loan(s) be sold by the lender, FmHA, in its analysis, will take into consideration in approving the lender's interest rate, the rate at which guaranteed loans are being sold or traded in the secondary market.

(1) A variable interest rate must be a rate that is tied to a base rate published periodically in a financial publication specifically agreed to by the lender and borrower. It must rise and fall with the selected base rate, and changes can be made no more often than quarterly. There will be no floor or ceiling on variable interest rates. The lender must incorporate within the variable rate promissory note at loan closing, the provision for adjustment of payment installments coincident with an interest rate adjustment. This will assure that the outstanding principal balance is properly amortized within the prescribed loan maturity to eliminate the possibility of a balloon payment at the end of the loan.

(2) Under a Memorandum of Understanding between FmHA and the Farm Credit Administration dated September 25, 1974, the interest rate on loans made by the Bank for Cooperatives, Federal Land Banks and Production Credit Associations may be a variable rate based on their administrative and borrowing costs.

(3) Any change in the interest rate between the date of issuance of the Form FmHA 449-14, "Conditional Commitment For Guarantee," and before the issuance of the Loan Note Guarantee must be approved by the State Director. Approval of such change will be shown on an amendment to Form FmHA 449-14.

(4) It is permissible to have one interest rate on the guaranteed portion of the loan and another interest rate on

the unguaranteed portion of the loan, provided the lender and borrower agree and:

(i) The rate on the unguaranteed portion does not exceed that currently being charged on loans of similar size and purpose for borrowers under similar circumstances.

(ii) The rate on the guaranteed portion of the loan will not exceed the rate on the unguaranteed portion.

(5) When multi-rates are used, the lender will provide FmHA with the overall effective interest rate for the entire loan.

(b) *Insured loans.* (1) Loans for other than those in paragraph (b) (2) of this section will bear interest at a rate prescribed by FmHA, and will be announced periodically. The interest rate for insured loans will be the rate in effect at the time the loan is approved or at the time the loan is closed, whichever rate is lower.

(2) Loans to public bodies, nonprofit associations, and Indian Tribes used to finance community facilities will bear interest at the rate prescribed in FmHA Instruction 440.1, Exhibit B (available in any FmHA Office).

§ 1980.424 Terms of loan repayment.

(a) Principal and interest on the loan will be due and payable as provided in the promissory note. The lender will structure repayments as established in the loan agreement between the lender and borrower. Ordinarily, such installments will be scheduled for payment as agreed upon by the lender and applicant but on terms that reasonably assure repayment of the loan. However, the first installment to include a repayment of principal may be scheduled for payment after the project is operable and has begun to generate income, but such installment will be due and payable within three years from the date of the promissory note and at least annually thereafter. Interest will be due at least annually from the date of the note. Ordinarily, monthly payments will be expected, except for seasonal-type businesses.

(b) The maximum time allowable for final maturity for an FmHA guaranteed B&I loan will be limited to thirty (30) years for land, buildings, and permanent fixtures; the usable life of the machinery and equipment purchased with loan funds, but not to exceed fifteen (15) years; and seven (7) years for the working capital portion of the loan. The term for a loan that is being refinanced may be based on the collateral the lender will take to secure the loan.

(c) The maximum time allowable for final maturity of an FmHA insured loan

for community facilities will not exceed forty (40) years.

(d) FmHA will not guarantee any loan in which the promissory note or any other document provides for the payment of interest upon interest.

Administrative

It is permissible for lenders to structure the borrower's financial proposal under the multi-note option as provided for in Paragraph III A.2. of Form FmHA 449-35, "Lender's Agreement," in the following ways:

A. To treat the entire financial package of the borrower as one loan (i.e., loan purposes may include one or any combination of working capital, machinery and equipment, or real estate) provided:

1. The loan is amortized to provide repayment of the working capital portion within the 7 years, the machinery and equipment portion within useful life or 15 years, whichever is less, and real estate portion within 30 years.

2. One note represents the unguaranteed portion of the loan. It is permissible to issue as many as 10 notes on the guaranteed portion of the loan.

3. A Form FmHA 449-34, "Loan Note Guarantee," is attached to all notes, including the unguaranteed note.

4. One interest rate (either variable or fixed) is used for the entire loan or one interest rate is used on the guaranteed portion and a different interest rate is used on the unguaranteed portion, subject to the requirements and conditions found in § 1980.423 of this subpart.

5. One of each of the following Forms: FmHA 449-14, "Conditional Commitment for Guarantee," FmHA 1940-1, "Request for Obligation of Funds," 449-35, "Lender's Agreement," and FmHA 1980-19, "Guaranteed Loan Closing Report," is used.

B. To treat the financial package of the borrower as separate loans that are processed as a single application provided:

1. A separate loan is made for each purpose (i.e., working capital, machinery and equipment, or real estate. As an example, a working capital loan could be structured as follows:

One note for \$XXXX at X% interest due in 7 years representing the unguaranteed portion of the loan, and

Up to 10 notes for \$XXXX at X% interest due in 7 years representing the guaranteed portions of the loan.

2. A Form FmHA 449-34 is attached to all notes, including the unguaranteed note.

3. A different interest rate may be used on the guaranteed and unguaranteed portions of the loan, subject to the requirements and conditions found in § 1980.423 of this subpart.

4. Separate Forms FmHA 449-14, 1940-1, 449-35, and 1980-19 are required for each loan. If you had two loans, one for working capital and another for real estate, then a set of these forms will be required for each loan.

C. Form FmHA 449-36, "Assignment Guarantee Agreement," will never be used when the multi-note option is utilized.

D. *Par. (b).* The State Director will assure that the loan officer reviewing the application fully evaluates the useful life of the collateral offered for the loan when determining

maturities for the loan. Loan requests for the maximum maturities could result in collateral obsolescence prior to full repayment of the indebtedness. The loan file must be documented to support the maturity granted for the loan.

§ 1980.425 Availability of credit from other sources.

(a) Inability to obtain credit elsewhere is not a requirement for guaranteed assistance under this Subpart.

(b) To be eligible for an insured loan under this Subpart, the applicant must be unable to obtain the required credit from private or cooperative sources at reasonable rates and terms, taking into consideration prevailing private and cooperative rates and terms in the community in or near the applicant's location(s) for loans for similar purposes and period of time. The applicant's inability to obtain such credit elsewhere will be determined in accordance with Subpart A of Part 1942 of this chapter.

§§ 1980.426-1980.431 [Reserved]

§ 1980.432 Environmental impact assessments and statements.

[See Subpart A, § 1980.40.]

Administrative

State Director will review Form FmHA 449-10, "Applicant's Environmental Impact Evaluation," submitted by the applicant and a Form FmHA 440-46, "Environmental Impact Assessment," prepared by the County Supervisor or State Director designee. The State Director will indicate his/her decision in the Form FmHA 440-46. If the State Director determines that an EIS is required, he/she will notify the applicant and lender in writing.

§ 1980.433 Flood or mudslide hazard area precautions.

[See Subpart A, § 1980.42]

Administrative

The State Director is responsible for determining if a project is located in a special flood or mudslide hazard area. Refer to Subpart B of Part 1806 of this chapter [FmHA Instruction 426.2].

§ 1980.434 Equal opportunity and nondiscrimination requirements.

[See Subpart A § 1980.41.]

Administrative

The State Director will assure that equal opportunity and nondiscrimination requirements are met. If there is indication of noncompliance with these requirements, such facts will be reported by the Compliance Reviewing Officer or FmHA Official in writing to the Administrator, ATTN: Equal Opportunity Officer.

§ 1980.435-1980.440 [Reserved]

§ 1980.441 Applicant equity requirements.

(a) A minimum of 10 percent tangible balance sheet equity will be required for insured loans at loan closing or at the time the Loan Note Guarantee is issued for guaranteed loans. However, balance sheet equity in the amount of at least 20-25 percent will be required under the following circumstances.

(1) For new businesses since they do not have a history of proven operations and such businesses generally experience unforeseen startup expenses which may deplete the available cash resources.

(2) For businesses where the applicant does not or cannot offer a limited or full personal or corporate guarantee as required in § 1980.443 and thereby weakens the financial soundness of the loan.

(3) For energy related businesses since these types of projects may be technically feasible, but in many instances are more susceptible to higher risk and a higher equity position will assure management's commitment to the project.

FmHA may also require more than a 10 percent equity investment in projects other than those in paragraphs (a)(1), (2), and (3) if the reviewing official makes a written determination that special circumstances necessitate this course of action. Special circumstances are limited to credit factors which negatively affect the financial soundness of the loan, the chances of the project's success, or the repayment ability of the borrower. Such determination will be in writing by the reviewing official and explain fully what the special circumstances are and how FmHA decided upon the percentage of equity investment to be required in the individual case.

(b) FmHA will require the applicant to contribute all of the equity requirement in the form of either cash or tangible earning assets injected into the business and reflected on the balance sheet. Appraisal surplus and/or subordinated debt cannot be used in the calculation of the equity requirements.

Administrative

The State Director will be selective in approving loan applicants for new business ventures involved in unproven products, services, or markets. Should such businesses be considered by the State Director, feasibility studies as outlined in § 1980.442 and additional equity will usually be required.

§ 1980.442 Feasibility studies.

FmHA may require an applicant to provide a feasibility study prepared by

an independent recognized consultant. The cost of such study will be borne by the applicant and may be paid from funds included in the loan. On loans of one million dollars or more, feasibility studies by recognized independent consultants will be required. However, FmHA may make an exception to this requirement when the financial history of the business, the current financial condition and guarantees or other collateral are more than adequate to indicate the feasibility of the enterprises. The feasibility study outlines will be approved by FmHA. FmHA personnel may not recommend consultants but may provide the applicant with a list of consultants who have performed satisfactorily on previous projects. An acceptable feasibility study should include but not be limited to:

(a) *Economic feasibility.* Information related to the project site, availability of trained or trainable labor; utilities; rail, air and road service to the site; and the overall economic impact of the project.

(b) *Market feasibility.* Information on the sales organization and management, nature and extent of market and market area, marketing plans for sale of projected output, extent of competition and commitments from customers or brokers.

(c) *Technical feasibility.* Technical feasibility reports shall be prepared by individuals who have previous experience in the design and analysis of similar facilities and/or processes as are proposed in the application. The technical feasibility reports shall address the suitability of the selected site for the intended use including an environmental impact analysis. The report shall be based upon verifiable data and contain sufficient information and analysis so that a determination may be made on the technical feasibility of achieving the levels of income and/or production that are projected in the financial statements. The report shall also identify any constraints or limitations in these financial projections and any other facility or design related factors which might affect the success of the enterprise. The report shall also identify and estimate project operating and development costs and specify the level of accuracy of these estimates and the assumptions on which these estimates have been based. For the purpose of the technical feasibility reports, the project engineer or architect may be considered an independent party provided the principals of the firm or any individual of the firm who participates in the technical feasibility report does not have a financial interest in the project, and provided further that

no other individual or firm with the expertise necessary to make such a determination is reasonably available to perform the function.

(d) *Financial feasibility.* An opinion on the reliability of the financial projections and the ability of the business to achieve the projected income and cash flow. An assessment of the cost accounting system, the availability of short-term credit for seasonal business and the adequacy of raw material and supplies.

(e) *Management feasibility.* Evidence that continuity and adequacy of management has been evaluated and documented as being satisfactory.

§ 1980.443 Collateral, personal and corporate guarantees, and other requirements.

(a) *Collateral.* (1) The lender is responsible for seeing that proper and adequate collateral is obtained and maintained in existence and of record to protect the interest of the lender, the holder, and FmHA.

(2) Collateral must be of such a nature that repayment of the loan is reasonably assured when considered with the integrity and ability of project management, soundness of the project, and applicant's prospective earnings. Collateral may include, but is not limited to the following: land, buildings, machinery, equipment, furniture, fixture, inventory, accounts receivable, cash or special cash collateral accounts, marketable securities, and cash surrender value of life insurance. Collateral may also include assignments of leases or leasehold interest, revenues, patents, and copyrights.

(3) All collateral must secure the entire loan. The lender will not take separate collateral to secure only that portion of the loan or loss not covered by the guarantee. The lender will not require compensating balances or certificates of deposit as a means of eliminating the lender's exposure on the unguaranteed portion of the loan. However, compensating balances as used in the ordinary course of business may be used.

(b) *Personal and corporate guarantees.* (1) Unconditional personal guarantees (i.e., absolute guarantees of full and punctual payment and performance by the borrower) from owners or major stockholders as determined by FmHA and all partners of partnerships unless restricted by law will be required unless exempted as provided for in paragraph (b)(2) of this section. Guarantees of parent, subsidiaries, or affiliated companies and/or secured guarantees may also be

required. FmHA is not a co-guarantor with the personal or corporate guarantors. The personal and corporate guarantees are part of the collateral for the loan.

(2) An exception to the requirement for personal or corporate guarantees may be made by FmHA when requested by the lender and if:

(i) The applicant has a satisfactory and current (not over 90 days old) credit report, proven management, evidence of the market necessary to support projections, profitable historical performance of no less than 3 years, abundant collateral to protect the lender and FmHA, sufficient cash flow to service its debts, and meets key industry standards such as those of Robert Morris Associates, Dun and Bradstreet, or the like; or

(ii) The applicant's stock is widely enough held so that no one individual can exercise control. Examples of control would include but are not limited to: holding sufficient proxies and maintaining sufficient family or special interest voting blocks; or

(iii) An applicant which has a parent, subsidiary, or affiliate which is legally restricted from guaranteeing, or if the guarantee would conflict with existing contractual obligations. Examples of existing contractual obligations include but are not limited to restrictions in loan agreements or in credit lines which may preclude guaranteeing.

(3) Unsecured personal guarantees, while collateral, will not be considered for purposes of adequacy of security. Personal guarantees will be secured by collateral when business collateral offered is determined by FmHA to be insufficient or when the applicant's credit does not meet the program's normal requirements.

(4) Guarantors of applicants will:

(i) In the case of personal guarantees, provide current financial statements (not over 60 days old at time of filing), signed by the guarantors, which make a clear disclosure of community or homestead property.

(ii) In the case of corporate guarantees, provide current financial statements (not over 90 days old at time of filing), certified by an officer of the corporation.

(iii) When applicable, provide written evidence to FmHA of their inability to provide a guarantee because of existing contractual arrangements or legal restrictions.

(c) *Other requirements.* (1) The lender will ascertain that no claim or liens of laborers, material men, contractors, subcontractors, suppliers of machinery and equipment or other parties are against the collateral of the borrower,

and that no suits are pending or threatened that would adversely affect the collateral of the borrower when the security instruments are filed.

(2) Hazard insurance with a standard mortgage clause naming the lender as beneficiary will be required on every loan in an amount that is at least the lesser of the depreciated replacement value of the property being insured or the amount of the loan. Hazard insurance includes fire, windstorm, lightning, hail, business interruption, explosion, riot, civil commotion, aircraft, vehicle, marine, smoke, builder's risk, public liability, property damage, flood or mudslide, or any other hazard insurance that may be required to protect the collateral.

(3) Ordinarily, life insurance, which may be decreasing term insurance, is required for the principals and key employees of the borrower and will be assigned or pledged to the lender. A schedule of life insurance available for the benefit of the loan will be included as part of the application.

(4) Workmen's compensation insurance is required in accordance with State law.

Administrative:

A. *Par. (a)(2).* FmHA's credit analysis of collateral will consist of the following:

(1) Little or no value will be assigned to unsecured personal or corporate guarantees.

(2) A maximum of 80 percent of current market value will be given to real estate. Special purpose real estate should be assigned less value.

(3) A maximum of 70 percent of book value will be assigned to accounts receivable (dependent upon analysis of collectibility) and inventory.

(4) Collateral value assigned to machinery and equipment, furniture and fixtures will be based upon its marketability, mobility, useful life and alternative uses, if any.

B. *Par. (b).* The State Director will assure that the collateral values and personal and corporate guarantees are fully reviewed, analyzed and the loan file is documented as to the facts and reasons for decisions reached.

§ 1980.444 Appraisal of property serving as collateral.

(a) Appraisal reports prepared by independent qualified fee appraisers will be required on all property that will serve as collateral on loans in excess of \$350,000 or where there is a specialized facility or specialized machinery and equipment or if loan funds are to be used to refinance lender's existing debts to the applicant. On loans of \$350,000 or less, the lender will be responsible for assuring that appropriate appraisals are made by either independent fee appraisers or qualified appraisers on the lender's staff. The appraisers will give

their opinion regarding the current market value of the collateral and the purpose for which the appraisal will be used.

(b) The lender will be responsible for determining that appraisers have the necessary qualifications and experience to make the appraisals. The lender will consult with FmHA for its recommendations before having the appraisal made.

(c) The lender will determine that the fees or charges of appraisers are reasonable.

(d) Independent appraisals will be made in accordance with the accepted format of the industry and those prepared by the lender in accordance with its policy and procedures. All appraisals will become part of the application. (See § 1980.451 (i)(6) of this subpart).

(e) If a subsequent loan request is made within 3 years from the date of the most recent borrower's appraisal report, and there is no significant changes in collateral, then the FmHA State Director in his/her discretion, and if the lender agrees, may use the existing appraisal report in lieu of having a new appraisal prepared.

§§ 1980.445-1980.450 [Reserved]

§ 1980.451 Filing and processing applications.

(a) *Applicants' and lenders' contact.* Applicant and lenders desiring FmHA assistance as provided in this subpart may file preapplications or applications with the County Supervisor servicing the area in which the project is to be located. In either case, the requirements of § 1980.46 of Subpart A of this Part must be met. The FmHA County Supervisor will promptly arrange an early meeting with the applicant and lender representatives to discuss assembly, preparation, and processing of preapplications and applications.

(b) *Applications from cooperatives.* Applicants eligible for loans from the Bank for Cooperatives will be encouraged to obtain guaranteed loans from that source since the Bank for Cooperatives is experienced in making and servicing such loans and can provide substantial counsel to the applicant. Applications must be submitted to the Bank for Cooperatives as a test for credit elsewhere when an insured loan is being considered. (See FmHA Instruction 2000-Q available in any FmHA office for Memorandum of Understanding between FmHA and Farm Credit Administration).

(c) *Applicants eligible for Small Business Administration (SBA)*

assistance. All applicants for loan guarantees eligible for SBA assistance will be advised by FmHA at the time of receipt of the preapplication of the availability of such assistance and will be encouraged to apply to that agency. (See FmHA Instruction 2000-P available in any FmHA office for Memorandum of Understanding between SBA and FmHA).

(d) *Loan priorities.* Applications and preapplications received by FmHA will be considered in the order received. Priority will be given to projects located in areas and cities having a population of less than twenty-five thousand.

(1) FmHA will cooperate fully with appropriate State agencies in guaranteeing and insuring loans in a manner which will assure maximum support of the State's strategies for development of its rural areas.

(2) When applications on hand otherwise have equal priority, the applications from a veteran will have preference. A veteran is a person who has been discharged or released from the active forces of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard under conditions other than dishonorable and who served on active duty in such forces:

(i) During the period April 6, 1917, through March 31, 1921;

(ii) During the period of December 7, 1941, through December 31, 1946;

(iii) During the period of June 27, 1950, through January 31, 1955; or

(iv) For a period of more than 180 days, any part of which occurred after January 31, 1955; but on or before May 17, 1975. Discharges under conditions other than dishonorable include "clemency discharges."

(3) In assigning priorities to applications and in selecting projects for funding, FmHA will consider State development strategies and clearinghouse (A-95 Agency) comments and recommendations. Funds (Insurance or guarantee authority) allocated for use as prescribed in this regulation are to be considered for use by Indian tribes within the State regardless of whether State development plans include Indian reservations within the State's boundaries. It is essential that Indians residing on such reservations have equal opportunity to participate in any benefits of these programs. Priorities will be assigned by the FmHA State Director in accordance with the following:

(i) Those projects which will save existing jobs.

(ii) Those projects which will enlarge, extend, or otherwise improve existing business and industries.

(iii) Those which will create the highest number of permanent employment opportunities.

(iv) Those projects which will contribute to the overall economic stability of the rural areas but generate little or no permanent employment opportunities beyond the entrepreneur himself.

(e) *Filing preapplications and applications.* Applicants or lenders may file preapplications as described in paragraph (f) of this section if they desire an expression of FmHA interest prior to assembling the complete application and request for Loan Note Guarantee or they may present the complete application, in one package, including the material required in paragraphs (f), (i), (j), and (k) of this section.

(f) *Preapplications.* Applicants may file preapplications with the County Office including:

(1) A letter prepared by the applicant and the lender which shall include:

(i) Applicant's name, address, contact person, and telephone number.

(ii) Amount of loan request.

(iii) Name of the proposed lender, address, contact person, and telephone number.

(iv) Brief description of the projects, products, and services provided.

(v) Type and number of employment opportunities and unemployment rate where the project will be located.

(vi) Amount of applicant's equity and guarantees offered.

(vii) Anticipated loan maturity and interest rates.

(viii) Availability of raw materials and supplies.

(ix) If a corporation, names and addresses of applicant's parent, affiliates and/or subsidiary firms and a brief description of relationship, products, and ownership among applicant, parent, affiliates and subsidiary firms.

(2) Form FmHA 449-22, "Certification of Non-Relocation and Market and Capacity Information Report."

(3) Form FmHA 449-4, "Statement of Personal History," for a proprietor (owner), each partner, officer, director, key employee, and stockholders holding 20 percent or more interest in the applicant except for those corporations listed on a major stock exchange and for those so listed if required by FmHA. Forms FmHA 449-4 are not required to be submitted for elected officials and appointed officials in connection with loan applications from public bodies. Failure to report full, complete and accurate information on the Statement of Personal History may result in

FmHA's not making or guaranteeing the loan.

(4) A record of any pending or final regulatory or legal (civil or criminal) action against the applicant, parent, affiliate, proposed guarantors, subsidiaries, principal stockholders, officers, and directors.

(5) For existing businesses, a current balance sheet, and latest profit and loss statement (not more than 60 days old) and financial statements including parent, affiliate, and subsidiary firms, for at least the last 3 years or more if necessary for a thorough evaluation.

(6) A detailed projection of gross revenue, net earnings, and cash flow statements for 3 years including assumptions upon which such forecasts are based.

(7) Sales projections indicating the percent of the national and local market the business expects to obtain.

(8) Comments of substate and State A-95 agencies except that loans for small or local enterprises with no significant economic or environmental impact are exempt from A-95 review regulations. However, a notice of approval for information purposes will be sent to the A-95 agency. If such comments are not immediately available, they may be forwarded to the County Office after submission of the preapplication. Applicants requesting Federal assistance are required to notify the A-95 clearinghouse in the jurisdiction where the project is to be located. Normally, the preapplication material excluding financial information is submitted for A-95 review.

(g) *Preliminary determination by FmHA.* If preapplication information indicates the project will not meet FmHA's minimum credit standards for a sound loan, is ineligible, does not have sufficient priority, or that funds or guarantee authority are not available for the project, FmHA will so inform the applicant. The applicant will be notified in writing with all reasons for the decision indicated. If it appears that the project is eligible, has sufficient priority, is economically feasible and loan guarantee authority is available, FmHA will inform the lender and applicant in writing and request that they complete the application.

(h) *Department of Labor certifications.* FmHA will submit Form FmHA 449-22 to the Department of Labor for the necessary certification that the proposal will not be in conflict with § 1980.412 (c) and (d).

(i) *Applications will consist of:*

(1) Form FmHA 449-1, "Application for Loan and Guarantee."

(2) Form FmHA 449-2, "Statement of Collateral."

(3) Form FmHA 449-10, "Applicant's Environmental Impact Evaluation."

(4) Architectural or engineering plans, if applicable.

(5) Cost estimates and forecasts of contingency funds to cover inflation or project changes.

(6) Appraisal reports.

(7) For existing businesses, a pro forma balance sheet at startup and for at least three additional projected years, indicating the necessary startup capital, operating capital and short-term credit based on financial statements for the last three years, or more (if available); and projected cash flow and earnings statements for at least three years supported by a list of assumptions showing the basis for the projections. If debt refinancing is requested, a debt schedule is to be prepared (correlated to the latest balance sheets) reflecting the debts to be refinanced including the name of the creditor, the original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status, and collateral that secured such loans.

(8) For new businesses, a pro forma balance sheet at startup and for the next three years, projected cash flow (monthly first year, quarterly for two additional years) and projected earnings statements for three years supported by a list of assumptions showing the bases for the projections.

(9) Any credit reports obtained by the lender or FmHA on the borrower, its principals and parent, affiliate and subsidiary firms.

(10) Form FmHA 400-1, if construction costing more than \$10,000 is involved.

(11) Copies of building permits, if applicable, and any necessary certifications and recommendations of appropriate regulatory or other agency having jurisdiction over the project including any pollution control agency.

(12) Personal and corporate financial statements of those guarantors named in § 1980.443.

(13) Proposed loan agreement. (See paragraph VIII of Form FmHA 449-35). Loan agreements between the borrower and lender will be required. The final executed loan agreement must include FmHA's requirements as set forth in the Form FmHA 449-14 including the requirements for periodic financial statements and recordkeeping. There must be provisions for an annual audited financial statement of the borrower; it will be performed by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970, by a regulatory

authority of a State or other political subdivision of the United States. An acceptable audit will be performed in accordance with generally accepted auditing standards and include such tests of the accounting records as the auditor considers necessary in order to express an opinion on the financial condition of the borrower. FmHA does not require an unqualified audit opinion as a result of the audit. However, FmHA will not accept a limitation to the scope of the audit. Compilation or reviews do not satisfy the audit requirement. The loan agreement must also include but is not limited to the following:

(i) Prohibition against assuming liabilities or obligations of others.

(ii) Restrictions on dividend payments.

(iii) Limitation on purchase or sale of equipment and fixed assets.

(iv) Limitations on compensation of officers and owners.

(v) Minimum working capital requirements

(vi) Maximum debt to net worth ratio.

(vii) Restrictions concerning consolidations, mergers or other circumstances.

(viii) Limitations on selling the business without concurrence of the lender and FmHA.

(ix) Repayment and amortization of the loan.

(x) List of collateral for the loan including a list of persons and/or corporations guaranteeing the loan with a schedule for providing the lender and FmHA with personal and/or corporate financial statements. (See § 1980.443)

(14) A complete feasibility study when required. (See § 1980.442)

(15) Any additional information required by FmHA.

(16) For companies listed on major stock exchanges and/or subject to the Securities and Exchange Commission regulations, a copy of Form 10-K, "Annual Report Pursuant to Section 13 or 15 D of the Act of 1934."

(17) Documented evidence that the project is located within or without special flood or mudslide hazard areas.

(18) Notices of compliance with the Privacy Act of 1974.

(i) If the applicant is acting in a personal capacity and not as an entrepreneur for such entities as proprietorships, partnerships, or corporations, and FmHA solicits personal information for him/her, the individual will be provided Form FmHA 410-9, "Statement Required by the Privacy Act."

(ii) If FmHA desires to obtain information concerning an individual from any source, FmHA will provide

such source with Form FmHA 410-10, "Privacy Act Statement to References."

(19) On any request for refinancing of existing loan(s) as authorized under § 1980.411(a)(12), the lender is required, as a minimum, to obtain the previously held collateral as security for the guaranteed loan(s). Additional collateral will be required by FmHA when refinancing of unsecured or undersecured loans is unavoidable in order to accomplish the necessary strengthening of the firm's current position.

(j) *Use of forms.* FmHA numbered forms will be used where shown in both preapplication and applications. Otherwise, lenders should use their forms, real estate mortgages, security instruments and other agreements, provided such forms do not contain any provisions that are in conflict or are inconsistent with provisions of this Subpart.

(k) *Certificate of need.* If the loan request is for health care facilities (e.g., hospitals or nursing homes), a "Certificate of Need" will be obtained by the applicant from the appropriate regulatory or other agency having jurisdiction over the project. If a significant part of the project's income will be from third party payors, e.g., medicare or medicaid, the project will be designed and operated in a manner necessary to meet the requirements of the third-party payors.

Administrative

A. The County Supervisor and District Director:

1. Determines if material and information submitted is complete and signed by the appropriate party in the appropriate capacity.

2. Prepares and submits to State Director their comments and recommendations. Such comments will include but are not limited to the following: Community attitude toward project; a summary of comments regarding the proposal by the lender, county leaders, and other interested parties; whether the project is likely to result in the need for additional community facilities such as schools, water, sewer, and health care services, and if so, the community's plan for providing such facilities; availability of any required additional labor force and training plans for such force, if needed; an economic forecast of the effect on the community should the project fail, if financed.

3. The County Supervisor will furnish all individuals acting in a personal capacity at the time of filing a preapplication or application, two copies of Form FmHA 410-9. The individual will sign both copies, retaining one and providing FmHA with the other copy which becomes a part of the loan file.

4. The County Supervisor will provide any source from whom FmHA obtains information concerning an individual with two copies of Form FmHA 410-10. The source

will sign both copies, retain one and provide FmHA with the other copy which becomes a part of the loan file.

B. The State Director:

1. Will provide the County Supervisor with assistance as may be necessary to assure that the applicants and lenders are currently and correctly advised throughout preapplication and application processing.

2. Will prepare and submit Form FmHA 2033-37, "Rural Community Facility Applicant/Borrower Definition," Form FmHA 2033-38, "Rural Community Facility and Funding Data," Form FmHA 2033-39, "Rural Community Facility Status Detail," Form FmHA 2033-40, "Rural Community Facility Fund Dispositions," and Form FmHA 2033-41, "Rural Community Facility Actual Verifications of Employment and Users," in accordance with FmHA Instruction 2033-F. The Standard Industrial Classification (SIC) manual will be used in coding of projects.

3. Will forward immediately to the National Office on all projects:

(a) Form FmHA 449-22 (7 copies) for loans over \$1,000,000 and when direct employment increases more than 50 employees.

(b) For insured loans where the applicant leases facilities to another, submit Form FmHA 449-22 for such applicant. The lessor(s) will also be required to provide Form FmHA 449-22. Subsequent loan requests require resubmission of Form FmHA 449-22.

(c) Form FmHA 449-4 (5 copies) for all loans over \$1,000,000 or for loans, regardless of size, when the State Director believes a character evaluation check is advisable. Applicants should be advised that these clearances will take approximately 60 days to process and that the National Office will take no action to expedite such processing.

Note.—Forms FmHA 449-22 and 449-4 should only be processed if a complete preapplication or application has been received.

C. Miscellaneous Administrative provisions:

1. *Par. (f)* Preapplications are not to be accepted or processed unless a lender has agreed in writing to finance the proposal. The preapplication letter is a joint letter prepared by the applicant and lender.

2. *Par. (g)* Upon receipt of all preapplications in excess of \$5 million, the State Director will transmit to the National Office the material required under 1980.451(f) (1), (4), and (5) of this Subpart together with recommendations and observations including an analysis of the quality and permanency of the employment opportunities involved in the project. The National Office will review the proposed project in relation to objectives, priorities, and intent of the program and will advise the State Director. After receiving the National Office advice or for loans less than \$5 million, the State Director will inform the applicant of the decision. (Copy sent to County Supervisor).

3. *Par. (i)* State Director submits a

transmittal letter with recommendations on loan applications requiring National Office review. Included are:

(a) Loan file.

(b) Form FmHA 449-29, "Project Summary," including State Director's spread sheets, financial history, and projections (use attachments to Project Summary if necessary).

(c) Proposed Form FmHA 449-14.

(d) Copy of FmHA State Loan Review Board Minutes.

(e) Notification of required financial and other reports, their frequency, due dates, and fiscal year end.

4. *Par. (i)(9). Credit reports.*

(a) The National Office has contracted with Dun and Bradstreet, Inc. (the contractor, D&B) for a complete credit reference and monitoring system for use by FmHA National and State Offices. The system provides an independent source of credit information for analyzing applications and provides continuous monitoring of all loan accounts registered.

(b) The State Director will appoint a member of the State staff to act as a State Coordinator for the services. Such coordinator will be provided with instructional material necessary to use this service. The contractor will assign a D&B account executive from the nearest D&B office for assistance to the FmHA State Office Coordinator, answer inquiries, assure proper service, deliver the National Reference Books, and deliver inquiry request forms to the State Office Coordinator. The local D&B office should be notified whenever a new Coordinator is assigned. D&B will then make arrangements to instruct the new Coordinator relative to how best to use the D&B service.

(c) The Credit Reference and Monitoring System Service consist of:

(1) *Credit Reference Service*—One set of Dun & Bradstreet National Reference Books will be delivered to each State Office. These books provide as quick source of certain basic information on a business such as:

- (A) Function.
- (B) Correct business title.
- (C) The age of the business.
- (D) Capitalization.
- (E) Credit appraisal.

(2) *Business Information Report Service*—When it has been determined that a preapplication or application will be considered for further processing, the State Office Coordinator will order a credit report on the business. The contractor will provide each State Office with a supply of prenumbered (separate number for each State) Dun & Bradstreet, Inc. Subscriber Inquiry forms JTC 25592 for use in ordering the credit report. The form will contain a complete and correct business name and address. Insert in the "Remarks" section a list of the name(s) of principal(s). The inquiry form is mailed to the designated D&B office for processing. The credit report will be sent

by D&B directly to the State Office Coordinator. Telephone requests for reports will be accepted by all local D&B offices. Dun & Bradstreet has begun a new service known as Duns DIAL (Direct Information Access Line). Duns DIAL provides a Toll Free 800 Number for each FmHA office to call for instant report information direct from the D&B National Information Center at Berkley Heights, N.J.

It provides telephone readouts of reports from D&B's data bank that are as brief or as comprehensive as is needed. States may verify mailing dates of ordered reports, or ask for key-point readout, full report readout, or request priority handling of any inquiry when the D&B report must be updated. If loan dockets are sent to the National Office for review, they will contain a copy of the D&B credit report. (Note: The National Office may also initiate requests for these reports and will notify the State Office). The "normal" delivery of information by Dun & Bradstreet includes all followup reports written during the year following a request for a report. One-Shot Reports are available but, in practice, it is not generally feasible to order a D&B without followups. States will automatically receive Continuous Report Service if a One-Shot Report is not specifically requested.

(3) *Dun's Special Purpose Report*—This is a special comprehensive report on business and principals providing an indepth investigation and detailed information. This report should be ordered if the State Director feels such a report is needed to assist in the review of an application, to make a decision or gain additional information concerning a closed loan. This service is a valuable tool to be used anytime during the life of the loan when a decision must be made. These reports may also be used for non-credit-orientated business decisions.

(4) *Key Account Report*—These may be ordered when a decision concerning short-term credit is needed.

All Dun's Special Purpose and Key Account Reports must be ordered by memo through the National Office. These should be submitted in narrative form explaining in detail the nature of the information requested. Since these reports are charged by the hour, it is imperative that specific and complete information be given. All requests should include the name and address of the borrower, amount of loan requested, purpose of the guarantee, principals involved, and any background which would be relevant to the request. The name and telephone number of the loan officer in charge should also be provided so that the D&B representative may contact him/her if the need arises.

(5) *Change Notification Service*—This is a continuous monitoring service whereby D&B in Washington, D.C., will coordinate with the National Office to provide certain data relating to then existing Business and Industry loans.

(f) Each State Coordinator will provide the

National Office with an initial listing of all existing business names and addresses where Loan note Guarantees or letters of conditions have been issued and thereafter, on a monthly basis, a listing of additional names or deletions.

(ii) The National Office will forward the combined listing to D&B, who thereafter will provide a continuous monitoring of these businesses. D&B will report any significant changes that may have developed which affect the business. Such changes will be reported on a D&B change notice Form 9 W2-11 and will be sent by D&B to the National Office. The National Office will review the change notice and send a copy to the State Office Coordinator who may request a D&B updated credit report or take any appropriate followup action required. (This system is to be used as a supplement for FmHA's monitoring functions).

5. *File documentation.* Applications will be organized in a loan file in accordance with FmHA Instruction 2033-A, which is available in any FmHA office. An 8-position folder with tabs will be utilized. The State Director may supplement the Position Guides to include specific legal requirements within their State. If the applicant prepares a complete application package, it may accompany the docket provided the docket is organized in a binder, indexed and tabbed. Feasibility studies should be kept separate. It is the responsibility of FmHA employees who work on application or servicing actions to add to the correspondence section of the loan file (also known as the running record) a written report of any field visits, meetings, telephone conversations and memorandums covering decisions or reasons for FmHA actions on the cases. Particular attention must be given to this requirement on cases that become delinquent or problems in order that FmHA's position will be defensible in the event of an adverse action.

6. *Par (i)(13), Audit agreements and requirements.* FmHA urges the use of a written agreement between the lender and borrower to assure that there is no misunderstanding concerning FmHA audit requirements.

7. *Par (i) Forms and documents found in loan docket.* The following table is a guide to forms and documents used in completing an application and loan docket. The filing position within the 8 position folder is shown on the right. Some of these items may be not applicable for a particular loan. However, a complete loan docket may need to include items in addition to the following:

DESCRIPTION OF RECORD OR FORM NO. AND TITLE

		Filing position
AD-425	Contractor's affirmative action plan for equal employment opportunity	1
FmHA 400-1	Equal opportunity agreement	6
FmHA 400-3	Notice to contractors and applicants	6
FmHA 400-4	Assurance agreement	6
FmHA 400-8	Compliance statement	6
FmHA 410-8	Applicant reference letter	3
FmHA 410-9	Statement required by Privacy Act	3
FmHA 410-10	Privacy Act statement to references	3
FmHA 424-12	Inspection report	6
FmHA 440-1	Request for obligation of funds	2
FmHA 440-46	Environmental impact assessment	3
Do	Environmental impact statement	3
FmHA 440-59	Acknowledgment of obligated funds/check requests	2
FmHA 449-1	Application for loan and guarantee	3
FmHA 449-2	Statement of collateral	5
FmHA 449-4	Statement of personal history	3
FmHA 449-5	Personal financial statement	3
FmHA 449-7	Assumption agreement for guaranteed loans (new terms)	2
FmHA 449-8	Assumption agreement for guaranteed loans (same terms)	2
FmHA 449-10	Applicant's environmental impact evaluation	3
FmHA 449-14	Conditional commitment for guarantee	2
FmHA 449-19	Guarantee fee report	2
FmHA 449-22	Certification of nonrelocation and market and capacity information report	3
FmHA 449-29	Project summary	1
FmHA 1940-1	Request for obligation of funds	2
FmHA 1940-57	Acknowledgment obligation of funds	2
FmHA 449-34	Loan note guarantee	2
FmHA 449-35	Lender's agreement	5
FmHA 449-36	Assignment guarantee agreement	5
FmHA 1980-19	Guarantee fee report	1
	Annual audit report	1
	Borrower financial statements	1
	Chattel security instruments	1
	Report—Exhibit B, FmHA instruction 2015-C	1
	Applicants' certification of indebtedness	1
	Lender's loan agreement	2
	Promissory notes	2
	Bond (specimen) bond ordinances, bond transcripts or similar items	2
	Running case record	3
	Market analysis information (feasibility study)	3
	Applicant's and lender's preapplication letters	3
	Lender's evaluation and recommendations	3
	Cost estimates and forecast for contingency funds	3
	Dun and Bradstreet reports	3
	Corporate or personal financial statements of guarantors	3
	S.E.C. 10-K report	3
	Pro-forma balance sheet	3
	Current profit and loss statements	3
	Projections of gross revenues and net earnings	3
	Cash flow statements, 3 years with assumptions	3
	Appraisal reports	8
	Documentation for considering refinancing	3
	Financial statements for last 3 years	3
	Complete debt schedule	3
	Interim financial statements	3
	Aging and turnover of receivables and inventory	3
	Credit reports	3
	Records of any pending or final regulatory litigation	3
	Comments on any State development strategies	3
	Flood or mudslide hazard area statement	3
	National Historic Preservation Act statement	3
	State review board minutes	3
	Certificate of need (health care facilities)	3
	Clean Air and Water Pollution Control Act requirements statement	3
	Correspondence (excluding closing instruments)	4
	Department of Labor certification	4

DESCRIPTION OF RECORD OR FORM NO. AND TITLE—Continued

	Filing position
Mortgagee title insurance policy	5
Title opinions	5
Bylaws, resolutions or regulations and amendments	5
Articles of incorporation, bylaws, and regulations or charter	5
Lender security agreements and financing statements	5
Lender mortgages and notes	5
Advice of Office of General Counsel from review of docket	5
Partnership agreements	5
Other documents used in loan closing	5
Schedule of stock ownership	5
Franchise agreement	5
Construction contracts and compliance statements	6
Lender's approval of plans and specifications	6
Engineer's certification of satisfactory completion in accordance with plans and specifications	6
Lender's audit of expenditures and project costs	6
Evidence of concurrence and compliance with construction requirements of State, county, and municipal government (including building permits)	6
Lender's closing certification	6
Lender's loan servicing plan	6

§ 1980.452 FmHA evaluation of application.

FmHA will evaluate the application and make a determination whether the borrower is eligible, the proposed loan is for an eligible purpose, and that there is reasonable assurance of repayment ability, sufficient collateral, and sufficient equity and the proposed loan complies with all applicable statutes and regulations. If FmHA determines it is unable to guarantee the loan, the lender will be informed in writing. Such notification will include the reasons for denial of the guarantee. If FmHA is able to guarantee the loan, it will provide the lender and the applicant with Form FmHA 449-14, listing all requirements for such guarantees. FmHA will include in the requirements of the Conditional Commitment for Guarantee a full description of the approved use of guaranteed loan funds as reflected in the Form FmHA 449-1. The Conditional Commitment for Guarantee may not be issued on any loan until the State Director has been notified by the National Office that the Statements of Personal History(s) have been processed and cleared. FmHA State Directors are the only persons authorized to execute Form FmHA 449-14.

Administrative

State Director evaluates the application and considers:

A. Rural area determinations. (See § 1980.405).

B. Community impact of the proposal which includes:

1. Number of businesses and industries in the town or city.
2. Employment impact upon the community.
3. Availability of skilled and unskilled labor and permanency of employment opportunities.
4. Vocational and educational facilities to provide skilled labor, if applicable.

5. Policies of applicant regarding unemployment, lay-offs, wage scales, etc.

C. If debt refinancing is requested, consider in accordance with § 1980.411(a)(12) and:

1. A complete review will be made to determine whether it is essential to restructure the company's debts on a schedule that will allow the business to operate successfully rather than merely guaranteeing an unsound loan.

(a) Obtain a borrower's complete debt schedule. Schedule should agree with applicant's latest balance sheet.

(b) Determine from lender if the applicant's present loan(s) is on the lender's regulatory examiner's report and if so determine the loan classification.

(c) Analyze lender's liability ledger on the borrower, individual customer credit file, installment Loan Ledger Card or Computer printouts, and other credit reports.

(d) The percentage of guarantee should be adjusted to assure that the lender does not bring its previously existing unguaranteed exposure under the guarantee.

(e) Any special servicing requirements should be identified and included in the Conditional Commitment for guarantee.

D. Applications will be analyzed by an FmHA State Loan Review Board before execution of Form FmHA 449-14. When analyzing the B&I loan request, the State Loan Review Board will specifically address the issue of the guarantee percentage to be approved. Consideration of reducing the maximum guarantee to less than 90 percent is appropriate when the loan has sufficient strength to warrant further participation by the private sector or refinancing of existing lender debts to the borrower is involved. All review board meetings will be fully documented, including the review and decision concerning the guarantee percentage, and will be signed by those FmHA employees serving on the board. A copy of such documentation will be retained in the loan file.

1. Generally, the review board consists of the State Director as Chairperson, Community and Business Program Chief or the Business and Industry Chief (Loan Specialist), and either the Community

Programs Chief, Rural Housing Chief, or Farmer Programs Chief, as appropriate.

2. The State Director may wish to contact non-FmHA sources for expertise, such as bankers or other lenders, industrial development specialists from state commissions, academicians, certified public accountants, tax attorneys, successful business and professional lenders, management consultants and officials from other Federal agencies. Outside resource consultants may be reimbursed only for their travel costs (transportation and subsistence). (See FmHA Instruction 2036-A which is available in any FmHA office).

3. The Rural Housing Loan Chief will be a member of the FmHA State Loan Review Board if a site development loan (see § 1980.411(a)(7)) is being considered. The Community Programs Chief (Loan Specialist) will be a member if a loan for facilities of the type financed under the provisions of Subpart A of Part 1942-A is being considered.

The Farmer Programs Chief will be a member of the board if a project, the success of which is dependent on the production of agricultural products, is being considered. If the proposed project covers more than one program area, all the chiefs for those programs involved will be members of the board. If the approval of an application for a B&I loan may result in benefiting or hindering other FmHA programs, the review board will determine whether the making of such loan or guarantee is likely to result in embarrassment for FmHA as a result of a possible conflict of interest whereby other parties may accuse the agency of giving loan preference to housing borrowers (in the case of site development) or producers (in the case of agricultural processing plants) or other FmHA programs.

4. The County Supervisor and District Director will attend the review board meeting to the extent practical, taking into consideration other work requirements and travel.

5. The State Director will prepare an original and two copies of Form FmHA 1940-1 for each loan to be obligated. Also, for each initial loan, Form FmHA 1940-50, "Add, Delete, or Change Guaranteed Loan Borrower Information," will be prepared. The State Director will sign the original and one copy and conform the second copy. Form FmHA 1940-1 will not be mailed to the Finance Office. Notice of approval to lender will be accomplished by providing or sending the lender the signed copy of Form FmHA 1940-1 and Form FmHA 449-14 on the obligation date, unless the Administrator has given prior authorization to the Finance Office to obligate before the 6-day reservation period and directs the State Director to forward Form FmHA 1940-1 to the lender in advance of issuance of Form FmHA 449-14. The State Director or designee will record the actual date of lender notification on the original of the Form FmHA 1940-1 and retain the original of the form as a permanent part of the FmHA case file. The State Director may retain the remaining conformed copy of Form FmHA 1940-1. The State Director or designee will telephone the Finance Office Check Request Station requesting that the authority

for a particular project be reserved. Form FmHA 1980-50 will be prepared and distributed for initial loans only.

a. Immediately after contacting the Finance Office, the requesting official will furnish the requesting office's security identification code. Failure to furnish the security code will result in rejection of the request for reservation of authority. After the security code is furnished, all pertinent information contained on Form FmHA 1940-1 will be furnished to the Finance Office. Upon receipt of the telephone request for reservation of authority, the Finance Office will record all information necessary to process the request for reservation in addition to the date and time of the request.

b. The individual making the telephone request will record the date and time of the telephone request and place his/her signature in section 41 of Form FmHA 1940-1.

c. The Finance Office will terminally process telephone reservation requests. Those requests for reservation received before 2:30 p.m. Central Time will be processed on the date of the request. Requests received on or after 2:30 p.m. Central Time, to the extent possible, will be processed on the date received; however, there may be instances in which the reservation will be processed on the next working day.

d. Each working day the Finance Office will notify the State Office by telephone of all projects for which authority was reserved during the previous night's processing cycle and the date of obligation. If authority cannot be reserved for a project, the Finance Office will notify the State Office that authority is not available within the State allocation. The obligation date will be 8 working days from the date of the request for reservation of authority which is being processed in the Finance Office. The Finance Office will mail to the State Director Form FmHA 440-57, "Acknowledgment of Obligated Funds/Check Request," prepared in duplicate, confirming the reservation of authority with the obligation date inserted as required by item No. 9 on the FMI for Form FmHA 440-57. Immediately after notification by telephone of the reservation of authority, the State Director will call the Legislative Affairs and Public Information staff in the National Office as required by FmHA Instruction 2015-C.

e. See FmHA Instruction 2015-C (available in any FmHA office) for notification procedures.

6. State Director, through the County Supervisor, notifies the lender and applicant if he/she will not issue the Form FmHA 449-14.

§ 1980.453 Review of requirements.

(a) Immediately after reviewing the conditions and requirements in Form FmHA 449-14, and the options listed on the back of the form, the lender and applicant should complete and sign the "Acceptance or Rejection of Conditions," and return a copy to the FmHA State Director. If certain conditions cannot be met, the lender and borrower may propose alternate conditions to FmHA.

(b) If the lender indicates in the "Acceptance or Rejection of Conditions" that it desires to obtain a Loan Note Guarantee and subsequently decides at any time after receiving a conditional commitment that it no longer wants a Loan Note Guarantee, the lender will immediately advise the FmHA State Director.

Administrative

A. The State Director will negotiate with the lender and proposed borrower any changes made to the initially issued or proposed Form FmHA 449-14, "Conditional Commitment for Guarantee." A copy of Form FmHA 449-14 and any amendments thereto will be included when the loan file is submitted to the National Office for review. When the National Office recommends modifications or additions to Form FmHA 449-14, the State Director will further negotiate these recommendations with the lender and proposed borrower. If, as a result of these further negotiations, the lender, proposed borrower or State Director presents alternate conditions which would modify recommendations of the National Office, the State Director will submit these conditions by memorandum to the National Office for consideration with a copy of the revised Form FmHA 449-14 and any amendments thereto.

B. On loan applications within the State Director's loan approval authority, the State Director will submit to the National Office, Business and Industry Division, within 30 days after the Form FmHA 449-14 has been accepted:

1. A copy of Form 449-29, "Project Summary, Business Industrial Loan Division."
2. A copy of Form FmHA 449-14 as accepted by the lender and borrower.
3. A copy of FmHA State Loan Review Board Minutes.
4. Notification of required financial and other reports, their frequency, due dates and fiscal year end.
5. A copy of the proposed loan agreement between the lender and the borrower.
6. When debt refinancing is involved, a copy of the justification for the refinancing.
7. The cover memorandum should indicate whether the Form FmHA 449-34 has been issued. If the Loan Note Guarantee has been issued, enclose a copy of the Lender Certification required by § 1980.60(a) Subpart A of this Part, and, if not, a proposed date for issuance of the Form FmHA 449-34.

§ 1980.454 Conditions precedent to issuance of the Loan Note Guarantee.

In addition to compliance with the requirements of § 1980.60 of this Part of Subpart A, compliance with the following provisions are required prior to issuance of the Loan Note Guarantee.

(a) *Transfer of lenders.* The FmHA State Director may approve a substitution of a new eligible lender in place of a former lender who holds an outstanding Conditional Commitment for Guarantee (where Loan Note Guarantee has not yet been issued)

provided, there are no changes in the borrower's ownership or control, loan purposes, scope of project and loan conditions in the Form FmHA 449-14 and loan agreement remain the same. To effect such a substitution, the former lender will provide FmHA with a letter stating the reasons it no longer desires to be a lender for the project. The substituted lender will execute a new Part "B" of Form FmHA 449-1. If approved by FmHA, the State Director will issue a letter or amendment to the original Form FmHA 449-14 reflecting the new lender and the new lender will acknowledge acceptance of the letter or amendment in writing.

(b) *Substitution of borrowers.* FmHA will not issue a Loan Note Guarantee to the lender who is in receipt of a Form FmHA 449-14 with an obligation in a previous fiscal year if the originally approved borrower (including changes in legal entity) or owners are changed. The only exception to this provision prohibiting a change in the legal entity's form of ownership is when the originally approved borrower or owner is replaced with substantially the same individuals with substantially the same interests, as originally approved and identified in the Form FmHA 449-1, item 15. All requests for exceptions must be approved by the FmHA National Office.

(c) *Changes in terms and conditions in Form FmHA 449-14.* It is the intent of FmHA that once the Form FmHA 449-14 is issued and accepted by the lender, the Commitment not be modified as to the scope of the project, overall facility concept, project purpose, use of proceeds or terms and conditions. Only minor changes will be considered, unless otherwise provided for in this Subpart. All requests for changes will require National Office approval.

(d) *Additional requirements for B&I guaranteed loans.* All B&I borrowers and lenders, as applicable, must comply with Appendix D, paragraphs (I) (A) and (B); (II)(A) through (II)(A)(2)(g)(1); (II) (B) and (C); (III) (A), (B), (C), (D), and (E).

(e) *Preguarantee review.* Coincident with, or immediately after loan closing, the lender will contact FmHA and provide those documents and certifications required in § 1980.60 and § 1980.61 of Subpart A of this Part. Only when the FmHA B&I Chief or Loan Specialist as required in Paragraph B. (Administrative) of this section is satisfied that all conditions for the guarantee have been met will the Loan Note Guarantee be executed.

(f) *Loan closing.* When loan closing plans are established, the lender will notify FmHA.

(g) *Closing of working capital loans.* The State Director will not issue a Loan Note Guarantee for a working capital loan prior to the completion of all proposed construction for the project. Working capital loan funds will not be used to pay short-term notes.

Administrative

A. The State Director reviews:

1. The loan agreement between the borrower and lender which provides for the frequency of submission of financial statements to the County Supervisor. Monthly financial statements should be required on new business enterprises or those needing close monitoring. However, the annual audit report will always be required.

2. Plans for inspections made on construction projects. These should be coordinated with the lender and borrower. Form FmHA 424-12, "Inspection Reports," may be used by the State Engineer or Architect who will make an inspection of the projects which involve substantial construction. The inspection shall be completed prior to the issuance of the Loan Note Guarantee to assure all construction is complete. The State Loan Specialist or Chief may also participate in the inspections.

3. Cost overruns, if any, and how they will be met. State Directors may approve cost overruns for projects in any amount or percentage within their loan approval authority and not to exceed 10 percent in loan amounts between \$1,000,000 and \$10,000,000.

4. Basic credit requirements of all loans.

B. In all cases, the Program Chief or the B&I Loan Specialist will conduct a preguarantee review before issuance of the Loan Note Guarantee to assure that all requirements of the application, Conditional Commitment for Guarantee, and Loan Agreement have been met including the required certifications using language specified by the regulations, and will provide such verification in the loan file, including arrangements for annual audit reports. In the conduct of this review, all requirements of § 1980.60(a) of Subpart A of this part will be reviewed and special attention should be paid to reviewing current financial statements of the borrower to assure that no adverse change has taken place. The District Director may participate in the review.

C. The State Director or any other FmHA personnel shall not sign any documents other than those specifically provided for in Subparts A or E of this Part. No certificates shall be signed except the "Certificate of Incumbency and Signature" as set forth as Appendix B of this Subpart in the Federal Register.

D. *Par (a) Transfer of Lender.* The State Director will analyze all requests for substituted lenders including the servicing capability, eligibility and experience of the new lender before the request is approved. If approved, notify the Finance Office of the change using Form FmHA 1980-42. Do not deobligate and reobligate the loan if the Form FmHA 449-14 was issued in a previous fiscal year.

E. *Par (b) Substitution of borrowers.* The State Director will review any request for

exceptions to substitution of borrowers and forward such requests with a memorandum of facts and recommendation to the National Office for a decision. The National Office will not approve any request where the legal entity is changed, such as from a corporation to a partnership, etc., or if the ownership changes more than 20 percent.

F. *Par (c) Changes in terms and conditions in Form FmHA 449-14.* The State Director will review any requests for changes to Form FmHA 449-14 and forward such request with a memorandum of facts and recommendations to the National Office for a decision. The National Office will approve only minor changes which do not materially affect the project, its capacity, employment, original projections or credit factors. Changes in legal entities or where tax considerations are the reason for change will not be approved.

§ 1980.455-1980.460 [Reserved]

§ 1980.461 Issuance of Lender's Agreement, Loan Note Guarantee, and Assignment Guarantee Agreement

(See Subpart A, § 1980.61.)

Administrative

A. *Par (a) of Subpart A, § 1980.61.* The original Form FmHA 449-35 will be retained in the FmHA loan file.

B. *Par (b)(1) of Subpart A, § 1980.61.* Copies of all issued Loan Note Guarantees will be kept in the FmHA loan file.

C. *Par (b)(2) of Subpart A, § 1980.61.* The State Director will approve all substitutions of Loan Note Guarantees or Contracts of Guarantee.

D. It is imperative that the original loan covered by a Contract of Guarantee is current.

E. *The Registered Holder will transmit to the County Supervisor:*

1. Request for substitution together with the original Contract of Guarantee.

2. Copies of notes with lender's identification numbers. (All requirements of the Lender's Agreement will be complied with before any new notes are issued.)

3. Certification that the loan is current and in good standing.

4. Certification of outstanding principal amount of the loan.

5. Executed Lender's Agreement. (FmHA provides form to Lender).

6. Executed Form FmHA 1980-19. (See § 1980.21 of Subpart A for calculation of fee due).

7. Payment for appropriate guarantee fee.

F. *County Supervisor will:*

1. Review all the requirements of Paragraph E of this section.

2. If the request is appropriate and complete, forward the request to the State Director.

G. *State Director will:*

1. Verify the submitted request and if in order, send the guarantee fee and Form FmHA 1980-19 to Finance Office with a notation of the date the new Loan Note Guarantee will be issued. (Note: The substitution of a Loan Note Guarantee for the Contract of Guarantee is not to be considered as a new loan for recordkeeping purposes).

2. Complete the Loan Note Guarantee (appropriate number for attachment to each note), date and sign the instrument. The following statement will be entered at the top of the form: "This Loan Note Guarantee is issued in substitution of Contract of Guarantee dated ____." The State Director will transfer from the Contract of Guarantee all information pertaining to the Loan Note Guarantee.

3. Execute Lender's Agreement.

4. Cancel the original Contract of Guarantee.

5. Transmit to the County Supervisor the Loan Note Guarantee, Lender's Agreement and cancelled Contract of Guarantee.

6. State Director may retain for the State Director's file copies of the Loan Note Guarantee, Lender's Agreement, and Form FmHA 1980-19.

H. *County Supervisor:*

Will transmit to the lender the original Loan Note Guarantee and a copy of executed Lender's Agreement and retain in the loan file copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, a copy of Form FmHA 1980-19 and the original Lender's Agreement.

All applicable provisions of this Subpart and Subpart A of this Part apply to the loan when the Loan Note Guarantee is signed.

I. *Alternate Procedure:*

If the Registered Holder does not want to deliver the original Contract of Guarantee with his/her request for substitution, the County Supervisor will accept a copy of the Contract of Guarantee and proceed as above. However, the Loan Note Guarantee will be delivered only upon receipt of the original Contract of Guarantee. The County Supervisor will forward the original Contract of Guarantee to the State Director for cancellation. The State Director will return the cancelled Contract of Guarantee to the County Supervisor for retention in the loan file.

J. *Par (b)(3) of Subpart A, § 1980.61.* For reporting purposes where multinotes are issued, the loan to the borrower will be counted as one loan regardless of the number of notes issued.

K. *Par (b)(4) of Subpart A, § 1980.61.* The State Director will notify the Finance Office of the transaction.

L. *Par (c) of Subpart A, § 1980.61.* A copy of Form FmHA 449-36 will be kept and a copy of executed Lender's Agreement retained in loan file along with copies of the Loan Note Guarantee with attached original cancelled Contract of Guarantee, copy of Guarantee Fee Report and the original Lender's Agreement.

M. *Par (d) of Subpart A, § 1980.61.* State Director signs all Forms FmHA 449-13, "Denial Letter."

N. *Par (f) of Subpart A, § 1980.61.* The County Supervisor will:

1. Review Form FmHA 1980-19 for completeness.

2. Forward the guarantee fee and original Form FmHA 1980-19 to the Finance Office.

3. Forward a copy of Form FmHA 1980-19, Form FmHA 449-34, Form FmHA 449-35 and Form FmHA 449-36, if applicable, to the State Director.

4. Originals or copies, as appropriate, will be retained in the FmHA loan file.

5. See that the State Director is notified of any discrepancies.

§§ 1980.462—1980.468 [Reserved]

§ 1980.469 Loan servicing.

The lender is responsible for loan servicing and for notifying the FmHA of any violations in the Lender's Loan Agreement. (See Paragraph XI of Form FmHA 449-35.)

Administrative

A. While the lender has the primary responsibility for loan servicing and protecting the collateral, the State Director is responsible for seeing that servicing as required by the Lender's Agreement and regulation is properly accomplished. Loan servicing is intended to be a preventive rather than a curative action. Prompt followup on delinquent accounts and early recognition of potential problems and pursuing a solution to them are keys to resolving many problem loan cases.

B. The State Director will assure that:

1. The lender understands upon initial contact during loan application and in particular at loan closing that the lender is responsible for loan servicing and that annual audited financial statements are required.

2. A timetable for routine site, borrower and lender visitations by FmHA personnel is established before the Loan Note Guarantee is issued. As a guide, visits to newly established borrowers with the lender represented should be scheduled monthly. Visits to established, nonproblem borrowers must be made at least annually. Special attention problem accounts should be visited as frequently as the need demands. If possible, these visitations should be coordinated with the lender's visits.

3. During or in preparation for field visits, the following functions are to be performed:

(a) Current financial information is obtained in advance and analyzed for trends.

(b) Any issues revealed or problems not resolved from the last visitation are included in the agenda.

(c) Collateral is observed and its condition, maintenance, protection and utilization by the borrower appears to be satisfactory.

(d) A report of the visit is made on Form FmHA 449-39, "Field Visit Review (Business and Industrial Loans)," or otherwise documented and included in the loan file. The report should include an opinion of the borrower's status based upon observations made during the visit.

(e) Any instructions or directions made to the lender should be confirmed by letter.

4. The Program Chief or Loan Specialist will conduct an annual meeting with each lender or its agent with whom a Loan Note Guarantee(s) or Contract of Guarantee(s) is outstanding. This cannot be redelegated. The District Director should also attend. These meetings may be scheduled at the time FmHA makes periodic field inspections to the borrower's place of business. At the meeting, a review will be made of the lender's

performance in loan servicing, including enforcement of conditions and covenants in the loan agreements. The observations and results of the meeting will be documented. Form FmHA 449-39 may be used for this purpose. Servicing exceptions on the part of the lender which are noted by FmHA will be confirmed by letter to the lender.

5. The lender performs an adequate analysis of borrower financial statements for FmHA. FmHA in turn will evaluate the lender's analysis and follow up with the lender on servicing action(s) required or negative observations not detected through the lender's analysis. The financial statement analysis of the lender, the financial statement and a memorandum reflecting FmHA's analysis, including a comparison to previous and projected performance of the borrower, will be forwarded to the National Office, Attention: Business and Industry Division, only for the following loans:

(a) All loans within the first year of loan closing.

(b) Loans over one year old as determined by the State Director or a National Office assigned loan reviewer who is participating in a field review. In event of a disagreement between the State Director and an assigned loan reviewer as to which loans should be included, the assigned loan reviewer's decision will take precedence.

(c) All problem and delinquent loans.

(d) Loans that the State Director would like reviewed by the National Office.

6. A proper followup with the District Director and County Supervisor is made if reports and financial statements are not being transmitted on time or if there are servicing actions needed.

7. Meetings are arranged between the lender, borrower and FmHA to resolve any problems of late payment, etc.

C. State Director Authorities.

1. The State Director may delegate authority for the conduct of all functions listed in Section 1980.469 Administrative B., except item B.4.

2. The State Director may approve B&I guaranteed loan servicing actions as authorized in separate written approval authorities issued in accordance with Subpart A of Part 1901 of this chapter.

3. Servicing actions on loans which exceed the State Director's loan approval authority are to be referred together with the State Director's recommendations to the Director, Business and Industry Division, for prior review and concurrence.

§ 1980.470 Defaults by borrower.

(See Subpart A, § 1980.63.)

Administrative

A. In case of any monetary or significant non-monetary default under the loan agreement, the lender is responsible for arranging a meeting with the State Director or its designee and borrower to resolve the problem. A memorandum of the meeting, individuals who attend, a summary of the problem and proposed solutions will be prepared by the FmHA representative and retained in the loan file. When the State Director receives a notice of default on a loan, he/she will immediately notify the

National Office in writing of the details and will subsequently report the problem loan to the National Office on the quarterly status report. The State Director will notify the lender and borrower of any decision reached by FmHA.

B. In considering servicing options, some of which are identified in paragraph XIA of Form FmHA 449-35, the prospects for providing a permanent cure without adversely affecting the risks of the FmHA and the lender must become the paramount objective. Within the State Director's authority, temporary curative actions such as payment deferrals, moratoriums on payments or collateral subordination, if approved, must strengthen the loan and be in the best interest of the lender and FmHA. Some of these actions may require concurrence of the holder(s).

C. Subsequent loan guarantee requests will be processed in accordance with provisions of § 1980.473 of this Subpart.

D. If the loan was closed with the multi-note option, the lender may need to possess all notes to take some servicing actions. In these situations when FmHA is holder of some of the notes, the State Director may endorse the notes back to the lender after the State Director has sought the advice and guidance of OGC, provided a proper receipt is received from the lender which defines the reason for the transfer. Under no circumstances will FmHA endorse the original Form FmHA 449-34 to the lender.

E. The State Director's authority to approve servicing actions is defined in § 1980.469, Administrative C.2.

F. Consultant services may be recommended by the State Director to assist FmHA and the lender in determining which servicing action is appropriate. Requests for consultant services should be made by the State Director and addressed to the Administrator, Attn: Business and Industry Division. A full explanation of the loan history, an evaluation and scope of the proposed study and the need should be included in the request.

G. When the National Office determines it is necessary on individual cases, due to some special requirements, it may, at its option, assume the servicing responsibility on individual cases.

H. The State Director will report all delinquent and problem loans quarterly to the Director, Business and Industry Division, by the 10th day of January, April, July and October.

I. The State Director will notify the Finance Office by memorandum of any change in payment terms such as reamortizations or interest rate adjustments and effective dates of any changes resulting from servicing actions.

§ 1980.471 Liquidation.

(See § 1980.64 of Subpart A of this Part.)

Administrative

A. State Director determines which FmHA personnel will attend meetings with the lender.

B. Paragraph XII B of the Lender's Agreement. FmHA will exercise the option to liquidate only when there is reason to believe the lender's liquidation plan is not likely to result in maximum recovery. When there is unresolved disagreement between FmHA and the lender on the means to maximize recovery through liquidation, the State Director will forward the lender's liquidation plan with appropriate recommendations, along with the State Director's exceptions to the lender's plan, to the Director, Business and Industry Division, for evaluation. Only when compromise cannot be reached on disputed liquidation plans will FmHA consider conducting the liquidation. When FmHA liquidates, reasonable liquidation expenses will be assessed against the proceeds derived from the sale of the collateral. In such instances the State Director will send to the Finance Office Form FmHA 1980-45, "Notice of Liquidation Responsibility."

C. State Directors are authorized to approve lender liquidation plans as authorized on separate written approval authorities issued in accordance with Subpart A of Part 1901 of this Chapter.

D. Paragraph XII D. State Directors are responsible for review and acceptance of accounting reports as submitted by lenders and for submission of such reports to lenders when FmHA is conducting liquidation, after they have been submitted with the State's recommendations to the Director, Business and Industry Division for prior review.

E. Paragraph XII E 2. State Directors are authorized to approve final reports of loss from the lender in separate written approval authorities issued in accordance with Subpart A of Part 1901 of this Chapter. The State Director will submit to the Finance Office for payment any loss claims of the lender on Form FmHA 449-30, "Loan Note Guarantee Report of Loss." The Finance Office forwards loss payment checks to the State Director for delivery to lender. When a loss claim is involved on a particular loan guarantee, ordinarily one "Estimated Loss Report" will be authorized. Only one final "Report of Loss" will be authorized. A final Form FmHA 449-30 must be filed with the Finance Office at the completion of all liquidations. Finance Office will use this form to close out the account.

F. Paragraph XII E 3. Final loss payments will be made within the 60 days required but only after a review by FmHA to assure that all collateral for the loan has been properly accounted for and liquidation expenses are reasonable and within approved limits. State Directors are responsible to see that such reviews are accomplished by the State within 30 days and final loss claims in excess of the State Director's approval authority are forwarded to be accepted or otherwise resolved by the Director, Business and Industry Division within the 60-day period. Community and Business Program Chiefs (C&BP), Business and Industry Chiefs or Loan Specialists will conduct such reviews. The State Director may request National Office assistance in the conduct of any review. All reviews for final loss claim in excess of the State Director's approval authority (See Subpart A of Part 1901 of this Chapter) will be submitted to the National Office, Business

and Industry Division, for concurrence prior in the State Director's approval of the claim. Close scrutiny of liquidation proceeds and their application in accordance with lien priorities is required. Before final loss payments are approved and to assist in the required review, the C&BP Chief, B&I Chief, or Loan Specialist will prepare a narrative history of the guarantee transaction which will serve as the summary of occurrence which led to failure of the borrower and actions taken to maximize loan recovery. The original of this report will be filed in the loan case file. A copy of this report together with the review of the final loss claim will be included in the material sent to the Director, B&I Division, for review prior to approval of final loss payments.

§ 1980.472 Protective advances.

(See § 1980.65 Subpart A of this part.)

Administrative

A. Protective advances will not be made in lieu of additional loans, in particular working capital loans. Protective advances are advances made by the lender for the purpose of preserving and protecting the collateral where the debtor has failed to and will not or cannot meet its obligations. Ordinarily, protective advances are made when liquidation is contemplated or in process. A precise rule of when a protective advance should be made is impossible to state. A common, but by no means the only, period when protective advances might be needed is during liquidation. At this point, the borrower and success of the project are no longer of paramount importance, but preserving collateral for maximum recovery is of vital importance. Elements which should always be considered include how close the project is to liquidation or default, how much control the borrower would have over the funds, what danger is there that collateral may be destroyed and whether there will be a good chance of saving the collateral later if a protective advance in contemplation of liquidation is made immediately. A protective advance must be an indebtedness of the borrower.

B. The State Director must approve in writing all protective advances on loans within his/her loan approval authority which exceed a total cumulative advance of \$500 to the same borrower. Protective advances must be reasonable when associated with the value of collateral being preserved.

C. When considering protective advances, sound judgment must be exercised in determining that the additional funds advanced will actually preserve collateral interests and recovery is actually enhanced by making the advance.

§ 1980.473 Additional loans or advances.

(See § 1980.66 Subpart A of this part.)

Administrative

Only the State Director shall approve within his/her loan approval authority additional nonguaranteed loans or advances prior to or subsequent to the issuance of the Loan Note Guarantee. The State Director shall determine that there will be no adverse changes in the borrower's financial situation

and that such loan or advance is not likely to adversely affect the collateral or the guaranteed loan.

§ 1980.474 [Reserved]

§§ 1980.475 Bankruptcy.

(a) It is the lender's responsibility to protect the guaranteed loan debt and all the collateral securing it in bankruptcy proceedings. These responsibilities include but are not limited in the following:

(1) The lender will file a proof of claim where necessary and all the necessary papers and pleadings concerning the case.

(2) The lender will attend and where necessary participate in meetings of the creditors and all court proceedings.

(3) The lender, whose collateral is subject to being used by the trustee in bankruptcy, will immediately seek adequate protection of the collateral.

(4) Where appropriate, the lender should seek involuntary conversion of a pending Chapter 11 case to a liquidating proceeding under Chapter 7 or under Section 1123(b)(4) or seek dismissal of the proceedings.

(5) FmHA will be kept adequately and regularly informed in writing of all aspects of the proceedings.

(b) In a Chapter 11 reorganization, if an independent appraisal is necessary in FmHA's opinion, FmHA and the lender will share such appraisal fee equally.

(c) Expenses on Chapter 11 reorganization cases are not to be deducted from the collateral proceeds. Reasonable and customary liquidation expenses may be deducted from the collateral proceeds in liquidation cases under Chapter 7 or Section 1123(b)(4) liquidations provided the lender presents a written justification for each expense and secures FmHA's written concurrence prior to incurring the expense.

Administrative

A. It is the responsibility of the State Program Chief to see that FmHA is being fully informed by the lender in all bankruptcy cases.

B. All bankruptcy cases should be reported immediately to the National Office by utilizing and completing a problem/delinquent status report. The Regional Attorney must be informed promptly of the proceedings.

C. Chapter 11 pertains to a reorganization of a business contemplating an ongoing business rather than a termination and dissolution of the business where legal protection is afforded to the business as defined under Chapter 11 of the Bankruptcy Code. Consequently, expenses incurred by the lender in a Chapter 11 reorganization can never be liquidation expenses unless the proceeding becomes a Liquidating 11. If the

proceeding should become a liquidating 11, reasonable and customary liquidation expenses from that point forward may be shared as provided by the Lender's Agreement.

D. The State Director may approve the repurchase of the unpaid guaranteed portion of the loan from the holder(s) to reduce interest accruals during Chapter 7 proceedings or after a Chapter 11 proceeding becomes a liquidation proceeding. If the lender is the holder, an estimated loss payment may be filed at the initiation of a Chapter 7 proceeding or after a Chapter 11 proceeding becomes a liquidation proceeding. On loans in bankruptcy, any loss payment must be handled in accordance with the Lender's Agreement and carry the approval of the State Director.

E. The State Director must approve in advance and in writing the lender's estimated liquidation expenses on loans in liquidation bankruptcy. These expenses must be reasonable and customary and not in-house expenses of the lender.

§ 1980.476 Transfer and assumptions.

(a) All transfers and assumptions will be approved in writing by FmHA. Such transfers and assumptions will be to an eligible applicant.

(b) Transfers and assumptions will be considered without regard to § 1980.451(d) of this Subpart.

(c) The applicant will submit to FmHA Form FmHA 449-4 for the required character evaluation prior to the execution of the Assumption Agreement.

(d) Available transfer and assumption options to eligible applicants include the following:

(1) The total indebtedness may be transferred to another borrower on the same terms.

(2) The total indebtedness may be transferred to another borrower on different terms not to exceed those terms for which an initial loan can be made.

(3) Less than the total indebtedness may be transferred to another borrower on the same terms.

(4) Less than the total indebtedness may be transferred to another borrower on different terms.

(e) In any transfer and assumption case, the transferor, including any guarantor(s), may be released from liability by the lender with FmHA written concurrence only when the value of the collateral being transferred is at least equal to the amount of the loan or part of the loan being assumed. If the transfer is for less than the entire debt:

(1) FmHA must determine that the transferor and any guarantors have no reasonable debt-paying ability considering their assets and income at the time of transfer.

(2) The FmHA County Committee must certify that the transferor has

cooperated in good faith, used due diligence to maintain the collateral against loss, and has otherwise fulfilled all of the regulations of this Subpart to the best of borrower's ability.

(f) Any proceeds received from the sale of secured property before a transfer and assumption will be credited on the transferor's guaranteed loan debt in inverse order of maturity before the transfer and assumption transaction is closed.

(g) When the transferee makes any cash downpayment in connection with the transfer and assumption:

(1) The lender will employ an independent appraiser, subject to concurrence of both the transferor and transferee, to make an appraisal to determine the fair market value of all the collateral securing the loan. Such appraisal report fee and any other costs related thereto will be paid by the transferor and the transferee as they mutually agree.

(2) The market value of the secured property being acquired by the transferee, plus any additional security the transferee proposes to give to secure the debt, will be adequate to secure the balance of the total guaranteed loan owed, plus any prior liens. If any cash downpayment is made, it may be paid directly to the transferor as payment for equity in the project provided:

(i) The lender recommends and FmHA approves the cash downpayment be released to the transferor. The lender and FmHA may require that an amount be retained for an established period of time in escrow as a reserve account as security for use against any future default on the loan. Any interest accruing on such an escrow account may be paid periodically to the transferor.

(ii) Any payments that are to be made by the transferee to the transferor in respect to the downpayment do not suspend the transferee's obligation to continue to meet the guaranteed loan payments as they come due under the terms of the assumption.

(iii) The transferor will agree not to take any actions against the transferee in connection with such transfer in the future without first obtaining the written approval of FmHA and the lender.

(iv) The lender determines that there is repayment ability for the guaranteed debt assumed and any other indebtedness of the transferee.

(h) The lender will make, in all cases, a complete credit analysis to determine viability of the project, subject to FmHA review and approval, including any requirements for deposits in an escrow account as security to meet its

determined equity requirements for the project.

(i) The lender will issue a statement to FmHA that the transaction can be properly transferred and the conveyance instruments will be filed, registered, or recorded, as appropriate and legally permissible.

(j) FmHA will not guarantee any additional loans to provide equity funds for a transfer and assumption.

(k) The assumption will be made on the lender's form of assumption agreement.

(l) The assumption agreement will contain the FmHA case number of the transferor and transferee.

(m) Loan terms cannot be changed by the Assumption Agreement unless previously approved in writing by FmHA, with the concurrence of any holder(s) and concurrence of the transferor (including guarantors) if they have not been released from personal liability. Any new loan terms cannot exceed those authorized in this subpart. The lender's request will be supported by:

(1) An explanation of the reasons for the proposed change in the loan terms.

(2) Certification that the lien position securing the guaranteed loan will be maintained or improved, proper hazard insurance will be continued in effect and all applicable Truth in Lending requirements will be met.

(n) In the case of a transfer and assumption, it is the lender's responsibility to see that all such transfers and assumptions will be noted on all originals of the Loan Note Guarantee(s). The lender will provide FmHA a copy of the transfer and assumption agreement. Notice must be given by the lender to FmHA before any borrower or guarantor is released from liability.

(o) The holder(s), if any, need not be consulted on a transfer and assumption case unless there is a change in loan terms.

(p) If a loss should occur upon consummation of a complete transfer of assets and assumption for less than the full amount of the debt and the transferor-debtor (including personal guarantor) is released from personal liability, as provided in subsection (e) above, the lender, if it holds the guaranteed portion, may file an estimated "Report of Loss" on Form FmHA 449-30 to recovery its pro rata share of the actual loss at that time. In completing Form FmHA 449-30, the amount of the debt assumed will be entered on line 24 as Net Collateral (Recovery). Approved protective advances and accrued interest thereon

made during the arrangement of a transfer and assumption, if not assumed by the transferee, will be entered on Form 449-30, lines 13 and 14.

Administrative

A. The State Director may approve all transfer and assumption provisions if the guaranteed loan-debt balance is within his/her individual loan approval authority including:

1. Consent in writing to the release of the transferor and guarantors from liability.
2. Any changes in loan terms.

Note.—The assumption will be reviewed as if it were a new loan. The Loan Note Guarantee(s) will be endorsed in the space provided on the form(s).

B. A copy of the Assumption Agreement will be retained in the FmHA file. The State Director will notify the Finance Office of all approved transfer and assumption cases on Form FmHA 1980-7, "Notice of Transfer and Assumption of a Guaranteed Loan," and submit Form FmHA 1980-50 for all new borrowers and Form FmHA 1980-51, "Add, Change, or Delete Guaranteed Loan Record," in order that Finance records may be adjusted accordingly.

C. Any transfer and assumption of less than the total indebtedness must be submitted to the Director, Business and Industry Division, for review and concurrence.

D. If the guaranteed loan debt balance is in excess of the State Director's loan approval authority, the State Director will forward the file, together with his/her recommendations, to the National Office for approval, ATTN: Business and Industry Division.

§§ 1980.477–1980.480 [Reserved]

§ 1980.481 Insured Loans.

Applications from private parties for whom FmHA and such applicants agree that a guaranteed lender is not available and from public bodies shall be processed as insured loans in accordance with the applicable provisions of this Subpart and Subpart A of Part 1942 of this Chapter, including the credit elsewhere requirement, except as provided in § 1980.488 which provides for the guarantee of taxable bond issues of public bodies. Loans to public bodies will be used only to finance:

- (a) Community facilities as defined in § 1980.402(b), and
- (b) Constructing and equipping industrial plants for lease to private businesses (not including loans for operating such businesses) when the requesting loan is not available under Subpart A of Part 1942 of this chapter.

Administrative

A. Without specific written delegated authority, all insured loans require National Office concurrence prior to approval.

B. Applications from private parties for insured loans will not be encouraged.

C. Loan closings on insured loans will be in accordance with this Subpart, the Regional Attorney and applicable provisions of Subpart A of Part 1942 of this chapter.

§§ 1980.482–1980.487 [Reserved]

§ 1980.488 Guaranteed industrial development bond issues.

(a) Loans to public bodies will be guaranteed only in connection with the issuance of any class or series of industrial development bonds (as defined in section 103(c)(2) of the Internal Revenue Code of 1954, as amended (IRC)), the interest on which is included in gross income under IRC. No part of the loan guaranteed FmHA may extend to any class or series of industrial development bonds the interest on which is excludable from gross income under section 103(a)(1) of such Code. Before the execution of any Loan Note Guarantee, the lender will furnish FmHA evidence regarding interest on bonds being taxable for Federal income tax purposes. Such evidence may be in the form of an unqualified opinion of a recognized bond counsel or a ruling from the Internal Revenue Service. Guaranteed loans to public bodies can only be used for constructing and equipping industrial plants for lease to private businesses engaged in industrial manufacturing and does not provide funds for debt refinancing, working capital, and other miscellaneous fees, charges or services. The lessee will have to provide necessary capital and sufficient financial strength to provide for a sound project.

(b) If FmHA and the applicant agree that a guaranteed lender is not available, the application may be considered for an insured loan under the provisions of § 1980.481.

Administrative

The lender is responsible for notifying the FmHA of the taxability of the proposed bond issue.

§§ 1980.489–1980.494 [Reserved]

§ 1980.495 FmHA forms and guides.

The following FmHA forms and guides, as applicable, are used in connection with processing loan guarantees; they are incorporated in this Subpart and made a part hereof:

- (a) Form FmHA 449-1, "Application for Loan and Guarantee" is referred to as "Appendix A."
- (b) The "Certificate of Incumbency and Signature" is referred to as "Appendix B."
- (c) "Guidelines for Loan Guarantees for Alcohol Fuel Production Facilities" is referred to as "Appendix C,"

(d) "Alcohol Production Facilities Planning, Performing, Development and Project Control" is referred to as "Appendix D."

(e) "Environmental Assessment Guidelines" is referred to as "Appendix E," and

(f) Form FmHA 449-14, "Conditional Commitment for Guarantee" is referred to as "Appendix F."

§§ 1980.496–1980.499 [Reserved]

General Administrative

A. *Office of the General Counsel (OGC).* In performing the FmHA functions with respect to B&I loans, the advice and assistance of OGC may be sought and followed on any legal matter. However, it is the responsibility of the lender to ascertain that all requirements for making, securing, and servicing the loan are duly met. If FmHA has any questions concerning the lender's resolution of these matters, OGC should be consulted. Assistance of OGC will be requested on all loans as specified herein and all major liquidations and workouts.

B. *Contact with OGC.* Initial informal contact with OGC should be made as soon as possible. FmHA State Directors should use the following format in formally requesting legal assistance on workouts.

1. *Origination:* All written requests should come from the State Director.

2. *Method.* Request should be made by referral memorandum to the Regional Attorney setting forth a brief statement of the facts, the reason assistance is requested, the extent of legal assistance sought, the date when FmHA's response to the lender's liquidation plan (if any) is due, and a statement on whether it is a "major" case.

3. *Materials to submit:* Referral memorandums will be accompanied by a copy of lender's liquidation plan together with a copy of FmHA's planned response. If lender refuses to prepare a plan, the State Director should so state. DO NOT SEND DOCKETS unless specifically requested by OGC.

4. *Additional materials required for major cases:* In "major" cases, also send principal loan papers, conditional commitment for guarantee, guarantee documents and any comments from the National Office.

5. FmHA will consider the following factors in deciding whether a liquidation or workout is "major."

(a) *Projected losses on collateral;* e.g., projected losses on collateral are expected to be significant.

(b) *Unusual or complex nature of primary collateral;* e.g., multi-state foreclosures or foreclosure of leases or general intangibles.

(c) *Presence of other major creditors or of senior creditors;* e.g., guaranteed loan collateral may be subject to a prior lien or other creditors may have rights in other assets of borrower, such as inventory and accounts receivable.

(d) *Litigation is pending or threatened;* e.g., bankruptcy, other foreclosure suits.

C. *Reviews prior to issuance of the loan note guarantee.* After the conditional commitment for guarantee has been issued

and proposed closing document prepared by the lender and forwarded to FmHA, but prior to issuing the loan note guarantee, the State Director will forward the loan docket to the Regional Attorney for review. After an administrative review, the State Director will include with the docket a letter with recommendations and indicating any special items, documents or problems that need to be addressed specifically which may have a significant impact upon the loan or may be contrary to the regulation. The docket will be assembled for OGC review in accordance with § 1980.451 Administrative C 5 of this

Subpart and indexed and tabbed. The Regional Attorney will review the docket and furnish advice to FmHA on whether it may issue the LOAN NOTE GUARANTEE AFTER THE LOAN IS CLOSED. SUCH ADVICE IS FOR THE BENEFIT OF FmHA ONLY AND DOES NOT RELIEVE THE LENDER OF ITS RESPONSIBILITIES UNDER FmHA REGULATIONS. The Regional Attorney at his/her option may attend the loan closing. Upon receipt of the Regional Attorney's advice, the State Director will correct or cause to be corrected any noted deficiencies before issuing the Loan Note Guarantee.

D. Delegation of authority: The State Director may delegate those administrative duties and responsibilities as authorized in the Administrative sections of this Subpart, except those specifically reserved to the State Director.

§ 1980.500 OMB control number.

The collections of information requirements contained in this rule have been approved by the Office of Management and Budget and have been assigned OMB Control Number 0575-0029.

BILLING CODE 3410-07-M

Appendix A

Form FmHA 449-1
(Rev. 5-16-83)UNITED STATES DEPARTMENT OF AGRICULTURE
FARMERS HOME ADMINISTRATIONFORM APPROVED
OMB NO. 0575-0021
EXPIRES 10-31-85APPLICATION FOR LOAN AND GUARANTEE
(Business and Industry)

FmHA Case Number

General Information: The "Application for Loan and Guarantee" is to provide information needed for the analysis and loan determination process. Tear at perforations for ease in use. Specific references are made in this application to sections of the Business and Industrial Loan Instruction. For complete guidance, see FmHA Instruction 1980-A and 1980-E and related FmHA forms.

Part A - is to be completed by the proposed borrower. The original and two copies with attachments will be submitted to the proposed lender.

Part B - is to be completed by the lender. Upon completion, the original and one copy and attachments of Part A and B will be filed with the FmHA State Office.

PART A

Instructions to Proposed Borrower: Complete items one through 20. Submit original and two copies of this application and all supporting documents to the lender. If additional space is required, provide for by an attachment. Additional information may be obtained from any FmHA Office.

1. **NAME:** (Show official name without abbreviations unless the abbreviation is a part of the official name. For proprietor or partnership, show name(s) followed by d/b/a and trade name used, if any, and attach a copy of the partnership agreement).

Street		City	County
State	ZIP Code	Telephone Number	Amount of Loan Requested \$
Project Location: City		Population (Last Census)	County State
Franchise ☐ Yes ☐ No		If Yes, submit copy	

2. TYPE OF BUSINESS:	Applicant's Tax Identification Number	SIC Number
----------------------	---------------------------------------	------------

3. THIS PROJECT IS:	Date Enterprise Established:
☐ A new business venture ☐ Other (Explain) ☐ A new branch of facility ☐ An expansion of an existing facility ☐ Refinancing debts ☐ Transfer of Ownership	

4. VETERAN - For individual or partner indicate if veteran ☐ Yes ☐ No
If yes, indicate service from _____ to _____ Branch _____

5. CITIZENSHIP - Do you meet the citizenship requirements in FmHA Instruction 1980.403? ☐ Yes ☐ No
--

6. HISTORY OF BUSINESS - Provide a brief description and history of the business (attach additional sheets if necessary).

7. COMMUNITY BENEFITS - Comment on the benefits the community will receive if the loan is made (i.e., taxes, jobs and any other benefits).
--

- (2) List all other concerns that are in any way affiliated, by stock ownership, management contracts, or otherwise, with the proposed borrower. The proposed borrower should comment briefly regarding the trade relationship between the proposed borrower and such subsidiaries or affiliates and if the proposed borrower has no subsidiary or affiliate, a statement to this effect should be made. Signed and dated balance sheets, operating statements and reconciliation of net worth (all not more than 60 days old) must be submitted for all subsidiaries, parent organizations, and affiliates in the same manner as required of the proposed borrower.

12. PURCHASE AND SALES RELATIONS WITH OTHERS - Does proposed borrower buy from, sell to or use the services of, any concern in which an officer, director, major stockholder, or partner, or proprietor of the proposed borrower has a substantial interest? ☐ Yes ☐ No If "Yes" give names of such officer, director, stockholder, and partners, names of such concerns and explain the nature of the transaction(s).

13. RECEIVERSHIP - BANKRUPTCY - Has the proposed borrower or any officer or, partner or director of the proposed borrower, affiliates or any other concern with which such person has been connected ever been in receivership or adjudicated bankrupt? ☐ Yes ☐ No If "Yes" give names, dates and details.

14. DISCLOSURE OF SPECIAL INFORMATION REGARDING PRINCIPALS - (a) List below the names of any FmHA employees who are related by blood, marriage, or adoption, or who have any present or have had any past, direct or indirect, financial interest in or association with, the proposed borrower, or any of its partners, officers, directors, principal stockholders including such interest in other enterprise; (b) When the proprietor, or any partner, officer, director, or their spouse, is an employee of the U.S. Government including members of the armed forces, detailed information shall be submitted with the application. Check box(s) if (a) or (b) is not applicable. ☐ (a) ☐ (b)

NAMES AND ADDRESS (Include ZIP Code)	Details of Relationship or Interest

- (k) Evidence whether the project is located in a flood or mudslide hazard area. (See FmHA Instruction 1980.42 and 1980.451 (i) (17)).
- (l) Provide a written statement of effect project would have on Historic Places, if any. (See FmHA Instruction 1980.44 and 1980.451 (i) (15)).
- (m) If application is for health care facility, attach a "Certificate of Need," from appropriate regulatory agency having jurisdiction over the project. (See FmHA Instruction 1980.451 (k)).
- (n) If loan is in excess of \$100,000, provide certification and notices as required for the Clean Air Act and Water Pollution Control Act. (See FmHA Instruction 1980.43).
- (o) Document utilities availability with letter of commitment from utilities, energy, water, sewer, fire and police protection.
- (p) For all persons listed under MANAGEMENT, item 15, provide a brief description of education, technical training, employment and business experience (resumes may be used).
- (q) Provide a detailed debt schedule correlated to the latest balance sheet reflecting the name of the creditors, loan purpose, original loan amount and loan balance, date of loan, interest rate, maturity date, monthly or annual payments, payment status and collateral that secures such loans. You may use Form FmHA 449-29 Attachment I.

18. POLICY AND REGULATIONS CONCERNING REPRESENTATIVES AND THEIR FEES:

- (a) A proposed borrower may obtain the assistance of any attorney, engineer, appraiser, or other representative to aid it in the preparation of its application, however, such representation is not mandatory. In the event a loan is approved, the services of an attorney may be necessary to assist in the preparation of closing documents, title examination, etc.
- (b) There are no "authorized representatives" of FmHA, other than our regular salaried employees. Payment of any fee or gratuity to FmHA employees is illegal and will subject the parties to such a transaction to prosecution.
- (c) FmHA will not approve placement or finder's fees for the use or attempted use of influence in obtaining or trying to obtain a loan.
- (d) Fees which will be approved will be limited to reasonable sums for services actually rendered in connection with the application or the closing, based upon the time and effort required, and the nature and extent of the services rendered by such representative.
- (e) It is the responsibility of the proposed borrower to set forth in Section 10 of this application the names of all persons or firms engaged by or on behalf of the proposed borrower. Proposed borrowers are also required to advise FmHA in writing of the names and fees of any representatives engaged by the proposed borrower subsequent to the filing of the application. Failure to so notify FmHA constitutes "misrepresentation" and will cause FmHA to contest the guarantee if lender had knowledge of this omission.
- (f) Any proposed borrower having any question concerning the payment of fees, or the reasonableness of fees, should communicate with FmHA before the application is filed for a loan guarantee.

19. AGREEMENT OF NONEMPLOYMENT OF FmHA PERSONNEL. In consideration of FmHA guaranteeing any part of the loan applied for in this application, the proposed borrower hereby agrees with FmHA that proposed borrower will not, for a period of two years after date of guarantee of any part of the loan, employ or tender any office or employment to, or retain for professional services, any person who, on the date of such disbursement, or within one year prior to said date, (a) shall have served as an officer, attorney, agent, or employee of FmHA and (b) as such, shall have occupied a position or engaged in activities which FmHA shall have determined, or may determine, involved discretion with respect to the granting of assistance under the Consolidated Farm and Rural Development Act and other acts administered by FmHA from time to time.

20. CERTIFICATION - The proposed borrower hereby certifies that:

- (a) The Proposed borrower has read FmHA policy and regulations concerning representatives and their fees (18 above) and has not paid or incurred any obligation to pay, directly or indirectly, any fee or other compensation for obtaining the loan hereby applied for other than for services and expenses authorized pursuant to paragraph 18 above.
- (b) The proposed borrower has not paid or incurred any obligation to pay any Government employee or special Government employee any fee, gratuity or anything of value for obtaining the assistance hereby applied for. If such fee, gratuity, etc. has been solicited by any such employee, the proposed borrower agrees to report such information to the Office of Inspector General, USDA, Washington, D.C. 20250.
- (c) Information contained above and in exhibits attached hereto are true and complete to the best knowledge and belief of the proposed borrower and are submitted for the purpose of requesting FmHA to guarantee a loan by a lender to the proposed borrower. Whether or not the loan herein applied for is approved, the proposed borrower agrees to pay or reimburse the lender for the cost of any surveys, title or mortgage examinations, appraisals, etc., performed by nonlender personnel with consent of the proposed borrower.
- (d) The proposed borrower hereby covenants, promises, agrees and gives herein the ASSURANCE that in connection with any loan to the proposed borrower which FmHA may guarantee as a result of this application, it will COMPLY with the requirements of Executive Order 11245 regarding Equal Credit Opportunity. Proposed borrower further agrees that in the event it fails to comply with said applicable provision, FmHA may cancel, terminate, accelerate repayment of or suspend in whole or in part the financial assistance provided or to be provided by FmHA, and that FmHA or the United States Government may take any other action that may be deemed necessary or appropriate of this ASSURANCE OF COMPLIANCE. These requirements prohibit discrimination on the grounds of race, religion, color, sex, marital status or national origin recipients of Federal financial assistance, including but not limited to employment practices, and require the submission of appropriate reports and access to books and records. These requirements are applicable to all transferees and successors in interest.

NOTICE: In accordance with 5 U.S.C. 552a, the Privacy Act of 1974, any individual should be provided a copy of Form FmHA 410-9, "Statement Required by the Privacy Act," at the time this application is completed.

The proposed borrower hereby agrees to provide the lender and FmHA timely periodic financial statements including the annual financial statement required by FmHA Instruction 1980.451 (i)(13). Failure to provide such reports will be considered a default of the loan in accordance with Form FmHA 449-35, "Lender's Agreement," which is a part of Subpart E of Part 1980, Title 7 CFR.

WARNING: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both."

Misrepresentation of material facts may also be the basis for denial of credit by the Farmers Home Administration.

*Proposed Borrower Name:

CORPORATE SEAL

By _____

Title _____

Attest: _____

Date Signed: _____, 19____

(Title)

(Title)

Proposed Borrower's Contact Person

Name

Address

*(Individual, general partner, trade name, or corporation name).

Telephone

PART B

INSTRUCTIONS: Lender completes item 21 through 33 and submits the original and one copy of this application and all supporting documents to FmHA.

21. REQUEST FOR GUARANTEE:

(For use only by lender)

LENDER TAX IDENTIFICATION

NO. _____

We propose to make and service a loan to the proposed borrower named on page 1 of this application. We request an FmHA loan guarantee subject to the provisions of the applicable FmHA Instructions.

22. TERMS AND CONDITIONS OF LOAN:

Percent of Guarantee Requested _____ %

(1) Type	Amount	Terms (yrs.)	Interest*	Monthly Payments
Real Estate	\$ _____	_____ yrs.	_____ %	\$ _____
Machinery and Equipment	\$ _____	_____ yrs.	_____ %	\$ _____
Working Capital	\$ _____	_____ yrs.	_____ %	\$ _____
Other _____	\$ _____	_____ yrs.	_____ %	\$ _____

TOTAL \$ _____

\$ _____

*If the variable rate, follow by a "v" and identify base rate used and what interest differential is added to base rate. If multi-rates are used provide overall effective interest rate for the entire loan: _____ %. NOTE: Guaranteed borrower must have the right to prepay their loans. Prepayment penalties are permitted if reasonable and approved by FmHA. Attach amortization schedule for loan.

23. (a) SOURCE AND USE OF FUNDS: Loan funds will be disbursed and used for the following purposes, in the following amounts.

Building and Improvements	\$ _____	Machinery and Equipment	\$ _____
Land and Rights	_____	Contingencies	_____
Fees (List below)	_____	Debt Refinancing*	_____
Legal and Engineering Fees	_____	Working Capital	_____
Interim Interest	_____	Other (Specify) _____	_____

\$ _____

*Attach complete justification for the request (include long and short term debt).

(b) Describe in detail the source and use of funds from (a) above and any other source of funds for the project and its amount and indicate whether the amounts and sources are proposed or definite.

24. COLLATERAL AND LIEN POSITION: (Describe collateral in detail, show whether now owned or to be acquired). (Use Form FmHA 449-2 with appropriate appraisal reports and indicate any prior liens that may exist on the collateral).

25. PLANNED DISBURSEMENTS: Record plans for distributing the loan. (See FmHA Instruction 1980.60 and 1980.454).

26. (a) PERSONAL AND/OR CORPORATE GUARANTEES RECOMMENDED: (See FmHA Instruction 1980.443).

(b) COLLATERAL OFFERED FOR PERSONAL AND/OR CORPORATE GUARANTEES:

27. INSURANCE: (List requirements for Life, Hazard, Federal Flood, and Liability).

28. COMMENTS OF LENDER: *(Attach additional sheets, if necessary).*

(a) Evaluate proposed borrower's management, past record, repayment ability and other financial analysis.

(b) State whether any officer, director, stockholder, or employee of the lender has a financial interest in the proposed borrower or vice versa. If so, give details:

(c) Is proposed borrower indebted to lender? ☐ Yes ☐ No If yes, provide history of debt repayment and other details:

(d) List all fees and charges for the loan, including those for preparation of application, servicing, etc. Indicate whether the guarantee fee will be passed on to proposed borrower. *(See FmHA Instruction 1980.411 and 1980.414).*

(e) Provide loan servicing plans, including field inspections, frequency of obtaining periodic and annual financial statements and their analysis, use of correspondents or other outside consultants, location of office servicing the loan, and complying with servicing responsibilities set forth in the "Lender's Agreement," Form FmHA 449-35.

29. LOAN AGREEMENT: Attach proposed lender and borrower loan agreement (See FmHA Instruction 1980.451 (i) (13)).

30. LENDER'S EXPERIENCE WITH FmHA:

- (a) Have you made any loans guaranteed by FmHA? ☐ Yes ☐ No
If yes, check program area: ☐ Farmer Programs ☐ Rural Housing ☐ Business and Industry.
- (b) If proposed borrower has or had a loan(s) with you, has such loan(s) appeared in regulatory examination report?
☐ Yes ☐ No If yes, explain.

- (c) Have you ever been debarred from participation in FmHA programs? If yes, explain.

31. Verify and comment on proposed borrower's debt schedule:

32. PLANS FOR CONSTITUTING THE LOAN: (See Form FmHA 449-35, "Lender's Agreement," paragraph III A).

- (a) Will retain entire loan ☐ Yes ☐ No
- (b) Will utilize secondary market for guaranteed portion (indicated by check).
Assignment _____ Participation _____ Multi-note _____
- (c) Participation of unguaranteed portion ☐ Yes ☐ No
(Lender must retain 5% of the unguaranteed portion of loan in its portfolio).

33. OPINION: In our opinion, the loan has repayment ability, appears feasible and all FmHA requirements in FmHA Instruction 1980-A and 1980-E will be met.

WARNING: Section 1001 of Title 18, United States Code provides: "Whoever, in any matter within the jurisdiction of any department or agency of the United States knowingly and willfully falsifies, conceals or covers up a material fact, or makes any false, fictitious or fraudulent statements or representations, or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry, shall be fined not more than \$10,000 or imprisoned not more than 5 years, or both."

Misrepresentation of material facts may also be the basis for FmHA not issuing a Loan Note Guarantee.

LENDER:

Contact Person _____

Telephone Number _____

Date _____, 19____

By: _____
Authorized Officer

Title

Appendix B*U.S. Department of Agriculture—
Farmers Home Administration**Certificate of Incumbency and Signature*

I, (Name)_____, (Title)_____
of the Farmers Home Administration,
(FmHA), an Agency of the United States
Department of Agriculture, DO HEREBY
CERTIFY that the following person
holds the office of (State Director, State
Program Loan Chief, District Director, or
County Supervisor)_____ of
_____, for FmHA and that the
signature appearing below and that the
signatures appearing above that
person's name on the following
described document is the genuine
signature of such person:

1. Form(s) FmHA 449-34, "Loan Note
Guarantee," dated_____ relating to loan
made by (Lender's

Name)_____ to (Borrower's
Name)_____, FmHA Loan
Identification No._____.

2. Form(s) FmHA 449-35, "Lender's
Agreement," dated_____ relating to
loan made by (Lender's
Name)_____ to (Borrower's
Name)_____, FmHA Loan
Identification No._____.

3. Form(s) FmHA 449-36, "Assignment
Guarantee Agreement," dated_____ relating to loan made by (Lender's
Name)_____ to (Borrower's
Name)_____, FmHA Loan
Identification No._____.

Signature_____ (Name
Type)_____.

In witness whereof, I have hereunto
signed my name this _____ day of
_____, 19_____.

Farmers Home Administration.

By _____

(Title)_____.

Appendix C*Guidelines for Loan Guarantees for
Alcohol Fuel Production Facilities*

(1) *Alcohol Production Facility.* An alcohol production facility is a facility in which alcohol, suitable for use by itself or in combination with other substances as a substitute for petroleum or petrochemical feedstocks and not suitable for beverage purposes, is manufactured from biomass.

(2) The alcohol production facility includes all facilities necessary for the production and storage of alcohol and the processing of the by-products of alcohol production. The intent is to limit the alcohol and by-products processing facilities to those facilities which are necessary to yield marketable products and necessary for the financial success of the project. Further refinements, such as gasoline blending or the construction

of facilities which use the alcohol or by-products in another manufacturing process, are not considered part of the alcohol production facility.

(3) Applications will be reviewed by both Business and Industry personnel and the State Office engineer and forwarded to the National Office if approval is recommended.

(4) The maximum loan size will be \$20,000,000.

(5) The applicant should have a startup *tangible* book equity of 20-25 percent. (Appraisal surplus and subordinated debt are not eligible equity items.)

(6) Loan maturity maximums will be as follows:

Real Estate = 15-20 years

Machinery & Equipment = 10 years or less depending on the estimated life of the equipment involved

Working Capital = 3 years (It is assumed that the additional equity required for these projects will provide much of the working capital needs.)

(7) Farmers Home Administration will ordinarily only finance new facilities and will not get involved in the refinancing of existing ones.

(8) Priority consideration will be given to the use of a primary fuel other than petroleum or natural gas.

(9) A positive energy balance must be indicated and supported by appropriate data; i.e., the energy content of the alcohol produced at the alcohol production facility must be greater than the energy used to produce the alcohol and by-products.

(10) Plant location, in relation to feedstocks, primary fuel and markets for product and by-products, will be an important consideration.

(11) Debt refinancing will only be considered in modest amounts and only when necessary to provide a satisfactory lien position.

(12) Feasibility studies are very important and required and will be prepared by competent and knowledgeable independent parties.

(13) Participating lenders must either have expertise or the availability of expertise in this field.

(14) The proposed operating managers must have experience in this or a related field.

Appendix D*Alcohol Production Facilities Planning,
Performing Development and Project
Control*

(I) *Design Policy.* The borrower shall ensure or cause to be ensured that:

(A) All project facilities are designed utilizing accepted engineering practices

and are conformed to applicable Federal, State and local codes and requirements.

(B) Proven equipment and processes are employed in all project facilities unless an exception is granted by the Administrator or designee of the Farmers Home Administration (FmHA) ("Administrator") in accordance with paragraph (B)(2) hereof and pilot equipment or processes are used instead.

(1) Equipment and processes shall be considered "proven" if they have been successfully employed in other commercial facilities.

(2) Equipment and processes shall be considered pilot if they have not been used in a commercial operation but have been operated on a scale such that all design and material problems have been identified and resolved and operations maintained to demonstrate that the equipment and process may be successfully applied to the proposed commercial operation. Pilot equipment and processes may be considered for use in the project subject to the following:

(a) The plans, specifications, and operational data for the applicable facilities are reviewed by the Administrator or designee and lender. If, in the opinion of FmHA, the proposed processes or equipment are insufficiently developed to assure reliable and successful operation of the project, proven processes and equipment will be utilized.

(b) If pilot processes or equipment are used, the Administrator or designee will also require that:

(i) Reasonable provision is made in the project for conversion to proven equipment or processes; and

(ii) The borrower agrees to convert to proven equipment or processes if conversion is necessary to protect the interest of the Government in the project. A reserve account for this conversion may be required. This account will not be an eligible loan purpose.

(C) Facility and equipment design incorporates cost-effective primary fuel systems, energy recovery systems and conservation measures to the maximum extent that this is feasible and consistent with paragraphs (I), (A), and (B) of this Appendix.

(II) *Technical Services.*

(A) The borrower is responsible for selecting engineering consultants with suitable experience, training and professional competence in the design and construction of the project to assure that the completed project will operate at the prescribed levels of performance.

In discharging its responsibility the borrower will obtain or cause to be obtained:

(1) Full engineering services for design and construction inspection for all project facilities. Resident inspection by qualified persons will be required.

(2) Agreements for engineering or design/build services which describe the project facilities in terms of the parameters critical to the successful operation of the project. The parameters shall include input quantities, conversion efficiency, rate of production and fuel consumption and product quality under normal operating conditions. The design parameters will be mutually agreed upon by the borrower, lender, the State Director and the project engineer, and may not be modified without the written concurrence of each of these parties. These agreements for engineering or design/build services will require, or the borrower will otherwise obtain, assurance satisfactory to the State Director that:

(a) The project engineer will maintain adequate insurance to protect the borrower, lender and the Government from incurring expenses resulting from errors and omissions of the engineer in performance of engineering services.

(b) The project engineer will certify that only proven equipment and processes will be utilized in the proposed development. The State Director may request evidence of successful operations of such proven equipment and process. If proven, equipment or processes are not used in the project, the project engineer will identify these items and provide the information necessary for acceptance by the Administrator, borrower and lender in accordance with paragraph (I)(B)(2) of this Appendix.

(c) If used equipment or existing facilities are incorporated into the project, they must be inspected by the project engineer or by another qualified engineer of the borrower. This engineer will prepare a report describing the proposed facilities or equipment and will comment on their suitability for use in the project. The report will also identify the modifications necessary for successful integration into the project. A cost estimate will also be included comparing new equipment and facilities to the proposed existing facilities or used equipment. Consideration must be given to the relative energy requirements of used and new facilities and their relative operation and maintenance costs.

(d) The project engineer or qualified individuals representing the manufacturer of principal equipment (or

the designer/builder if the contractor has designed the plant) will visit the plant site at reasonable intervals for a period of one year after substantial completion of the project. Such personnel will be experienced in the proper operation and maintenance of applicable plant components. A report will be presented to the borrower within two weeks of each site visit advising the borrower of operation and maintenance deficiencies. A copy of each report will be forwarded to the State Director and lender by the borrower.

(e) The project engineer will prepare or supervise the preparation of a record drawing of all facilities. One copy will be submitted to the lender and the borrower.

(f) The project engineer or another group acceptable to the State Director and lender will prepare an operation and maintenance manual and assist the borrower in the start-up of the project. The operation and maintenance manual will describe the specific operation and maintenance procedures which must be performed for the project to operate at its rated capacity and efficiency and outline product testing, quality control, plant safety and emergency shut-down procedures.

(g) The project engineer will assist the borrower in determining acceptability of materials, equipment and construction during the construction period, review shop drawings, payment estimates and change orders, and assist in determining substantial completion of the project and final completion of individual contracts.

(1) The project is substantially complete when:

(i) Construction is sufficiently completed in accordance with plans and specifications so that the project may be used for its intended purpose, and;

(ii) The project is producing products of the quantity and quality and at the conversion and energy efficiencies proposed in the completed application submitted by the lender and borrower and approved by the FmHA.

(2) The State Director must concur that the project is substantially complete. The following evidence, in form and substance satisfactory to the State Director and lender, must be submitted prior to such concurrence:

(i) A certificate from the project engineer stating that all facilities are substantially complete. Engineers who design specialized equipment or processes must also certify that construction/fabrication is acceptable in accordance with plans and specifications previously approved by them. The certification of the project engineer must be based upon a project

start-up procedure where the complete project operates continuously to reach steady-state operating conditions. During this period contractors and engineers will identify and correct problems in operations, malfunctions in equipment, failure in materials and defects in workmanship. After this pre-startup, the certifying engineers will monitor project operations for a continuous period of at least 72 hours or 3 consecutive batch runs as appropriate to assure that all equipment is operating satisfactorily at rated capacity and efficiency.

(ii) Copies of system operation and performance data obtained during project start-up.

(iii) Exceptions to substantial completion and a list of nonsubstantial items which must be completed prior to release of any contractor's retainage.

(3) If the project is not producing products of the required quantity or quality at the prescribed conversion efficiencies, even though the project is otherwise physically complete in accordance with paragraph (1)(i) of this subparagraph, the project engineer will prepare a report identifying the corrective actions including an estimate of costs and additional time necessary to meet established performance criteria.

(4) The project must be certified to be substantially complete by an independent engineer if any portion of the project has been designed or constructed by the borrower or the project engineer has participated in any portion of the construction.

(B) Modification of plans and specifications will not be made without the written authorization of the project engineer.

(C) The Administrator, State Director or their representative's acceptance or concurrence in feasibility studies, preliminary engineering reports, plans, specifications, contract documents and payment estimates will not be construed as a representation of the adequacy of same, reliability of cost estimates or quality of construction, nor will such acceptance or concurrence be deemed a waiver of any of the Government's rights or remedies against any person or party. Reviews and construction inspections by the Administrator, State Director or their representatives are solely for the benefit of the Government and do not relieve the lender or borrower of their obligation to conduct project reviews and inspections.

(III) Project Construction.

(A) Borrower will not award contracts for the construction of any project facilities unless and until:

(1) The borrower obtains applicable construction permits, right-of-ways, licenses and approvals of Federal, State and local authorities for the construction of such facilities.

(2) The State Director concurs in applicable plans, specifications and contract documents. Standard contract documents prescribed for use in Federally assisted projects may be used as a guide for determining the minimum standards for contract acceptability. These standard documents are contained in Guides 18 and 19 of Subpart A of Part 1942 of this Chapter (available in any FmHA office).

(B) The borrower has the responsibility, without recourse to the Government, for the settlement and satisfaction of all contractual and administrative issues arising out of procurements. This includes, but is not limited to, disputes, claims, protests of awards, or other matters of a contractual nature. Matters concerning violation of laws are to be referred to such local, State, or Federal authority as may have proper jurisdiction.

(C) The borrower's attorney will review executed contract documents including applicable performance and payment bonds and provide a certificate to the borrower and lender that they have been properly executed and that the persons executing these documents have been properly authorized to do so.

(D) In all contracts for construction or facility improvement awarded in excess of \$100,000, the borrower will require bonds and a bank letter of credit or cash deposit in escrow, assuring performance and payment of 100 percent of the contract cost. The surety will normally be in the form of performance and payment bonds. Such assurance shall remain in full force and effect through any warranty period. Companies providing performance and payment bonds must hold a certificate of authority as an acceptable security on Federal bonds and eligible for listing in Treasury circular 510 as amended and be legally doing business in the state the project is located.

(E) Project Changes.

Any change in the project which may affect collateral, its ultimate financial viability or compliance with the conditional commitment must have prior approval of the lender and FmHA.

(1) Construction contracts will require that change orders receive prior approval from the lender when such changes:

(a) increase or decrease contract price,

(b) materially modify contract provisions,

(c) increase or decrease time of completion,

(d) affect project performance.

(2) All change orders will be recorded on a chronologically numbered contract change order as they occur. Change orders will not be included in payment estimates until approved by the borrower, project engineer, the lender and concurred in by FmHA.

(F) Warranty.

(1) All major equipment must be guaranteed by the manufacturer to be free from defects in workmanship and materials for a period of one year after start-up of equipment.

(2) Equipment purchased by a construction contractor or design builder and all other work shall be further warranted to be free from defect in material and workmanship by the contractor or the design builder for a period of one year after substantial completion of the contract.

(3) Applicable provisions to this effect shall be included in equipment purchase orders or construction contracts.

(G) Lease agreements.

Where the right of use or control of any property or equipment not owned by the borrower is essential to the successful operation of the project during the life of the loan, such right will be evidenced by written agreements or contracts between the owner(s) of the property or equipment and the borrower. Lease agreements shall not contain provisions for restricted use of the site or facility, forfeiture or similar cancellation clauses and shall provide for the right to transfer and lease without restriction. Such lease contracts or agreements shall be approved by the lender and FmHA.

(IV) Project Control.

(A) Lender will adopt project control procedures to assure that loan funds are applied for costs or expenses properly attributable to the project ("Eligible Project Costs") as proposed in the completed application submitted by the lender and borrower and approved by the FmHA. A project monitoring account ("Project Monitoring Account") will be developed by lender for this purpose and concurred in by the State Director. This account will be divided into sufficient budget categories to permit adequate control of expenditures and identification of potential budget overruns.

(B) The first advance ("First Advance") of loan funds to the borrower will not commence from the Project Monitoring Account prior to lender's receipt of evidence that:

(1) The borrower has made adequate provisions for compliance with measures established by FmHA to

mitigate adverse historical and environmental impacts.

(2) Applicable engineering, design/build, construction management, inspection and plant start-up service agreements have been obtained and accepted by the State Director and lender.

(3) The project engineer has prepared a detailed cost estimate and construction schedule for all facilities related to the project. This estimate must indicate that the project can be completed with the funds available as shown on the Form FmHA 449-1, "Application for Loan and Guarantee." A reasonable contingency amount will be included in the estimate. This contingency shall be at least 20 percent of the estimated project costs for which firm bids have not been received plus 5 percent of project costs for which firm bids have been received. Construction interest and inspection costs will be based upon a reasonable contingency for unforeseen delays in project completion. The estimate shall include a listing with associated costs of any proposed leasing arrangements for property or equipment that is essential to the successful operation of the project.

(4) All funds necessary for construction of project facilities will be available when needed.

(5) The borrower has retained a project manager with sufficient experience and training to supervise project construction and engineering services on behalf of the borrower.

(C) After the first advance, future advances may be made from the Project Monitoring Account, in accordance with prudent lender practice, for all Eligible Project Costs established in the Project Monitoring Account, provided these payments are made in accordance with the terms of applicable contracts and are approved by the borrower and, when applicable, recommended by the project engineer.

(D) Payments for Eligible Project Costs incurred by the borrower prior to satisfaction of the conditions precedent to the first advance shall be made with borrower's funds or other nonguaranteed loan funds only. These payments however, may be reimbursed through the Project Monitoring Account as authorized by the State Director after compliance with Paragraph (IV)(B) hereof. The lender will not advance and the borrower will not be entitled to loan funds for reimbursement if such costs or expenses incurred by the borrower prior to the first advance, or at anytime thereafter, were for costs or expenses other than Eligible Project Costs. Costs

and expenses accruing from but not limited to, interest charges imposed by construction, equipment, material or service contracts, penalty payments, damage claims, awards or settlements are not Eligible Project Costs unless specifically approved by the State Director.

(E) The lender will monitor the progress of construction and undertake the reviews and project inspections necessary to reasonably assure that funds are paid for Eligible Project Costs and that problems in project development are expeditiously reported to the State Director.

(F) The lender will prepare a monthly report showing the expenditures made from each budget category of the Project Monitoring Account. This report will include a review of construction progress including proposed and approved contract change orders and, to the extent possible, identify problems or delays in construction or other matters which might affect successful startup of project. This report may be based upon information received from the project engineer and borrower and/or independent observations of the lender. The report will be initiated by the borrower and project engineer and submitted to the State Director.

(G) Transfer of loan funds between established or new categories of the Project Monitoring Account or any change in the total amount of funds committed to the project will be reported by the lender to the State Director as these changes occur.

Appendix E

Environmental Assessment Guidelines

In completing an assessment, it is important to understand the comprehensive nature of the impacts which must be analyzed. Consideration must be given to all potential impacts associated with the construction of the project and its operation and maintenance. The attainment of the project's major objectives often induces or supports changes in population densities, land uses, community services, transportation systems and resource consumption. The impacts of these activities must also be assessed.

The environmental reviewer should consult with appropriate experts from Federal, State and local agencies, universities and other organizations or groups whose views could be helpful in the assessment of potential impacts. In so doing, each discussion which is utilized in reaching a conclusion with respect to the degree of an impact should be summarized in the assessment as accurately as possible and include

name, title, phone number, and organization of the individual contacted, plus the date of contact. Related correspondence should be attached to the assessment.

The Farmers Home Administration assessment should be prepared in the following format; it should address the listed items and questions and contain as attachments the indicated descriptive materials, as well as the environmental information submitted by the applicant.

These assessment guidelines have been designed to cover the wide variety of impacts which may be encountered. Consequently, not every issue or potential impact raised in these guidelines may be relevant to each project. The purpose of the format is to give the preparer an understanding of a standard range of impacts, environmental factors and issues which may be encountered. In preparing an assessment, each topic heading identified by a roman numeral and each environmental factor listed under topic heading IV, such as air quality for example, must be addressed.

The amount of analysis and material that must be provided will depend upon the type and size of the project, the environment in which it is located and the range and complexity of the potential impacts. The amount of analysis and detail provided, therefore, must be commensurate with the magnitude of the expected impact. The analysis of each environmental factor (i.e., water quality) must be taken to the point that a conclusion can be reached and supported concerning the degree of the expected impact with respect to that factor.

(I) Project description and need.

Identify the name, project number, location, and specific elements of the project along with their sizes, and, when applicable, their design capacities. Indicate the purpose of the project, FmHA's position regarding the need for it, and the extent or area of land to be considered as the project site.

(II) Primary beneficiaries and related activities.

Identify any existing businesses or major developments that will benefit from the project and those which will expand or locate in the area because of the project. Specify by name, product, service, and operations involved.

Identify any related activities which are defined as interdependent parts of an FmHA action. Such undertakings are considered interdependent parts whenever they either make possible or support the FmHA action or are themselves induced or supported by the FmHA action or another related activity. These activities may have been

completed in the very recent past and are now operational or they may reasonably be expected to be accomplished in the near future. Related activities may or may not be Federally permitted or assisted. When they are, identify the involved Federal agency(s).

In completing the remainder of the assessment, it must be remembered that the impacts to be addressed are those which stem from the project, the primary beneficiaries, and the related activities.

(III) Description of project area.

Describe the project site and its present use. Describe the surrounding land uses; indicate the directions and distances involved. The extent of the surrounding land to be considered depends on the extent of the impacts of the project, its related activities, and the primary beneficiaries. Unique or sensitive areas must be pointed out. These include residential, schools, hospitals, recreational, historical sites, beaches, lakes, rivers, parks, floodplains, wetlands, dunes, estuaries, barrier islands, natural landmarks, unstable soils, steep slopes, aquifer recharge areas, important farmlands and forestlands, prime rangelands, endangered species habitats, or other delicate or rare ecosystems.

Attach adequate location maps of the project area, as well as (1) a U.S. Geological Survey "15 minute" ("7 1/2 minute" if available) topographic map which clearly delineates the area and the location of the project elements, (2) the Department of Housing and Urban Development's floodplain map(s) for the project area, (3) site photos, (4) if completed, a standard soil survey for the project and, (5) if available, an aerial photograph of the site. When necessary for descriptive purposes or environmental analysis, include land use maps or other graphic information. All graphic materials shall be of high quality resolution.

(IV) Environmental impact.

(1) Air Quality—Discuss, in terms of the amounts and types of emissions to be produced, all aspects of the project including beneficiaries' operations and known indirect effects (such as increased motor vehicle traffic) which will affect air quality. Indicate the existing air quality in the area. Indicate if topographical or meteorological conditions hinder or affect the dispersals of air emissions. Evaluate the impact on air quality given the types and amounts of projected emissions, the existing air quality and topographical and meteorological conditions. Discuss the project's consistency with the State's air quality implementation plan for the area, the classification of the air quality

control region within which the project is located, and the status of compliance with air quality standards within that region. Cite any contacts with appropriate experts and agencies which must issue necessary permits.

(2) **Water Quality**—Discuss, in terms of amounts and types of effluents all aspects of the project, including primary beneficiaries' operations and known indirect effects which will affect water quality. Indicate the existing water quality of surface and/or underground water to be affected. Evaluate the impacts of the project on this existing water quality. Indicate if an aquifer recharge area is to be adversely affected. If the project lies within or will affect a sole source aquifer recharge area as designated by the Environmental Protection Agency (EPA), contact the appropriate EPA regional office to determine if its review is necessary. If it is, attach the results of its review.

Indicate the source and available supply of raw water and the extent to which the additional demand will affect the raw water supply. Describe the wastewater treatment system(s) to be used and indicate their capacity and their adequacy in terms of the degree of treatment provided. Discuss the characteristics and uses of the receiving waters for any sources of discharge. If the treatment systems are or will be inadequate or overloaded, describe the steps being taken for necessary improvements and their completion dates. Compare such dates to the completion date of the FmHA project. Analyze the impacts on the receiving water during any estimated period of inadequate treatment.

Discuss the project's consistency with the water quality planning for the area, such as EPA's Section 208 area-wide waste treatment management plan. Describe how surface runoff is to be handled and the effect of erosion on streams.

Evaluate the extent to which the project may create shortages for or otherwise adversely affect the withdrawal capabilities of other present users of the raw water supply, particularly in terms of possible human health, safety, or welfare problems.

For projects utilizing a groundwater supply, evaluate the potential for the project to exceed the safe pumping rate for the aquifer to the extent that it would (1) adversely affect the pumping capability of present users, (2) increase the likelihood of brackish or saltwater intrusion, thereby decreasing water quality, or (3) substantially increase surface subsidence risks.

For projects utilizing a surface water supply, evaluate the potential for the project to (1) reduce flows below the minimum required for the protection of fish and wildlife or (2) reduce water quality standards below those established for the stream classification at the point of withdrawal or the adjacent downstream section.

Cite contacts with appropriate experts and agencies that must issue necessary permits.

(3) **Solid Waste Management**—Indicate all aspects of the project, including primary beneficiaries' operations, and known indirect effects which will necessitate the disposal of solid wastes. Indicate the kinds and expected quantities of solid wastes involved and the disposal techniques to be used. Evaluate the adequacy to these techniques especially in relationship to air and water quality. Indicate if recycling or resource recovery programs are or will be used. Cite any contacts with appropriate experts and agencies that must issue necessary permits.

(4) **Land Use**—Given the description of land uses as previously indicated, evaluate (a) the effect of changing the land use of the project site and (b) how this change in land use will affect the surrounding land uses and those within the project's area of environmental impact. Particularly address the potential impacts to the unique or sensitive areas discussed under Section III, Description of Project Area. Also address any changes in land use which may result from demand for feedstock for the plant's operation. Describe the existing land use plan and zoning restrictions for the project area. Evaluate the consistency of the project and its impacts with these plans.

(5) **Transportation**—Describe available facilities such as highways and rail. Discuss whether the project will result in an increase in motor vehicle traffic and the existing roads' ability to safely accommodate this increase. Indicate if additional traffic control devices are to be installed. Describe new traffic patterns which will arise because of the project. Discuss how these new traffic patterns will affect the land uses described above, especially residential, hospitals, schools, and recreational. Describe the consistency of the project's transportation impacts with the transportation plans for the area and any air quality control plans. Cite any contact with appropriate experts.

(6) **Natural Environment**—Indicate all aspects of the project, including construction, beneficiaries' operations, and known indirect effects which will affect the natural environment including

wildlife, their habitats, and unique natural features. Cite contacts with appropriate experts. If an area listed on the National Registry of Natural Landmarks may be affected, consult with the Department of Interior and document these consultations and any agreements reached regarding avoidance or mitigation of potential adverse impacts.

(7) **Human Population**—Indicate the number of people to be relocated and arrangements being made for this relocation. Discuss how impacts resulting from the project such as changes in land use, transportation changes, air emissions, noise, odor, etc., will effect nearby residents and their lifestyles or users of the project area and surrounding areas. Cite contacts with appropriate experts.

(8) **Construction**—Indicate the potential effects of construction of the project on air quality, water quality noise levels, solid waste disposal, soil erosion and siltation. Describe the measures that will be employed to limit adverse effects. Give particular consideration to erosion, stream siltation, and clearing operations.

(9) **Energy Impacts**—Indicate the project's and its primary beneficiaries' effects on the area's existing energy supplies. This discussion should address not only the direct energy utilization, but any major indirect utilization resulting from the siting of the project. Describe the availability of these supplies to the project site. Discuss whether the project will utilize a large share of the remaining capacity of an energy supply or will create a shortage of such supply. Discuss any steps to be taken to conserve energy.

(10) Discuss any of the following areas which may be relevant: noise, vibrations, safety, seismic conditions, fire prone locations, radiation, and aesthetic considerations. Cite any discussions with appropriate experts.

(V) **Coastal Zone Management Act**. Indicate if the project is within or will impact a coastal area defined as such by the state's approved Coastal Zone Management Program. If so, consult with the State agency responsible for the Program to determine the project's consistency with it. The results of this coordination shall be included in the assessment and considered in completing the environmental impact determination and environmental findings.

(VI) **Compliance with Advisory Council on Historic Preservation's regulations**.

In this section, the environmental reviewer shall detail the steps taken to

comply with the above regulations as specified in Subpart F of Part 1901 of this Chapter. First, indicate that the National Register of Historic Places, including its monthly supplements, has been reviewed and whether there are any listed properties located within the area to be affected by the project. Second, indicate the steps taken such as historical/archeological surveys to determine if there are any properties eligible for listing located within the affected area. Summarize the results of the consultation with the State Historic Preservation Officer (SHPO) and attach appropriate documentation of the SHPO's views. Discuss the views of any other experts contacted. Based upon the above review process and the views of the SHPO, state whether or not an eligible or listed property will be affected.

If there will be an effect, discuss all of the steps and protective measures taken to complete the Advisory Council's regulations. Describe the affected property and the nature of the effect. Attach to the assessment the results of the coordination process with the Advisory Council on Historic Preservation.

(VII) Compliance with the Wild and Scenic Rivers Act.

Indicate whether the project will affect a river or portion of it which is either included in the National Wild and Scenic Rivers System or designated for potential addition to the System. This analysis shall be conducted through discussions with the appropriate regional office of the National Park Service or the Forest Service when its lands are involved, as well as the appropriate State agencies having implementation authorities. A summary of discussions held or any required formal coordination shall be included in the assessment.

(VIII) Compliance with the Endangered Species Act.

Indicate whether the project will either (1) affect a listed endangered or threatened species or critical habitat or

(2) adversely affect a proposed critical habitat for an endangered or threatened species or jeopardize the continued existence of a proposed endangered or threatened species. This analysis shall be conducted in consultation with the Fish and Wildlife Service and the National Marine Fisheries Service, when appropriate.

The results of any required coordination shall be included in the assessment along with any completed biological opinion and mitigation measures to be required for the project. These factors shall be considered in completing the environmental impact determination.

(IX) Compliance with Executive Order 11988, Floodplain Management, and Executive Order 11990, Protection of Wetlands.

Indicate whether the project is either located within a 100-year floodplain (500-year floodplain for a critical action) or a wetland or will impact a floodplain or wetland. If so, determine if there is a practicable alternative project or location. If there is no such alternative, determine whether all practicable mitigation measures are included in the project and document as an attachment these determinations and the steps taken to inform the public, locate alternatives, and mitigate potential adverse impacts. See the U.S. Water Resource Council's *Floodplain Management Guidelines* for more specific guidance.

(X) State Environmental Policy Act.

Indicate if the proposed project is subject to a State environmental policy act or similar regulation. Summarize the results of compliance with these requirements and attach available documentation.

(XI) Consultation requirements.

Attach the comments of any State or local agency received through the implementation of Executive Order 12372, Intergovernmental Review of Federal Programs.

(XII) Environmental analysis of participating Federal agency.

Indicate if another federal agency is

participating in the project either through the provision of additional funds, a companion project, or a permit review authority. Summarize the results of the involved agency's environmental impact analysis and attach available documentation.

(XIII) Reaction to project.

Discuss any negative comments or public views raised about the project and the consideration given to these comments. Indicate whether a public hearing or public information meeting has been held either by the applicant or FmHA to include a summary of the results and any objections raised. Indicate any other examples of the community's awareness of the project, such as newspaper articles or public notifications.

(XIV) Cumulative impacts.

Summarize the cumulative impacts of this project and the related activities. Give particular attention to land use changes and air and water quality impacts. Summarize the results of the environmental impact analysis done for any of these related activities and/or your discussion with the sponsoring agencies. Attach available documentation of the analysis.

(XV) Adverse impact.

Summarize the potential adverse impacts of the proposal as pointed out in the above analysis.

(XVI) Alternatives.

Discuss the feasibility of alternatives to the project and their environmental impacts. These alternatives should include (a) alternative location, (b) alternative designs, (c) alternative projects having similar benefits, and (d) no project.

(XVII) Mitigation measures.

Describe any measures which will be taken or required by FmHA to avoid or mitigate the identified adverse impacts. Such measures shall be included as special requirements or provisions to the offer of financial assistance.

Appendix F

USDA-FmHA
Form FmHA 449-14
(Rev. 5-16-83)

This form may contain certain specific conditions which may require the providing of future reports and information which would have to be agreed to by the lender and proposed borrower in order to obtain the benefit of potentially acquiring an FmHA loan guarantee. This statement is furnished pursuant to F. L. 96-511.

FORM APPROVED
OMB NO. 0575-0024
EXPIRES 10-31-85

CONDITIONAL COMMITMENT FOR GUARANTEE

	Case No.
	State
TO: Lender	County
Lender's Address	Type of Loan
Borrower	Principal Amount of Loan \$

From an examination of information supplied by the Lender on the above proposed loan, the county committee certification or recommendation, if required, and other relevant information deemed necessary, it appears that the transaction can properly be completed.

Therefore, the United States of America acting through the Farmers Home Administration (FmHA) hereby agrees that, in accordance with applicable provisions of the FmHA regulations published in the Federal Register and related forms, it will execute Form(s) FmHA 449-34, "Loan Note Guarantee" subject to the conditions and requirements specified in said regulations and below.

The Loan Note Guarantee fee payable by the Lender to FmHA will be the amount as specified in the regulations on the date of this Conditional Commitment for Guarantee. The interest rate for the loan is _____ % and, if applicable, the

loan subsidy rate is _____ % 1/. If a variable rate is used, it must be tied to a base rate which cannot change more often than quarterly and must be published periodically in a financial publication specifically agreed to by the Lender and Borrower. Any change in interest rates from date of issuance of this form must be approved by the FmHA State Director. Such related information may be ascertained from any FmHA office or by consulting the Federal Register.

A Loan Note Guarantee will not be issued until the Lender certifies as required in 7 CFR 1980.60 that there has been no adverse change(s) in the Borrower's financial condition, nor any other adverse change in the Borrower's condition during the period of time from FmHA's issuance of the Conditional Commitment for Guarantee to issuance of the Loan Note Guarantee. The Lender's certification must address all adverse changes and be supported by financial statements of the Borrower and its guarantors not more than 60 days old at the time of certification. As used in this paragraph only, the term "Borrower" includes any parent, affiliate, or subsidiary of the Borrower.

This agreement becomes null and void unless the conditions are accepted by the Lender and Borrower within 60 days from date of issuance by FmHA. Any negotiations concerning these conditions must be completed by that time. Once this instrument is executed and returned to FmHA, no major change of conditions or approved loan purpose as listed on Form FmHA 449-1 will be considered.

Additional Conditions and Requirements including Source and Use of Funds: 2/

This conditional commitment will expire on _____ 3/ unless the time is extended in writing by FmHA, or upon the Lender's earlier notification to FmHA that it does not desire to obtain an FmHA guarantee.

UNITED STATES OF AMERICA

By: _____

Date: _____

FmHA: _____

(Tab)

ACCEPTANCE OF CONDITIONS

To: Farmers Home Administration (FmHA) 4/

The conditions of this Conditional Commitment for Guarantee including attachments are acceptable and the undersigned intends to proceed with the loan transaction and request issuance of a Loan Note Guarantee within _____ days.

(Name of Lender)By: _____
(Signature for Lender)_____
(Date)S/ _____
(Signature for Borrower)_____
(Date)

- 1/ Insert fixed interest rate or, if authorized by regulations, variable interest rate followed by a "V" and the appropriate loan subsidy rate, if applicable.
- 2/ Insert any additional conditions or requirements in this space or on an attachment referred to in this space; otherwise, insert "NONE".
- 3/ FmHA will determine the expiration date of this contract. Consideration will be given to the date indicated by the lender in the acceptance of conditions. If construction is involved the expiration date will correspond with the projected completion of the project.
- 4/ Return completed and signed copy of this form to FmHA issuing office.
- 5/ Required in B&I and RH-MF cases, not in other cases.

PART 1900—BIOMASS ENERGY AND ALCOHOL FUELS LOANS AND GUARANTEES

8. Part 1900 is removed and reserved as follows:

§§ 1900.1-1900.22C, Appendix A and Exhibits A-1, A-2 and B [Reserved]

Sections 1900.1-1900.220 and Appendix A, and Exhibits A-1, A-2 and B are removed and reserved.

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 42 U.S.C. 2942; 5 U.S.C. 301; Sec. 10 Pub. L. 93-357, 88 Stat. 392; 42 U.S.C. 8812; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70; 29 FR 14764, 33 FR 9850.

Dated: May 26, 1983.

Neal Sox Johnson,

Acting Administrator, Farmers Home Administration.

[FR Doc. 83-18067 Filed 7-5-83; 9:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 242

Proceedings to Determine Deportability of Aliens in the United States: Apprehension, Custody, Hearing, and Appeal; Notification to Foreign State

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds the People's Republic of China to the list of countries with which existing treaties require immediate communication whenever nationals are detained in exclusion or expulsion proceedings.

Consular convention with the People's Republic of China request notification within 4 days of detention.

EFFECTIVE DATE: July 5, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Stanley J. Kieszkiel, Attorney Advisor, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3048.

For Specific Information: Hugh J. Brien, Assistant Commissioner, Detention and Deportation, Immigration and Naturalization Service, 425 Eye Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3335.

SUPPLEMENTARY INFORMATION: Existing treaties and conventions with certain foreign states require immediate

communication with the appropriate consular or diplomatic officers of the sending States whenever nationals are arrested or detained while in the United States. The Consular Convention with the People's Republic of China, Sept. 17, 1980, United States-People's Republic of China, Art. 35, Treaty Doc. No. 97-3, at 18, provides that whenever a national of the People's Republic of China is arrested or placed under any form of detention while in the United States, the consulate of the People's Republic of China shall be notified immediately, but no later than within four days from the date of arrest or detention.

This rule amends 8 CFR 242.2(e) to add the People's Republic of China to the list of foreign States with which treaties or conventions exist regarding the detention of their nationals.

Additionally, the typographical error appearing in paragraph (e) of 8 CFR 242.2, "exclusion of expulsion proceedings," is changed to read "exclusion or expulsion proceedings."

Compliance with 5 U.S.C. 553 as to notice of rulemaking and delayed effective date is unnecessary because this rule relates to a foreign affairs function of the United States and is exempt therefrom under paragraph (a)(1) thereof.

This order is not a rule within the meaning of 5 U.S.C. 601(2) and the Regulatory Flexibility Act does not apply.

This order is also exempt from the requirements of E.O. 12291 as provided by section 1(a)(2), which relates to regulations issued with respect to foreign affairs function of the United States.

List of Subjects in 8 CFR Part 242

Administrative practice and procedure, Aliens, Foreign Service, Treaties.

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

PART 242—PROCEEDINGS TO DETERMINE DEPORTABILITY OF ALIENS IN THE UNITED STATES: APPREHENSION, CUSTODY, HEARING, AND APPEAL

1. In § 242.2, paragraph (e) is amended by revising the introductory text and adding a new footnote as follows:

§ 242.2 Apprehension, custody, and detention.

(e) *Privilege of communication.* Every detained alien shall be notified that he may communicate with the consular or diplomatic officers of the country of his nationality in the United States. Existing treaties require immediate

communication with appropriate consular or diplomatic officers whenever nationals of the following countries are detained in exclusion or expulsion proceedings, whether or not requested by the alien, and, in fact, even if the alien requests that no communication be undertaken in his behalf:

* Notification must be made within four days.

2. In § 242.2, the list of countries in paragraph (e) is amended by adding in alphabetical sequence, "China, People's Rep. of."

[Sec. 103 and 242 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103 and 1252]

Dated: June 28, 1983.

Joseph F. Salgado,

Associate Commissioner for Enforcement, Immigration and Naturalization Service.

[FR Doc. 83-18124 Filed 7-5-83; 9:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 94

[Docket 83-041]

Change in Disease Status of Chile Because of Foot-and-Mouth Disease

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: This document adds Chile to the list of countries declared to be free of rinderpest and foot-and-mouth disease. Chile was not on this list only because it was infected with foot-and-mouth disease. Data furnished to the Department establishes that foot-and-mouth disease has now been eradicated from Chile. This document also adds Chile to the list of countries free of rinderpest and foot-and-mouth disease which are subject to special restrictions on the importation of their meat and other animal products into the United States. This action will allow importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled or frozen meats of such animals into the United States from Chile under certain restrictions.

DATES: Effective June 29, 1983. Written comments must be received on or before September 6, 1983.

ADDRESS: Written comments concerning this interim rule should be submitted to

T. O. Gessel, Director, Regulatory Coordination Staff, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. M.R. Crane, Import/Export Animals and Products Staff, VS, APHIS, USDA, Room 846, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR Part 94 (the regulations) regulate the importation into the United States of specified animals and animal products in order to prevent the introduction of various diseases, including rinderpest and foot-and-mouth disease, into the United States.

Section 94.1(a)(1) of the regulations provides that rinderpest or foot-and-mouth disease exists in all countries of the world, except those countries listed in § 94.1(a)(2). This document adds Chile to the list of countries in § 94.1(a)(2) declared to be free of rinderpest and foot-and-mouth disease.

Chile, which does not have rinderpest (rinderpest is not known to exist in South America), has requested that the Department declare it to be free of foot-and-mouth disease. In accordance with this request, Veterinary Services has reviewed all the pertinent information and documents submitted by the authorities of Chile in support of its position, and has concluded that Chile qualifies for listing in § 94.1(a)(2) of the regulations as a country declared to be free of rinderpest and foot-and-mouth disease.

This document also adds Chile to the list in § 94.11(a) of countries free of rinderpest and foot-and-mouth disease which are subject to special restrictions on the importation of their meat and other animal products into the United States. Chile has common land borders with Peru, Bolivia and Argentina. These are all countries designated in § 94.1(a)(1) of the regulations to be infected with rinderpest or foot-and-mouth disease. In addition, Chile imports live animals from these countries under conditions less restrictive than would be acceptable for importations into the United States. Thus, even though this document designates Chile as free of rinderpest and foot-and-mouth disease, the meat and other animal products produced in Chile may be commingled with the meat

and other animal products produced from an infected country, resulting in an undue risk of introducing rinderpest or foot-and-mouth disease into the United States. Therefore, meat of ruminants or swine and other animal products from Chile shall be imported into the United States only under the restrictions specified in § 94.11 of the regulations.

The effect of these actions by the Department is to allow cattle, sheep, and other ruminants, and swine from Chile and the meat of such ruminants and swine to be imported into the United States under the applicable provisions of Part 94 of the regulations.

Executive Order 12291 and Emergency Action

This emergency action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this rule will not have an annual effect on the economy of \$100 million or more; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and should have no adverse effects on competition, employment, investment, productivity, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The emergency nature of this action makes it impracticable to follow the procedures of Executive Order 12291 with respect to this action.

Dr. E. C. Sharman, Assistant Deputy Administrator, Animal Health Programs, VS, APHIS, USDA, has determined that an emergency situation exists which warrants publication of this interim rule without opportunity for a public comment period. These amendments relieve restrictions on the importation of cattle, sheep, or other ruminants, or swine, or fresh, chilled, or frozen meats of such animals into the United States from Chile because it has been found to be free of foot-and-mouth disease. Therefore, these amendments should be made effective immediately, on an interim basis, in order to relieve restrictions presently imposed but no longer necessary to prevent the introduction and dissemination of the contagion of foot-and-mouth disease into the United States.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this emergency action is impracticable, unnecessary and contrary to the public interest, and good cause is found for making this emergency action

effective less than 30 days after publication of this document in the **Federal Register**. Comments have been solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

Certification Under the Regulatory Flexibility Act

James O. Lee, Jr., Acting Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. It is anticipated that meat and other animal products offered for importation into the United States from Chile will be less than one percent of such products imported into the United States. It is also anticipated that the number of Chilean sheep, cattle, and other ruminants and swine imported into the United States will be negligible.

Alternatives

The only alternative to this amendment is not to declare Chile free of foot-and-mouth disease. However, this alternative was not adopted because the pertinent information and documents reviewed by Veterinary Services indicates that Chile qualifies for listing as a country declared to be free of rinderpest and foot-and-mouth disease. In light of the qualification of Chile as a country free of rinderpest and foot-and-mouth disease, failure to place Chile on the list of countries declared to be free of rinderpest and foot-and-mouth disease would result in unnecessary and unjustified restrictions upon the entry into the United States of cattle, sheep, or other ruminants, or swine, or fresh, chilled or frozen meat of such animals from Chile.

List of Subjects in 9 CFR Part 94

Animal diseases, Imports, Livestock and livestock products, Meat and meat products, Milk, Foot-and-mouth disease, Rinderpest.

PART 94—RINDERPEST, FOOT-AND-MOUTH DISEASE, FOWL PEST (FOWL PLAGUE), NEWCASTLE DISEASE (AVIAN PNEUMOENCEPHALITIS), AFRICAN SWINE FEVER, AND HOG CHOLERA: PROHIBITED AND RESTRICTED IMPORTATIONS

Accordingly, 9 CFR Part 94 is amended as follows:

§ 94.1 [Amended]

1. In § 94.1, paragraph (a)(2) is amended by inserting "Chile" between "Canada" and "Finland."

§ 94.11 [Amended]

2. In § 94.11, paragraph (a) is amended by inserting "Chile" between "Bahama Islands" and "Finland."

Authority: Sec. 2, 32 Stat. 792, as amended; sec. 306, 46 Stat. 689, as amended; secs. 4 and 11, 76 Stat. 130, 132; 19 U.S.C. 1306; 21 U.S.C. 111, 134c, 134f; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, D.C., this 29th day of June, 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-10088 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 113

[Docket No. 83-059]

Viruses, Serums, Toxins, and Analogous Products; Revision of Standard Requirements for Salmonella and Pasteurella Bacterins

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment revises the testing criteria for valid potency assays in the standards for Salmonella Typhimurium Bacterin, Pasteurella Multocida Bacterin, Salmonella Choleraesuis Bacterin, and Salmonella Dublin Bacterin. Presently, when mouse tests are performed and the Standard Bacterin meets the requirements for a valid assay but the lowest dilution of the three dilutions of the Unknown Bacterin fails to protect more than 50 percent of the mice, only the difference in the number of mice surviving the lowest dilution of the Standard Bacterin and those surviving the lowest dilution of the Unknown Bacterin are used in determining whether a serial can be retested. These amendments will allow use of the cumulative mouse test results obtained in all three dilutions when making the determination for retest. Efficacious serials of bacterins may occasionally be found unsatisfactory using the present standard single-step potency test because of variable mouse response to these products. These amendments will increase the probability for valid initial potency tests and provide for additional potency testing of serials to compensate for variable mouse response.

EFFECTIVE DATE: This amendment becomes effective June 27, 1983.

FOR FURTHER INFORMATION CONTACT:

Dr. Peter L. Joseph, Chief Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:**Paperwork Reduction Act**

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and has been classified as a "Nonmajor Rule."

The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities. There are currently 12 USDA-licensed establishments producing one or more of these bacterins. Only one of these is considered a small entity; i.e., a business which is independently owned and operated and which is not dominant in the field of veterinary biologics manufacturing.

Background

Some biologics manufacturers and the National Veterinary Services Laboratories (NVSL) are currently using the testing procedures incorporated in this amendment to determine serial release when their Outlines of Production specify that these procedures be used in addition to other tests. It has been estimated that the yearly cost to NVSL to conduct the additional tests which are contained in this amendment, involving licensees' products has been less than \$1,000. Therefore, the cost to individual firms should be minimal, and

the tests in this amendment should result in an increased number of serials being found satisfactory for release to market.

The standards in 9 CFR 113.105-113.108 of the regulations provide that when a serial of product fails to meet the relative potency value (RP value) requirements of the regulation it is unsatisfactory and cannot be released. An exception to this rule is when the 50 percent endpoint of an unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection. The failure of a serial to meet the required RP value may sometimes be due to the variability of the responses of mice rather than to a substandard product. This lack of differentiation between low potency serial and mouse test variability should be resolved by changing the test criteria to include consideration of the difference in the cumulative number of mice which survived administration of the Standard Bacterin and of the Unknown Bacterin. Also, the addition of two independent tests in paragraph (c)(10) of 9 CFR 113.105-113.108 for serials found unsatisfactory in the initial test addresses the current lack of sensitivity in the testing procedure. In this manner, a more complete and accurate evaluation of potency will be achieved and will assure that all efficacious serials are found eligible for release.

Comments Received

On July 13, 1982, a notice of proposed rulemaking was published in the Federal Register at 47 FR 30259 stating that the Animal and Plant Health Inspection Service proposed to amend the testing criteria for a valid potency test in the standards for Salmonella Typhimurium Bacterin, Pasteurella Multocida Bacterin, Salmonella Choleraesuis Bacterin, and Salmonella Dublin Bacterin. Interested persons were invited to submit comments. A total of six comments were received from licensed veterinary biologics manufacturers. Four of the licensees agreed with the changes as written. One licensee commented that paragraph (c)(8) in each standard is unnecessary and could result in the destruction of efficacious product. The manner in which these standards are written would tend to prevent this. In those instances where the Reference Bacterin may meet the requirement for a valid test but the RP cannot be calculated because of low level of protection by the Unknown Bacterin, paragraph (c)(8) provides the means for determining if a retest is justified or if the Unknown Bacterin is unsatisfactory.

Another licensed manufacturer suggested that in paragraph (c)(10)(i), "one-third" should be changed to "one-half" because one-half more nearly reflects normal test variation. No data were submitted to substantiate the claim that one-half would cover the range of normal test variation. The intent of paragraph (c)(10)(i) is to exclude test results which are beyond normal test variation. The value of one-third was established as a result of computer simulation studies based on parameters from tests with the Standard Bacterin.

Therefore, the Agency concludes that neither comment justifies amending the rule change and will go forth with the final rulemaking as originally proposed.

In the proposed rulemaking, it was intended that paragraph (c)(8) should read the same in all four parts. In 9 CFR 113.105 of the proposed rulemaking, paragraph (c)(8) reads differently from the same paragraph in 9 CFR 113.106, 113.107, and 113.108. This difference did not alter the meaning as evidenced by a lack of comments. Therefore, for consistency, this is being corrected in the final rulemaking to make paragraph (c)(8) read the same in all parts.

When standard requirements have been developed by Veterinary Services through experience with a number of Outlines of Production and/or through the development of scientific knowledge at NVSL or elsewhere, such requirements are codified in the regulations. Codification assures uniformity of requirements for licensees and makes information on regulatory standards generally available to the public. This amendment makes uniform requirements for *Salmonella* Typhimurium Bacterin, *Pasteurella* Multocida Bacterin, *Salmonella* Choleraesuis Bacterin, and *Salmonella* Dublin Bacterin available to the general public and applicable to all licensees.

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 113, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects in 9 CFR Part 113

Animal biologics.

PART 113—STANDARD REQUIREMENTS

1. Section 113.105 is amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.105 *Salmonella Typhimurium* Bacterin.

(c) * * *

(8) If the 50 percent endpoint of an Unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested in a manner identical to the initial test; *Provided*, That, if the Unknown is not retested or if the protection provided by the lowest dilution of the Unknown by six mice or more; or, if the total number of mice protected by the Standard exceeds the total number of mice protected by the Unknown by eight mice or more, the serial being tested is unsatisfactory.

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

2. Section 113.106 is amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.106 *Pasteurella Multocida* Bacterin.

(c) * * *

(8) If the 50 percent endpoint of an Unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested in a manner identical to the initial test; *Provided*, That, if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by six mice or more; or, if the total number of mice protected by the Standard exceeds the total number of mice protected by the

Unknown by eight mice or more, the serial being tested is unsatisfactory.

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

3. Section 113.107 is amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.107 *Salmonella Choleraesuis* Bacterin.

(c) * * *

(8) If the 50 percent endpoint of an Unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested in a manner identical to the initial test; *Provided*, That, if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by six mice or more; or, if the total number of mice protected by the Standard exceeds the total number of mice protected by the Unknown by eight mice or more, the serial being tested is unsatisfactory.

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum required in paragraph (c)(7) of this section, the serial is unsatisfactory.

4. Section 113.108 is amended by revising paragraph (c)(8) and adding paragraph (c)(10) to read:

§ 113.108 *Salmonella* Dublin Bacterin.

(c) * * *

(8) If the 50 percent endpoint of an Unknown cannot be calculated because the lowest dilution does not exceed 50 percent protection, that serial may be retested in a manner identical to the initial test; *Provided*, That, if the Unknown is not retested or if the protection provided by the lowest dilution of the Standard exceeds the protection provided by the lowest dilution of the Unknown by six mice or more; or, if the total number of mice protected by the Standard exceeds the total number of mice protected by the Unknown by eight mice or more, the serial being tested is unsatisfactory.

(10) If the RP is less than the minimum required in paragraph (c)(7) of this section, the serial may be retested by conducting two independent replicate tests in a manner identical to the initial test. The average of the RP values obtained in the retests shall be determined. If the average RP is less than the required minimum, the serial is unsatisfactory. If the average RP obtained in the retests is equal to or greater than the required minimum, the following shall apply:

(i) If the RP obtained in the original test is one-third or less than the average RP obtained in the retests, the initial RP may be considered a result of test system error and the serial is satisfactory.

(ii) If the RP value obtained in the original test is more than one-third the average RP obtained in the retests, a new average shall be determined using the RP values obtained in all tests. If the new average is less than the minimum

required in paragraph (c)(7) of this section, the serial is unsatisfactory.

(37 Stat. 832-833 (21 U.S.C. 151-158))

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

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-16156 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-34-M

9 CFR Part 114

[Docket No. 83-021]

Viruses, Serums, Toxins, and Analogous Products; Amendment of Extension of the Expiration Date for a Serial or Subserial

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment relaxes the current restrictions which do not permit an extension of dating for any serial or subserial of a biological product or portion thereof, which has left the premises of a licensed establishment. Product which is shipped between two licensed establishments owned or controlled by the same person is also included in the current restriction and cannot be considered for an extension of dating. The relaxation will permit an extension of dating for product which has been shipped from one USDA-licensed establishment to another USDA-licensed establishment, provided that both establishments are owned or controlled by the same person.

EFFECTIVE DATE: This amendment becomes effective June 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dr. Peter L. Joseph, Chief Staff Veterinarian, Veterinary Biologics Staff, USDA, APHIS, VS, Room 836, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-7760.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

This final rule contains no new or amended recordkeeping, reporting, or application requirement or any type of information collection requirement subject to the Paperwork Reduction Act of 1980.

Executive Order 12291

This final rule has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 to implement Executive Order 12291 and

has been classified as a "Nonmajor Rule."

The final rule will not have a significant effect on the economy and will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises, in domestic or export markets. These revisions will reduce regulatory requirements.

Certification Under the Regulatory Flexibility Act

Mr. Bert W. Hawkins, Administrator of the Animal and Plant Health Inspection Service, has determined that these changes will not have a significant economic impact on a substantial number of small entities. A small entity is defined as an independently owned firm not dominant in the field of veterinary biologics. This action will result in a beneficial effect to licensed producers with more than one establishment owned or controlled by the same person and will have no effect on other licensees.

Background

This amendment relating to extension of dating of biological products will allow such extension for serials, subserials, or portions thereof which had been shipped one time between licensed establishments owned or controlled by the same person. Current regulations specifically prohibit an extension of dating for products that have left licensed premises. Such prohibition is based on the fact that proper storage, handling, and shipment of biological products have a great bearing on their potency and stability. When biologics are shipped from one licensed establishment to another licensed establishment owned or controlled by the same person, there is greater assurance that such products would be properly stored, handled, and shipped. Proper storage conditions at both licensed locations, which are subject to USDA inspection, and shipment under control of a single licensee, warrant different treatment of such products from products which are found in normal distribution channels. The licensee using normal distribution channels has little control over the distributed products and cannot be

assured that they are properly handled and protected from abuse by a distributor, wholesaler, or user at another location. Therefore, such products should not be considered for an extension of dating.

Comments Received

On July 12, 1982, a notice of proposed rulemaking was published in the *Federal Register* at 47 FR 30081 stating that the Animal and Plant Health Inspection Service proposed to allow an extension of dating for serials or subserials of biological products or portions thereof which had been shipped one time between licensed establishments owned or controlled by the same person. Interested persons were invited to submit comments. Nine comments were received, all favoring the proposed rulemaking. Included in four of the nine comments were additional recommendations to either remove the restriction limiting movement between two establishments owned by the same person and/or to include distribution channels and warehouses. It was also recommended that use of the word "once" be defined to mean "round trip."

The Agency believes that further relaxation to permit movement of licensed products between all licensees, unlicensed distribution channels, and warehouses would compromise its ability to control proper handling and storage of products. Therefore, the proposal will not be modified to include unlicensed distribution channels and warehouses. It is the Agency's opinion that it can more readily assure the proper handling, storage, and shipment of products which have been shipped between establishments owned or controlled by the same person. Therefore, this limitation will be retained in this amendment. Some licensees have their storage facilities as part of licensed premises which subject them to periodic inspections. In such cases shipment to the storage facility would not prevent an extension of dating. This is a convenient option available to all licensees.

Three comments indicated that the term "shipped once" should be defined to allow a round-trip shipment between licensed facilities owned or controlled by the same person for purposes such as relabeling. Serials which are eligible for an extension of dating are usually relabeled at the site of the original recipient. However, there are circumstances which could warrant a serial to be returned to the manufacturing facility, for example, for relabeling. Recognizing this fact, the Agency agrees that under certain circumstances it should be allowable to

ship a product back to the manufacturing facility without negating the eligibility of that serial for an extension of dating. Therefore, this amendment, as originally proposed, is being modified to allow for such circumstances. Round-trip shipments for purposes such as relabeling would be permitted between the original receiving and shipping establishments as part of the authorization to extend dating so long as both facilities are owned or controlled by the same person. This authorization has been delegated to the Regional Director responsible for serial release, thus expediting the process.

The Animal and Plant Health Inspection Service has the obligation under the Virus-Serum-Toxin Act to ensure that licensed biological products are properly handled and protected so that the purity, safety, and potency of the products are maintained. The amendment as written will provide additional flexibility in distribution and control of inventories of the producers affected by it. Further, it has not been shown that existing regulations permitting the shipment between establishments owned or controlled by the same person of partially prepared products or serials of completed fractions of combination products in accordance with 9 CFR 114.3(d) has had any adverse effect on the quality of these products or components. Therefore, it is reasonable to believe that a one-time shipment of finished product between two establishments owned or controlled by the same person would not adversely affect such product thereby preventing consideration of an extension of dating.

After due consideration of all relevant matters, including the proposal set forth in the above notice and under authority in the Virus-Serum-Toxin Act of March 4, 1913 (21 U.S.C. 151-158), the amendment of Part 114, Subchapter E, Chapter I, Title 9 of the Code of Federal Regulations, as published in the above notice, is hereby adopted as follows:

List of Subjects in 9 CFR Part 114

Animal biologics.

PART 114—PRODUCTION REQUIREMENTS FOR BIOLOGICAL PRODUCTS

Section 114.14(a)(2) is amended to read:

§ 114.14 Extension of expiration date for a serial or subserial.

(a) * * *

(2) For any serial or portion of any serial which has left licensed premises: *Provided*, That product which has been

shipped once from one licensed establishment to another licensed establishment owned or controlled by the same person shall be exempt from this requirement. *Provided further*, That the Deputy Administrator may authorize a round-trip shipment of product eligible for an extension of dating between the two licensed establishments if it becomes necessary to do so for purposes such as relabeling.

(37 Stat. 832-833 (21 U.S.C. 151-158))

Done at Washington, D.C., this 29th day of June 1983.

K. R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 83-18155 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF ENERGY

10 CFR Part 205

[Docket No. EP-40-83-1A]

Report of Major Electric Utility System Emergencies

AGENCY: Energy Department.

ACTION: Final rule.

SUMMARY: The Office of Environmental Protection, Safety, and Emergency Preparedness of the Department of Energy hereby issues rules to implement reporting of major electric utility system emergencies pursuant to Sections 202(a) and 311 of the Federal Power Act. These rules amend the regulations set forth at 10 CFR 205.350, *et seq.* to reflect current DOE organization and responsible officials and delete certain reporting provisions which are now voluntary.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT:

Louis A. Wofsy, Office of Energy Emergency Operations (EP-42), Department of Energy, Forrestal Building, Mail Stop: GB-270, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252-1048.

William Mayo Lee, Office of General Counsel for Regulatory Oversight, Department of Energy, Forrestal Building, Mail Stop: GC-12, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6754.

SUPPLEMENTARY INFORMATION:

I. Background

On February 8, 1983, the Office of Environmental Protection, Safety and Emergency Preparedness (EP) of the Department of Energy (DOE), issued a notice of proposed rulemaking pursuant

to Sections 202(a) and 311 of the Federal Power Act (FPA) (48 FR 5748) and invited public comments on the proposed rules. These proposed rules made technical amendments to the regulations requiring reporting of major electric utility system emergencies. Generally, the proposed amendments updated the existing regulations to reflect the current organization of DOE and deleted certain voluntary reporting requirements that were no longer useful.

Comments on the proposed rules were due by March 10, 1983. One comment from the Southeastern Electric Reliability Council (SERC) was received on March 21, 1983.

II. Discussion of Comments and DOE Response

The Southeastern Electric Reliability Council (SERC) recommended that § 205.351(b) be changed to require reporting of any intentional reduction of system voltage by 5 percent or greater instead of the proposed 3 percent or greater criteria. The intent of this section is to make DOE aware of any power system emergency where the system voltage was intentionally reduced to maintain continuity of service on the bulk power system. DOE has received few reports under this section but feels that those instances where system voltage would be reduced between 3 and 5 percent may be of equal importance from a system operating viewpoint. Further, where a small system is involved, a 3 percent voltage reduction is, in context, as significant as a 5 percent voltage reduction on a large system. Based on this and the minimal extra reporting burden imposed, the regulations will not be modified to incorporate this comment.

III. The Final Regulations

In accordance with Section 202(a) of the Federal Power Act (FPA), DOE is responsible for encouraging actions to assure an abundant supply of electric energy throughout the country. Under Section 311 of the FPA, DOE is authorized and directed to collect information regarding the generation, transmission and distribution of electric energy and to report the problems and developments of the electric utility industry to Congress. Thus, under the provisions of Sections 202(a) and 311 of the FPA, DOE adopts the amendments as proposed.

IV. Other Matters

A. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act, OMB has approved this

information collection for use through February 29, 1986 and has assigned it OMB No. 1903-0045.

B. Executive Order 12291

Section 3 of Executive Order (E.O.) 12291 (48 FR 13193, February 19, 1981) requires that DOE determine whether a rule is a "major rule", as defined by Section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since the amendments would either eliminate regulatory requirements or update the rules to reflect current DOE organization, DOE has determined that the proposed amendment does not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant 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. Accordingly, a regulatory impact analysis is not required.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (Pub. L. 96-354, (5 U.S.C. 601-612)) requires, in part, that an agency prepare a regulatory flexibility analysis for any rule, unless it determines that the rule will not have a "significant economic impact" on a substantial number of small entities. These amendments would not impose any additional burdens on small entities, but rather they could reduce an obligation on certain small entities. Nevertheless, DOE does not believe the obligation involved has a significant impact on small entities, and accordingly, as required by section 605(b), DOE certifies that the amendments will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 10 CFR Part 205

Electric power, Electric utilities, Reporting and recordkeeping requirements.

(Department of Energy Organization Act, Pub. L. 95-91, (42 U.S.C. 7101), Federal Power Act, Pub. L. 66-280, (16 U.S.C. 791 *et seq.*)

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., June 28, 1983.

William A. Vaughan,

Assistant Secretary, Environmental Protection, Safety, and Emergency Preparedness.

PART 205—[AMENDED]

Title 10, Part 205, Subpart W, §§ 205.350, 205.351, 205.352, 205.353, and 205.354 are revised to read as follows and § 205.355 is removed:

Subpart W—Electric Power System Permits and Reports; Applications; Administrative Procedure and Sanctions

Report of Major Electric Utility System Emergencies

§ 205.350 General purpose.

The purpose of this rule is to establish a procedure for the Office of Environmental Protection, Safety, and Emergency Preparedness (EP) to maintain current information regarding the status of the electric energy supply systems in the United States so that appropriate Federal emergency response measures are implemented in a timely and effective manner. This data also may be utilized in developing legislative recommendations and other reports to the Congress.

§ 205.351 Reporting requirements.

For the purpose of this section, a report or a part of a report may be made jointly by two or more entities. Every electric utility or other subject entity engaged in the generation, transmission or distribution of electric energy shall report promptly to the EP Alert Coordination Officer (ACO) any events as described in subparagraphs (a) through (f) of this section:

(a) The issuance of any public or private request to any customer or the general public to reduce the use of electricity for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. Requests to a customer(s) served under provisions of an interruptible contract are not a reportable action unless the request is made for reasons of maintaining the continuity of service of the reporting entity's bulk electric power system. (ACO shall be notified as soon as practicable, but no later than 24 hours after the issuance of such a request.)

(b) Any intentional reduction of system voltage by 3 percent or greater for reasons of maintaining the continuity of service of the reporting entity's bulk electric power system. (ACO shall be notified as soon as practicable, but no

later than 24 hours after the initiation of the action.)

(c) Any load shedding action that results in the reduction of over 100 megawatts (MW) of firm customer load for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. The routine use of load control equipment that reduces firm customer load is not considered to be a reportable action. (ACO shall be notified within three hours after such action is taken if practicable, or as soon thereafter as practicable.)

(d) Any electric power supply equipment or facility failure or other event that, in the judgment of the reporting entity, constitutes a hazard to the current or prospective adequacy and/or reliability of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable; however reports are expected within one business day after such determination.) Examples of situations which may be reportable under this provision could be ones which:

(1) Cause the operating area to be dependent upon neighboring utilities for large quantities of unscheduled electricity deliveries to supply the operating area's loads for longer than three consecutive hours;

(2) Cause a significant increase in the use of a fuel for generating equipment such that replacement of this fuel may be a problem;

(3) Are caused by a suspected act of physical sabotage.

(e) Any outage that extends for greater than 15 minutes and affects firm loads totaling over 100 MW, or more than 50 percent of the total load being supplied by the reporting entity's system immediately prior to the incident, whichever is less. However, utilities with a peak load in the prior year of over 3000 MW are only to report those losses of service for firm loads totaling over 200 MW for greater than 15 minutes. (ACO shall be notified as soon as practicable without unduly interfering with service restoration, and in any event, within three hours after the beginning of the interruption.)

(f) Any significant incident on an electric utility system which results in a continuous outage of three hours or longer to over 50,000 customers (meters, delivery points) or more than one half of the reporting entity's total customers, whichever is less. (ACO shall be notified within 24 hours of the

occurrence if practicable, or as soon thereafter as practicable.)

§ 205.352 Information to be reported.

The power supply data shall be supplied to the ACO in accordance with the current DOE pamphlet on reporting procedures. The initial report should include the utility name; the area affected; the time of occurrence of the initiating event; the duration or an estimate of the likely duration; an estimate of the number of customers and amount of load involved; and whether any known critical services such as hospitals, military installations, pumping stations, or air traffic control systems, were or are interrupted. To the extent known or suspected, the report shall include a description of the events initiating the disturbance. The DOE may require further clarification during or after restoration of service.

§ 205.353 Fuel emergencies.

The ACO shall be notified whenever a utility or other subject entity determines that a fuel supply emergency exists or is projected to occur. A fuel supply emergency exists when supplies of fuels or hydroelectric storage for generation are at a level or projected to be at a level which would threaten the reliability or adequacy of electric service. The following factors should be taken into account to determine whether a fuel emergency exists:

(a) Fuel stocks or hydro storage levels are 50 percent or less of normal for that particular time of the year; and

(b) A continued downward trend in fuel stocks or hydro storage levels is projected. (ACO shall be notified as soon as practicable, but no later than three days after the determination is made.)

§ 205.354 Special investigation and reports.

If directed by the Director, Office of Energy Emergency Operations, in writing and noticed in the **Federal Register**, a utility or other subject entity experiencing a condition described in § 205.351 above shall submit a full report of the technical circumstances surrounding the power system disturbance, including the restoration procedures utilized. The report shall be filed at such time as may be directed by the Director, Office of Energy Emergency Operations.

§ 205.355 [Removed]

(OMB Approval No. 1903-0045)

[FR Doc. 83-18115 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

CIVIL AERONAUTICS BOARD

14 CFR Part 202

[Reg. ER-1344; Amdt. 6 to Part 202]

Certificates Authorizing Scheduled Route Service; Terms, Conditions, and Limitations; Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved reporting requirements in Part 202 of the Board's Economic Regulations contained in ER-1325 (48 FR 8042, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

List of Subjects in 14 CFR Part 202

Reporting and recordkeeping requirements.

PART 202—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 202 of its Economic Regulations (14 CFR 202) by adding a note at the end of the table of contents to Part 202 to read:

Note.—The reporting requirements contained in § 202.12 have been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary

[FR Doc. 83-18040 Filed 7-5-83; 8:45 am]

BILLING CODE 5320-01-M

14 CFR Part 203

(Reg. ER-1338; Amdt. 1 to Part 203)

Waiver of Warsaw Convention Liability Limits and Defenses; Approval by the Office of Management and Budget**AGENCY:** Civil Aeronautics Board.**ACTION:** Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the reporting requirements contained in a new Part 203 of the Board's Economic Regulations (ER-1324, 48 FR 8042, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

List of Subjects in 14 CFR Part 203

Reporting and recordkeeping requirements.

PART 203—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 203 of its Economic Regulations (14 CFR 203) by adding a note at the end of the table of contents to Part 203 to read:

Note.—The reporting requirements contained in §§ 203.3 and 203.4(a) have been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-18041 Filed 7-5-83; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 204

(Reg. ER-1339; Amdt. 7 to Part 204)

Data to Support Fitness Determinations; Approval by the Office of Management and Budget**AGENCY:** Civil Aeronautics Board.**ACTION:** Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 204 of the Board's Economic Regulations (ER-1326, 48 FR 8048, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202) 673-6042.

PART 204—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 204 of its Economic Regulations (14 CFR 204) by revising the note at the end of the table of contents to Part 204 to read:

Note.—The reporting requirements contained in §§ 204.4, 204.5(a)-(u), 204.6(a)(1)-(21), (b) and (c), 204.7(a)-(q) and 204.8 have been approved by the Office of Management and Budget under number 3024-0041. The reporting requirements contained in §§ 204.5(v), 204.6(a)(22) and 204.7(r) have been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-18042 Filed 7-5-83; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 208

(Reg. ER-1340; Amdt. 38 to Part 208)

Terms, Conditions, and Limitations of Certificates To Engage in Charter Air Transportation; Approval by the Office of Management and Budget**AGENCY:** Civil Aeronautics Board.**ACTION:** Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 208 of the Board's Economic Regulations (ER-1327, 48 FR 8048, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required

under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

PART 208—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 208 of its Economic Regulations (14 CFR 208) by revising the note at the end of the table of contents to Part 208 to read:

Note.—The reporting and recordkeeping requirements contained in §§ 208.3a, 208.5, 208.40, 208.202a, 208.202b, 208.204 and 208.216 have been approved by the Office of Management and Budget under number 3024-0001. The reporting requirements contained in § 208.11 have been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-18043 Filed 7-5-83; 8:45 am]
BILLING CODE 6320-01-M

14 CFR Part 211

(Reg. ER-1345; Economic Regs. Amdt. No. 14 to Part 211)

Applications for Permits to Foreign Air Carriers; Notice of Approval by the Office of Management and Budget**AGENCY:** Civil Aeronautics Board.**ACTION:** Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved reporting requirements in Part 211 of the Board's Economic Regulations contained in ER-1328 (48 FR 8049, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management

Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202) 673-6042.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 211

Reporting and recordkeeping requirements.

PART 211—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 211 of its Economic Regulations (14 CFR Part 211) by adding a note at the end of the table of contents to Part 211 to read:

Note.—The reporting requirement contained in Appendix subparagraph 10(i) has been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-18044 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 212

[Reg. ER-1341; Econ. Regs. Amdt. No. 46 to Part 212]

Charter Trips by Foreign Air Carriers; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 212 of the Board's Economic Regulations (ER-1329, 48 FR 8049, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION: Linda K. Konam, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 212—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 212 of its Economic Regulations (14 CFR Part 212) by revising the note at the end of the table of contents to Part 212 to read:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget as follows: Section 212.5 under number 3024-0015; §§ 212.7, 212.12, 212.15, 212.24, 212.25, 212.31, 212.45, 212.46, 212.47 and 212.53 under number 3024-0036; § 212.11 under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-18045 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 213

[Reg. ER-1346; Economic Regs. Amdt. No. 10 to Part 213]

Terms, Conditions and Limitations of Foreign Air Carrier Permits; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved reporting requirements in Part 213 of the Board's Economic Regulations contained in ER-1330 (48 FR 8049, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Konam, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 213—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 213 of its Economic Regulations (14 CFR Part 213) by adding

a note at the end of the table of contents to Part 213 to read:

Note.—The reporting requirements contained in § 213.7 have been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.
Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-18046 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 215

[Reg. ER-1347; Economic Regs. Amdt. No. 6 to Part 215]

Names of Air Carriers and Foreign Air Carriers; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved reporting requirements in Part 215 of the Board's Economic Regulations contained in ER-1331 (48 FR 8050, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Konam, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

PART 215—[AMENDED]

List of Subjects in 14 CFR Part 215

Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends Part 215 of its Economic Regulations (14 CFR Part 215) by adding a note at the end of the table of contents to Part 215 to read:

Note.—The reporting requirement contained in § 215.3(c) has been approved by the Office of Management and Budget under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-18048 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 294

[Reg. ER-1342; Economic Regs. Amdt. No. 2 to Part 294]

Canadian Charter Air Taxi Operators; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 294 of the Board's Economic Regulations (ER-1332, 48 FR 8050, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, NW, Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 294—[AMENDED]

List of Subjects in 14 CFR Part 294

Reporting and recordkeeping requirements.

Accordingly, the Civil Aeronautics Board amends Part 294 of its Economic Regulations (14 CFR Part 294) by adding a note at the end of the table of contents to Part 294 to read:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget as follows: Section 294.40 under number 3024-0050; §§ 294.20 and 294.22 under number 3024-0051; § 294.3(d) under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-18048 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

14 CFR Part 298

[Reg. ER-1343; Economic Regs. Amdt. No. 26 to Part 298]

Exemption for Air Taxi Operations; Notice of Approval by the Office of Management and Budget

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved revised reporting requirements in Part 298 of the Board's Economic Regulations (ER-1333, 48 FR 8051, February 25, 1983). This approval has been granted through May 31, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATES: Adopted: June 28, 1983. Effective: June 1, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, (202) 673-6042.

SUPPLEMENTARY INFORMATION:

PART 298—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 298 of its Economic Regulations (14 CFR Part 298) by revising the note at the end of the table of contents to Part 298 to read:

Note.—The reporting requirements contained herein have been approved by the Office of Management and Budget as follows: Section 298.21(c)(2) under number 3024-0007; § 298.21(c)(1) and 298.23(b) under number 3024-0008; § 298.61 under number 3024-0009; 298.21(c)(4) under number 3024-0064.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-18049 Filed 7-5-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 31

[T.D. 7898]

Income Tax; Employers' Qualified Educational Assistance Programs

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to employers' qualified educational assistance programs. Changes to the applicable tax law were made by the Revenue Act of 1978. The regulations provide necessary guidance to the public for compliance with that Act, and affect both employers who establish educational assistance programs and their employees who receive benefits under these programs.

DATES: The regulations are effective for employees' taxable years beginning after December 31, 1978, and before January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Monice Rosenbaum of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T:EE-178-78, 202-566-3422.

SUPPLEMENTARY INFORMATION:

Background

On November 23, 1981, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) and the Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31) under sections 127, 3121(a)(18), 3306(b)(13) and 3401(a)(18) of the Internal Revenue Code of 1954 (48 FR 57325). The amendments were proposed to conform the regulations to section 164 of the Revenue Act of 1978 as amended by section 103(a)(13)(A) (iii) and (iv) of the Technical Corrections Act of 1979. A public hearing was held on March 24, 1982. After consideration of comments made at the hearing and the written comments submitted in response to the notice of proposed rulemaking, the amendments are adopted, as revised, by this Treasury decision.

Statutory Provisions

Under Code section 127, amounts paid or expenses incurred by an employer for educational assistance furnished under a qualified educational assistance

program are excluded from an employee's gross income. In order for an educational assistance program to be a qualified program, it must satisfy certain requirements relating to nondiscrimination in eligibility for benefits, and a limitation on benefits for participants who are shareholders or owners.

Payments or benefits excluded from an employee's gross income under section 127 are not "wages" under Code section 3121(a)(18), 3306(b)(13), and 3401(a)(18). Consequently, such payments or benefits are not subject to tax under the Federal Insurance Contributions Act and the Federal Unemployment Tax Act and are not subject to withholding under section 3402.

Explanation of Final Regulations

The Term "Benefits"

The proposed regulations generally used the term "benefits" to describe employer provided educational assistance. A number of commentators objected to the use of that term arguing that it misconstrues the purpose of such assistance as a "fringe benefit" rather than as a job-related "work condition."

While a significant portion of employer provided educational assistance could be described as a "work condition," the legislative history of Code section 127 makes it clear that the statute is not limited to job-related educational assistance. The Senate Finance Committee report frequently uses the term "benefits" in its discussion of the scope of the educational assistance that may be provided under section 127. S. Rep. No. 95-1263, 95th Cong., 2d Sess. 98 (1978), 1978-3 C.B. 315, 396. Moreover, it is clear that Code section 127 is part of a growing body of Federal tax law relating to so called statutory fringe benefits. (emphasis added) Consequently, the final regulations continue to use the term "benefits" when referring to employer provided educational assistance.

Definition of Educational Assistance

Several commentators suggested changes in the proposed regulations' definition of educational assistance. These suggestions fell into three general categories: (1) Comments relating to the alternative benefits prohibition; (2) comments relating to those benefits not considered educational assistance; and (3) comments relating to the definition of "education."

The proposed regulations provided that a program's benefits did not consist solely of educational assistance if the program provided employees with a

choice between educational assistance and other remuneration that "may or may not be" included in the employee's gross income. A number of commentators noted that this language was considerably broader than the statutory alternative benefits prohibition under section 127(b)(4), which prohibits only taxable alternative benefits. The final regulations revise the alternative benefits prohibition to track the language of the statute.

Pursuant to section 127(c)(1), the proposed regulations provided that certain employer payments or expenses are not considered educational assistance. These exclusions include an employer's payment or provision of tools or supplies retained after completing a course of instruction, the cost of meals, lodging, or transportation, and the cost of any educational involving sports, games, or hobbies (unless job related). Commentators suggested several changes to these exclusions. Specifically, it was suggested that textbooks not be excluded as "retained supplies", that expenses for meals, lodging, and transportation not be excluded, and that education for sports, games, or hobbies not be excluded if required as part of a degree program or if related to health maintenance or improvement.

In response to these suggestions, the final regulations clarify the rules relating to retained supplies and education involving sports, games or hobbies. Based on the clear language of the statute, however, the final regulations do not change the rule which excludes expenses for meals, lodging and transportation from the general definition of educational assistance.

The proposed regulations stated that the education paid for or provided under a qualified program may be provided by an educational institution. Many commentators construed this statement as a limitation on the class of organizations that could provide education under the statute. The statement was not intended to be so limited, however, and the final regulations clarify the provision accordingly.

Prohibited Discrimination

Two commentators suggested that various safe harbors be added to the regulations as additional factors not to be considered in determining the existence of prohibited discrimination. Although these suggestions were considered, the final regulations contain no changes to the rules relating to prohibited discrimination. The suggestions were rejected because of the difficulties inherent in defining safe

harbors that would not result in prohibited discrimination under all circumstances.

Miscellaneous Changes

The final regulations add a substantiation requirement on employees receiving benefits under a qualified educational assistance program and clarify the requirement that a qualified program be a separate written plan.

In addition, the final regulations make certain clerical changes to the regulations under section 3401 to reflect redesignations made by the Economic Recovery Tax Act of 1981.

Nonapplicability of Executive Order 12291

The Treasury Department has determined that this regulation is not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 28, 1982.

Drafting Information

The principal author of these regulations is Charles K. Kerby, III of the Employee Plans and Exempt Organizations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects

26 CFR 1.61-1 through 1.281-4

Income taxes, Exclusions, Employers qualified educational assistance programs.

26 CFR Part 31

Employment taxes, Social security, Unemployment tax, Withholding.

Adoption of amendments to the regulations

Accordingly, the amendments to 26 CFR Parts 1 and 31 as proposed are adopted, subject to the changes indicated below:

Income Tax Regulations (26 CFR Part 1)

Paragraph 1. Paragraph (b) of § 1.127-2, as set forth in the notice of proposed rulemaking, is revised to read as follows:

§ 1.127-2 Qualified educational assistance program.

• • • • •
(b) *Separate written plan.* The program must be a separate written plan of the employer. This requirement

means that the terms of the program must be set forth in a separate document or documents providing only educational assistance within the meaning of paragraph (c) of this section. The requirement for a separate plan does not, however, preclude an educational assistance program from being part of a more comprehensive employer plan that provides a choice of nontaxable benefits to employees.

Par. 2. Paragraph (c) of § 1.127-2, as set forth in the notice of proposed rulemaking, is revised by revising subparagraph (2), subparagraph (3) and the second sentence of subparagraph (4). The revised provisions read as follows:

§ 1.127-2 Qualified educational assistance program.

(c) *Educational assistance.* * * *

(2) *Alternative benefits.* Benefits will not be considered to consist solely of educational assistance if the program, in form or in actual operation, provides employees with a choice between educational assistance and other remuneration includible in the employee's gross income.

(3) *Certain benefits not considered educational assistance.* The term "educational assistance" does not include the employer's payment for, or provision of—

(i) Tools or supplies (other than textbooks) that the employee may retain after completing a course of instruction,

(ii) Meals, lodging, or transportation,

or

(iii) Education involving sports, games, or hobbies, unless such education involves the business of the employer or is required as part of a degree program. The phrase "sports, games, or hobbies" does not include education that instructs employees how to maintain and improve health so long as such education does not involve the use of athletic facilities or equipment and is not recreational in nature.

(4) *Education defined.* * * * Education paid for or provided under a qualified program may be furnished directly by the employer, either alone or in conjunction with other employers, or through a third party such as an educational institution. Education is not limited to courses that are job related or part of a degree program.

Par. 3. A new paragraph (i) is added to § 1.127-2 to read as follows:

§ 1.127-2 Qualified educational assistance program.

(i) *Substantiation.* An employee receiving payments under a qualified

educational assistance program must be prepared to provide substantiation to the employer such that it is reasonable to believe that payments or reimbursements made under the program constitute educational assistance within the meaning of paragraph (c) of this section.

Employment Taxes and Collection of Income Tax at Source Regulations (26 CFR Part 31)

Par. 4. Section 31.3401(a)(18)-1 is removed.

Par. 5. Section 31.3401(a)(19)-1, as set forth in paragraph 4 of the notice of proposed rulemaking, is redesignated as § 31.3401(a)(18)-1.

Par. 6. Section 31.3401(a)(20)-1 is redesignated as § 31.3401(a)(19)-1.

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805). (Approved by the Office of Management and Budget under control number 1545-0768).

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 29, 1983.

John E. Chapoton,

Assistant Secretary of the Treasury.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Paragraph 1. There are added in the appropriate place the following new § 1.127-1 and 1.127-2:

§ 1.127-1 Amounts received under a qualified educational assistance program.

(a) *Exclusion from gross income.* The gross income of an employee does not include—

(1) Amounts paid to, or on behalf of the employee under a qualified educational assistance program described in § 1.127-2, or

(2) The value of education provided to the employee under such a program.

(b) *Disallowance of excluded amounts as credit or deduction.* Any amount excluded from the gross income of an employee under paragraph (a) of this section shall not be allowed as a credit or deduction to such employee under any other provision of this part.

(c) *Amounts received under a nonqualified program.* Any amount received under an educational assistance program that is not a "qualified program" described in § 1.127-2 will not be excluded from gross income under paragraph (a) of this section. All or part of the amounts received under such a nonqualified program may, however, be excluded

under section 117 or deducted under section 162 or section 212 (as the case may be), if the requirements of such section are satisfied.

(d) *Definitions.* For rules relating to the meaning of the terms "employee" and "employer", see paragraph (h) of § 1.127-2.

(e) *Effective date.* This section is effective for taxable years of the employee beginning after December 31, 1978, and before January 1, 1984.

§ 1.127-2 Qualified educational assistance program.

(a) *In general.* A qualified educational assistance program is a plan established and maintained by an employer under which the employer provides educational assistance to employees. To be a qualified program, the requirements described in paragraphs (b) through (g) of this section must be satisfied. It is not required that a program be funded or that the employer apply to the Internal Revenue Service for a determination that the plan is a qualified program. However, under § 601.201 (relating to rulings and determination letters), an employer may request that the Service determine whether a plan is a qualified program.

(b) *Separate written plan.* The program must be a separate written plan of the employer. This requirement means that the terms of the program must be set forth in a separate document or documents providing only educational assistance within the meaning of paragraph (c) of this section. The requirement for a separate plan does not, however, preclude an educational assistance program from being part of a more comprehensive employer plan that provides a choice of nontaxable benefits to employees.

(c) *Educational assistance.*—(1) *In general.* The benefits provided under the program must consist solely of educational assistance. The term "educational assistance" means—

(i) The employer's payment of expenses incurred by or on behalf of an employee for education, or

(ii) The employer's provision of education to an employee.

(2) *Alternative benefits.* Benefits will not be considered to consist solely of educational assistance if the program, in form or in actual operation, provides employees with a choice between educational assistance and other remuneration includible in the employee's gross income.

(3) *Certain benefits not considered educational assistance.* The term "educational assistance" does not

include the employer's payment for, or provision of—

(i) Tools or supplies (other than textbooks) that the employee may retain after completing a course of instruction,

(ii) Meals, lodging, or transportation, or

(iii) Education involving sports, games, or hobbies, unless such education involves the business of the employer or is required as part of a degree program. The phrase "sports, games, or hobbies" does not include education that instructs employees how to maintain and improve health so long as such education does not involve the use of athletic facilities or equipment and is not recreational in nature.

(4) *Education defined.* As used in section 127, § 1.127-1, and this section, the term "education" includes any form of instruction or training that improves or develops the capabilities of an individual. Education paid for or provided under a qualified program may be furnished directly by the employer, either alone or in conjunction with other employers, or through a third party such as an educational institution. Education is not limited to courses that are job related or part of a degree program.

(d) *Exclusive benefit.* The program may benefit only the employees of the employer, including, at the employer's option, individuals who are employees within the meaning of paragraph (h)(1) of this section. A program that provides benefits to spouses or dependents of employees is not a qualified program within the meaning of this section.

(e) *Prohibited discrimination—(1) Eligibility for benefits.* The program must benefit the employer's employees generally. Among those benefited may be employees who are officers, shareholders, self-employed or highly compensated. A program is not for the benefit of employees generally, however, if the program discriminates in favor of employees described in the preceding sentence (or in favor of their spouses and dependents who are themselves employees) in requirements relating to eligibility for benefits. Thus, although a program need not provide benefits for all employees, it must benefit those employees who qualify under a classification of employees that does not discriminate in favor of the employees with respect to whom discrimination is prohibited. The classification of employees to be considered benefited will consist of that group of employees who are actually eligible for educational assistance under the program, taking into account the eligibility requirements set forth in the written plan, the eligibility requirements reflected in the types of educational

assistance available under the program, and any other conditions that may affect the availability of benefits under the program. Thus, for example, if an employer's plan provides that all employees are eligible for educational assistance, yet limits that assistance to courses of study leading to post-graduate degrees in fields relating to the employer's business, then only those employees able to pursue such a course of study are considered actually eligible for educational assistance under the program. Whether any classification of employees discriminates in favor of employees with respect to whom discrimination is prohibited will generally be determined by applying the same standards as are applied under section 410(b)(1)(B) (relating to qualified pension, profit-sharing and stock bonus plans), without regard to section 401(a)(5). For purposes of making this determination, there shall be excluded from consideration employees not covered by the program who are included in a unit of employees covered by an agreement which the Secretary of Labor finds to be a collective bargaining agreement between employee representatives and one or more employers, if the Internal Revenue Service finds that educational assistance benefits were the subject of good faith bargaining between the employee representatives and the employer or employers. For purposes of determining whether such bargaining occurred, it is not material that the employees are not covered by another educational assistance program or that the employer's present program was not considered in the bargaining.

(2) *Factors not considered in determining the existence of prohibited discrimination.* A program shall not be considered discriminatory under this paragraph (e) merely because—

(i) Different types of educational assistance available under the program are utilized to a greater degree by employees with respect to whom discrimination is prohibited than by other employees, or

(ii) With respect to a course of study for which benefits are otherwise available, successful completion of the course, attaining a particular course grade, or satisfying a reasonable condition subsequent (such as remaining employed for one year after completing the course) are required or considered in determining the availability of benefits.

(f) *Benefit limitation—(1) In general.* Under section 127(b)(3), a program is a qualified program for a program year only if no more than 5% of the amounts paid or incurred by the employer for educational assistance benefits during

the year are provided to the limitation class described in subparagraph (2). For purposes of this paragraph (f), the program year must be specified in the written plan as either the calendar year or the taxable year of the employer.

(2) *Limitation class.* The limitation class consists of—

(i) *Shareholders.* Individuals who, on any day of the program year, own more than 5% of the total number of shares of outstanding stock of the employer, or

(ii) *Owners.* In the case of an employer's trade or business which is not incorporated, individuals who, on any day of the program year, own more than 5% of the capital or profits interest in the employer, and

(iii) *Spouses or dependents.* Individuals who are spouses or dependents of shareholders or owners described in subdivision (i) or (ii). For purposes of determining stock ownership, the attribution rules described in paragraph (h)(4) of this section apply. The regulations prescribed under section 414(c) are applicable in determining an individual's interest in the capital or profits of an unincorporated trade or business.

(g) *Notification of employees.* A program is not a qualified program unless employees eligible to participate in the program are given reasonable notice of the terms and availability of the program.

(h) *Definitions.* For purposes of this section and § 1.127-1—

(1) *Employee.* The term "employee" includes—

(i) A retired disabled or laid-off employee,

(ii) A present employee who is on leave, as, for example, in the Armed Forces of the United States, or

(iii) An individual who is self-employed within the meaning of section 401(c)(1).

(2) *Employer.* An individual who owns the entire interest in an unincorporated trade or business shall be treated as his or her own employer. A partnership is treated as the employer of each partner who is an employee within the meaning of section 401(c)(1).

(3) *Officer.* An officer is an individual who is an officer within the meaning of regulations prescribed under section 414(c).

(4) *Shareholder.* The term "shareholder" includes an individual who is a shareholder as determined by the attribution rules under section 1563(d) and (e), without regard to section 1563(e)(3)(C).

(5) *Highly compensated.* The term "highly compensated" has the same

meaning as it does for purposes of section 410(b)(1)(B).

(i) **Substantiation.** An employee receiving payments under a qualified educational assistance program must be prepared to provide substantiation to the employer such that it is reasonable to believe that payments or reimbursements made under the program constitute educational assistance within the meaning of paragraph (c) of this section.

(Approved by the Office of Management and Budget under control number 1545-0783.)

**PART 31—EMPLOYMENT TAXES:
APPLICABLE ON AND AFTER
JANUARY 1, 1955**

Par. 2. There is added in the appropriate place the following new § 31.3121(a)(18)-1:

§ 31.3121(a)(18)-1 Payments or benefits under a qualified educational assistance program.

The term "wages" does not include any payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning after December 31, 1978, if at the time of such payment or furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

Par. 3. There is added in the appropriate place the following new § 31.3306(b)(13)-1:

§ 31.3306(b)(13)-1 Payments or benefits under a qualified educational assistance program.

The term "wages" does not include any payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning after December 31, 1978, if at the time of such payment or furnishing it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

Par. 4. § 31.3401(a)(18)-1 is revised to read as follows:

§ 31.3401(a)(18)-1 Payments or benefits under a qualified educational assistance program.

A payment made, or benefit furnished, to or for the benefit of an employee in a taxable year beginning after December 31, 1978, does not constitute wages and hence is not subject to withholding if, at the time of such payment or furnishing, it is reasonable to believe that the employee will be able to exclude such payment or benefit from income under section 127.

Par. 5 § 31.3401(a)(20)-1 is redesignated § 31.3401(a)(19)-1.

[FR Doc. 83-18172 Filed 7-5-83; 8:45 am]
BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 289

Availability to the Public of DoD Directives, DoD Instructions, Changes Thereto, and Certain DoD Publications

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: This rule updates DoD procedures for obtaining by the public an other federal agencies, DoD Directives, DoD Instructions, Changes to DoD Directives and Instructions (hereafter, DoD issuances), the DoD Directives System Quarterly Index (DoD 5025.1-1), and certain DoD publications and changes thereto. It covers several revisions and an increase in subscription costs.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT:

Mrs. Margaret S. Healy, Chief, Directives Division, C&D Directorate, Washington Headquarters Services, Washington, D.C. 20301, telephone 202-697-4111.

SUPPLEMENTARY INFORMATION: On August 16, 1967, there was published in the Federal Register (32 FR 11780) a final rule adoption, effective September 1, 1967, that announced a subscription service for DoD issuances. Five subsequent amendments were published on December 27, 1968 (33 FR 19815), November 25, 1970 (35 FR 18047), September 21, 1977 (42 FR 47555), September 26, 1977 (42 FR 48885), and April 19, 1978 (43 FR 16478). This revision amends further the mailing services rendered by the Navy Publications and Printing Service by including certain DoD publications and ordering complete sets of DoD issuances.

List of Subjects in 32 CFR Part 289

DoD Directives System issuances, Availability to the public, Freedom of Information.

Accordingly, Part 289 of title 32 is revised, reading as follows:

PART 289—AVAILABILITY TO THE PUBLIC OF DoD DIRECTIVES, DoD INSTRUCTIONS, CHANGES THERETO, AND CERTAIN DoD PUBLICATIONS

Sec.

289.1 Subscription service.

289.2 Ordering individual copies.
289.3 Ordering complete sets of DoD issuances.

Authority: 10 U.S.C. 133, 31 U.S.C. 483a.

§ 289.1 Subscription service.

(a) DoD issuances published in the Number Index portion of DoD 5025.1-1 (except those marked as not releasable to the public) are available on a subscription basis, with automatic mailing upon payment of fees (see § 289.1(b)).

(1) The DoD issuances are published under the following subject groups:

1000-Manpower, Reserve Affairs, and Personnel
2000-International Programs
3000-Planning, Research and Development, Intelligence, and Computer Technology
4000-Logistics, Acquisition, and Resources Management
5000-General Administration
6000-Safety, Health, and Medical
7000-Comptrollership
DOD 5025.1-1-DoD Directives System Quarterly Index

(2) The subscription will entitle the subscriber to receive automatically, for one year, one copy of each new and revised issuance published under the subject groups ordered.

(3) Subscriptions will be accepted for one or more subject groups.

(b) An annual service charge of \$13 for the DoD issuances published under each subject group will apply without regard to the number of documents which may be issued within the group. This fee is to defray administrative expense for screening and distributing DoD issuances.

(1) Orders may be forwarded to the Director, Navy Publications and Printing Service, Eastern Division, Building 4, Section D, 700 Robbins Avenue, Philadelphia, PA 19111, in any form, accompanied by a certified check or money order payable to Navy Publications and Printing Services.

(2) Subscription service pertains only to the release of new and revised DoD issuances and the DoD 5025.1-1.

§ 289.2 Ordering individual copies.

(a) In addition to the subscription service on new and revised DoD issuances outlined in § 289.1, individual copies of any other DoD issuance and those DoD publications that are identified in the DoD 5025.1-1 as being stocked at the Naval Publications and Forms Center (NPFC) and listed in the number index portion of 5025.1-1 (except those marked not releasable to the public) will continue to be made available. While DoD issuances will continue to be mailed without charge, a

fee may be charged for some DoD publications.

(b) NPFC will accept requests by TELEX, telegraph, or letter. For urgent requests, TELEX and Western Union messages are recommended. Use TELEX number 834295 or Western Union Number 710-670-1685. The commercial telephone number is (215) 697-3321 or 2667. Include personal or company name, street address or P.O. box, city, state, country (if applicable), and zip code when submitting requests by telephone, TELEX, or Western Union or when writing. The number of line items requested must be limited to five or less.

(c) This service is provided to the public and federal agencies other than the Department of Defense. Submit written requests to: Commanding Officer (Code 301, Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120.

§ 289.3 Ordering complete sets of DoD issuances.

You may obtain a complete set of DoD issuances by forwarding the order together with a check or postal money order in the amount of \$70 payable to Navy Publications and Printing Service to:

Director (Code NPA), Navy Publications and Printing Service Office, 700 Robbins Avenue, Philadelphia, PA 19111.

This charge represents the cost of processing, consolidating, and shipping. This charge does not include printing costs. Items not in stock will not be backordered.

June 29, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer,
Department of Defense.

[FR Doc. 83-18053 Filed 7-5-83; 8:45 am]

BILLING CODE 3810-01-M

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) to reflect that the Secretary of the Navy: (1) Has determined that USS *Dewert* (FFG 45) is a vessel of the Navy which, due to its

special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special function as a naval frigate; and (2) has found that USS *Dewert* (FFG 45) is a member of the FFG 7 class of ships, certain exemptions for which have been previously granted under 72 COLREGS Rule 38. The intended effect of this rule is to warn mariners in waters where the 72 COLREGS apply.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Captain Richard J. McCarthy, JAGC, USN, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in Executive Order 11964 and 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS *Dewert* (FFG 45) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of its forward masthead light; Annex I, Section 2(a)(i), regarding the height above the hull of its forward masthead light; and Annex I, Section 3(b) regarding the horizontal relationship of its sidelights to its forward masthead light, without interfering with its special function as a Navy frigate. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided to the effect that USS *Dewert* (FFG 45) is a member of the FFG 7 class of ships for which certain exemptions, pursuant to 72 COLREGS Rule 38, have been previously authorized by the Secretary of the Navy. The exemptions pertaining to that class, found in the existing tables of § 706.3, are equally applicable to this ship. Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary and contrary to public interest since it is based on technical findings that the placement of lights on this ship in a manner different from that prescribed herein will adversely affect the ship's ability to perform its military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. Table One of § 706.2 is amended as follows to indicate the certifications issued by the Secretary of Navy:

Vessel	Number	Distance in meters of forward masthead light below minimum required height, Section 2(a)(i) Annex I
USS <i>Dewert</i>	FFG 45	1.6

2. Table Four of § 706.2 is amended by adding to the existing paragraph 8 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

.....
USS *Dewert* (FFG 45).

3. Table Four of § 706.2 is amended by adding to the existing paragraph 9 the following vessel for which navigational light certifications are herewith issued by the Secretary of the Navy:

Vessel	Number	Distance of sidelights forward of masthead lights in meters
USS <i>Dewert</i>	FFG 45	2.75

(E.O. 11964; 33 U.S.C. 1605)

Dated: June 22, 1983.

Approved:

James F. Goodrich,

Acting Secretary of the Navy.

[FR Doc. 83-18054 Filed 7-5-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

Great Smoky Mountains National Park; Fishing Regulations

AGENCY: National Park Service, Interior.
ACTION: Final rule.

SUMMARY: On November 26, 1982, the National Park Service, Department of the Interior, published in the *Federal Register* (47 FR 53426) a proposed rule modifying fishing regulations for Great Smoky Mountains National Park, to reflect different creel limits, sizes, bait restrictions and season length. The proposal was made available for public

review and comment for a period of thirty (30) days following publication in the *Federal Register*, and ending on December 27, 1982. Comments received consideration during preparation of the final rule. As a result of this rulemaking process the final regulation is published to provide for the preservation and enjoyment of the park in a way that simplifies and liberalizes park fishing regulations consistent with current National Park Service policy.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT:

John E. Cook, Superintendent, Great Smoky Mountains National Park, Gatlinburg, Tennessee 37738; telephone (615) 436-5615.

SUPPLEMENTARY INFORMATION:

Background

The National Park Service has a dual mission of protecting species in a natural ecosystem and providing recreational fishing opportunities to the public when such an activity will leave park resources "unimpaired for the enjoyment of future generations." 16 U.S.C. 1.

Great Smoky Mountains National Park has permitted recreational fishing since its establishment in the mid-1930's. Rainbow trout, an exotic species, was introduced into the Southern Appalachians region at the turn of the century in conjunction with logging operations. The rainbow trout has successfully precluded the recolonization of lost habitat by the native brook trout. The German brown trout, a second exotic species, was introduced into the park in 1947, and both species were stocked in park waters until 1975. These two non-native species constitute 95 percent of the recreational creel base, with the native smallmouth bass and the redeye (or rockbass) making up the remaining five percent. Fishing for the native brook trout was discontinued in the mid-1970's to protect the dwindling populations still remaining in the higher elevations.

The park has evolved through a number of fishing regulation changes as the need arose and the circumstances dictated. The current regulation changes are based on recommendations by the U.S. Fish and Wildlife Service as a result of a two-year survey of low elevation streams, the discontinuance of a management program, and the need to streamline and reduce the complexity of current regulations to eliminate confusion and inadvertent violations by the public.

Past regulations divided the fishery resource basically into three categories. These divisions were general, sports,

and children's fishing waters. The three types of management varied in permitted creel limits, creel size, season length, and bait use. This variety led to visitor confusion and complaints on the complexity of the regulations and complicated law enforcement efforts.

Areas of four streams were designated for children's fishing when park waters were stocked with fish. An interpretive program dealing with these activities was scheduled and conducted. Streams were stocked twice monthly to support the effort. Stocking of all park streams was terminated by 1975, and the children's interpretive programs were cancelled. However, current regulations still reflect this outdated activity.

A two-year fish survey conducted by the U.S. Fish and Wildlife Service on low elevation streams of the park suggested that current fishing regulations could be liberalized without seriously impacting the fishery resource. Sufficient natural reproduction and recruitment to sustain and perpetuate the resource will continue.

The proposed regulations were drafted and submitted to 28 professional fishery biologists representing both academic and management personnel. The draft rules were also submitted to local chapters of Trout Unlimited for comment. The input received was used to modify the proposed and final rule.

The intended action of this regulation is to:

a. Delete reference regulations to children's fishing and allow adults as well as children to utilize the previously closed sections. The children's fishing area concept is no longer supported biologically nor programwise in park policy.

b. Simplify park fishing regulations by combining all three categories under one set of regulations dealing with a uniform creel size, creel limit, bait use and season length to lessen visitor confusion and to simplify compliance.

c. Liberalize regulations and allow more utilization of the existing resources base without adversely affecting it. Past regulations were unnecessarily restrictive in light of new biological data.

A proposed regulation concerning these changes was published in the *Federal Register*, vol. 47, No. 228, Friday, November 26, 1982.

There are no significant differences between the proposed and final rule.

Public Participation

The policy of the National Park Service is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. During the 30-day comment period

which closed December 27, 1982, a total of 27 letters was received. Thirteen responses were from individuals, and twelve were in a multisignature letter format similar to a petition. Two organizations responded in the allotted time. The total individual responses, including each signatory of each multisigned letter, numbered 617. Of the 617, 614, or 99.5 percent, were favorable to the changes and 3, or .5 percent, were against. The two organizations responding were divided, with one for and one opposed.

There were 406 individual responses (counting each signatory or multisigned letters) tallied after the 30-day comment period had elapsed. One organization was represented and it favored the proposal. Of the late respondents, 393, or 97 percent, were favorable to the changes and 13, or 3 percent, opposed. Combining all comments received regardless of time constraints, 1,007, or 98.4 percent, were favorable and 16, or 1.6 percent, were opposed. Organizations were two for and one against the changes.

In addition, there were a number of comments and suggestions of considerable merit. The most frequent suggestion voiced was a request to increase the creel limit from the proposed five fish per day to seven. This same question was proposed to 28 professional fishery biologists, and 55 percent of those responding felt that seven fish, coupled with the proposed smaller size limit and year-round season, might overtax the resource. Although public support was favorable to a creel of seven fish, biologically it is more prudent to adhere to the professional opinion of a five-fish limit. A cautionary approach will be taken.

There was some support for a slotted creel limit regulation. The slotted creel allows the harvesting of fish in the "slot" while protecting smaller fish below the limit and larger fish above the limit. Variations of this suggestion would allow four fish of a slot size to be creel and one fish of a larger size. This approach has been used in the western United States, but is relatively untested in eastern fisheries. The state of North Carolina has expressed interest in evaluating these concepts for possible incorporation into state regulations in the future. Due to limited park resources, it is determined to rely on neighboring state experimental expertise, experience, and evaluation of this management technique before considering it for park use.

There were a number of individual respondents who advocated a creel size lower than seven inches. Seven others

suggested no size limit, an eight-inch limit, and/or a 10-inch size. The proposal of seven inches was advanced because biologically it will permit one breeding season to occur before the fish reaches the harvest size.

Another suggestion recommended creeling the first five fish caught regardless of size, thereby curtailing fish kill losses from excessive handling. Studies have concluded that in practice, fishermen are reluctant to keep smaller fish and continue to catch and trade fish in their creel, thereby negating the concept.

Several respondents and one organization recommended the adoption of specific regulations tailored to the characteristics of particular streams or a set of streams, pointing out that several streams represent a better fishery than others. However, specialized regulations for selected streams negates the general objective of simplicity of regulations and complicates law enforcement compliance efforts. The suggestion may merit further study because water and habitat quality do vary on park streams. The option of designating experimental waters has been retained in the regulation changes and will provide a vehicle by which this suggestion can be further investigated in the future.

There were several common interests in many of the comments received. The relief from overly complicated regulations was greatly appreciated; there was a perceived need to increase education and law enforcement efforts with the institution of the new changes; the prohibition against brook trout fishing was reaffirmed, as was the restriction against use of any bait other than lures and flies.

A monitoring regime has been established to measure and evaluate the effects of these regulations. This ensures a data base from which sound management decisions and regulation adjustments can be made as the need is identified.

Drafting Information

The author of this regulation is Stuart E. Coleman, Great Smoky Mountains National Park.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

Compliance with Other Laws

Pursuant to the National Environmental Policy Act (42 U.S.C. 4332), the Service has prepared an environmental assessment on this rule,

which is available at the address noted above. The determination was made that the action will not result in any significant environmental impact.

The Department of Interior has determined that this document is not a "major rule" under Executive Order 12291 and certifies that this document would not have a "significant economic effect on a substantial number of small entities" under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). With the liberalization of fishing regulations a small increase in use can be expected. The resulting increase may have positive effects on surrounding stores and establishments selling supplies, licenses and services sought by anglers. However, the net benefit is estimated to be very minor in overall effect.

Authority

Sec. 3, Act of August 25, 1916 (39 Stat. 535 as amended; 16 U.S.C. 3).

List of Subject in 36 CFR Part 7

National parks.

PART 7—[AMENDED]

In consideration of the foregoing, § 7.14 of Title 36, Code of Federal Regulations, is amended to include revision of paragraphs (a) (4), (6), (7) and (8); removal of (a) (9) and (10); and redesignation of (a) (11) as (a) (9) (reprinted for the convenience of the reader) as follows:

§ 7.14 Great Smoky Mountains National Park.

(a) * * *

(4) *Season.* Open all year for rainbow and brown trout, smallmouth bass, and redeye (rockbass). All other fish are protected and may not be taken by any means.

* * *

(6) *Fish and equipment and bait.* Fishing is permitted only by use of one handheld rod and line.

(i) Only artificial flies or lures having one single hook may be used.

(ii) The use or possession of any form of fish bait other than artificial flies or lures on any park stream while in possession of fishing tackle is prohibited.

(7) *Size limits.* All trout or bass caught less than the legal length shall be immediately returned unharmed to the water from which taken.

(i) No trout or bass less than 7" in length may be retained.

(ii) No size limit on redeye (rockbass).

(8) *Possession limit.* (i) Possession limit shall mean and include the number of trout, bass or redeye (rockbass)

caught in park waters which may be in possession, regardless of whether they are fresh, stored in ice chests, or otherwise preserved. A person must stop and desist from fishing for the remainder of the day upon attaining the possession limit.

(ii) Five, fish, trout, bass, or redeye, or a combination thereof, is the maximum number which a person may retain in one day or be in possession of at any one time.

(9) The superintendent may designate certain waters as Experimental Fish Management Waters and issue temporary and special rules regulating fishing use by posting signs and issuance of official public notification. All persons shall observe and abide by such officially posted rules pertaining to these specially designated waters.

Dated: June 24, 1983.

J. Craig Potter,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-18087 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-70-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-5-FRL 2343-1]

Approval and Promulgation of the Implementation Plans; Michigan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces final rulemaking on revisions to the Michigan State Implementation Plan (SIP). These revisions approve Consent Orders for the following General Motors (GM) Corporation facilities: GM Buick Motor Division (SIP No. 08-1982); GM Fisher Body Division, Flint No. 1 (SIP No. 09-1982); and GM Chevrolet Truck Assembly (SIP No. 10-1982). These revisions extend the compliance date for surface coating operations at the facilities until December 31, 1987.

EFFECTIVE DATE: This action is effective September 6, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Copies of these SIP revisions is available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408

U.S. Environmental Protection Agency,
Air Programs Branch, Region V, 230
South Dearborn Street, Chicago,
Illinois 60604

Michigan Department of Natural
Resources, Air Quality Division, State
Secondary Government Complex,
General Office Building, 7150 Harris
Drive, Lansing, Michigan 48910.

Written comments should be sent to:
Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs Branch,
Region V, U.S. Environmental Protection
Agency, 230 South Dearborn Street,
Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT:
Toni Lesser Regulatory Analysis
Section, Air Programs Branch, Region V,
U.S. Environmental Protection Agency,
230 South Dearborn Street, Chicago,
Illinois 60604, (312) 886-6037.

SUPPLEMENTARY INFORMATION: On
September 8, 1982, the Michigan
Department of Natural Resources
(MDNR) submitted Consent Orders for
the GM Corporation's Buick Motor
Division; Fisher Body Division, Flint No.
1; and Chevrolet Truck Assembly as
revisions to the Michigan SIP. The GM
Corporation operates these three
Automotive/Light Truck Assembly
plants in the Flint, Michigan, area of
Genesee County. The Genesee County
area, including the City of Flint, is
designated nonattainment for ozone.

Michigan's Rule 336.1603 requires
individual sources to submit compliance
schedules containing specified
increments of progress, for achieving
compliance with volatile organic
compound (VOC) emission limits in Part
6 of the Commission's Rules. On May 6,
1980, (45 FR 29790) EPA conditionally
approved R336.1603. The condition
required the State to submit the
individual compliance schedules to EPA
as revisions to the SIP in order that the
SIP conform to the requirements of 40
CFR 51.1(Q) and 51.15. Michigan's Rule
336.1610 contains interim and final VOC
emission limits and dates for achieving
those limits for various automobile plant
coating operations.

Consent Orders No. 08-1982, 09-1982,
and 10-1982 provide detailed
compliance schedules as required by
Michigan's R336.1603 for achieving the
emission limits in 336.1610. These
consent orders also would revise Rule
336.1610 by extending a number of the
interim and final compliance dates for
surface coating operations at the
facilities. Final compliance dates are
extended to no later than December 31,
1987. On November 29, 1982, MDNR
submitted additional information
describing the effect of these extensions
on the attainment demonstration for

national ambient air quality standards
(NAAQS) in the Flint area.

On October 20, 1981, EPA published a
Policy Statement (46 FR 51386) to reduce
the regulatory burden on the automotive
industry. The policy established criteria
whereby States would defer certain
compliance dates for surface coating
operations at automotive and light truck
assembly plants. On March 10, 1983,
MDNR submitted additional information
related to the status of these Consent
Orders under the policy statement
criteria. Michigan's SIP revision
complies with this Policy Statement.

Michigan's 1979 Ozone SIP projected
the attainment of the ozone NAAQS to
occur by December 31, 1982. An analysis
of Michigan's data supporting this 1979
SIP indicate areawide emissions would
be 14,000 tons per year below that
required to produce attainment of the
standard by 1982. The additional data
supplied by Michigan on November 29,
1982, demonstrate that the compliance
date extensions contained in Consent
Orders No. 08-1982, 09-1982, and 10-1982
will allow only 4,180 tons of additional
VOC emissions in 1982, and, therefore,
these extensions do not interfere with
the demonstration of attainment in the
Flint area. Furthermore, areawide
emissions are projected under the SIP to
continue a downward trend through
1987 insuring maintenance of the ozone
NAAQS beyond 1982. Michigan's
Consent Orders No. 08-1982, 09-1982,
and 10-1982 for the GM facilities contain
compliance schedules for prime
operations; primer-surfacer operations;
topcoat operations, and final repair
operations. It should be noted that
Michigan has changed the units with
which they express their emission limits.
The units have been changed from
pounds per gallon of coating to pounds
per gallon of applied coating solids.

Consent Order No. 08-1982 (Buick
Motor Division) provides for the
following schedule and emission
limitations:

Prime Operations: Until December 31,
1987, VOC emissions shall not exceed
36.8 pounds per gallon of applied coating
solids. After December 31, 1987, VOC
emissions shall not exceed 1.43 pounds
per gallon of applied coating solids.

Primer—Surfacer Operations: Until
December 31, 1987, VOC emissions shall
not be conducted. After December 31,
1987, VOC emissions shall not exceed
14.9 pounds per gallon of applied coating
solids.

Topcoat Operations: Until December
31, 1984, VOC emissions shall not
exceed 48.1 pounds per gallon of applied
coating solids. After December 31, 1987,
VOC emissions shall not exceed 14.9

pounds per gallon of applied coating
solids.

Final Repair Operations: Until
December 31, 1987, VOC emissions shall
not exceed 135 pounds per gallon of
applied coating solids. After December
31, 1987, VOC emissions shall not
exceed 34.3 pounds per gallon of applied
coating solids.

Consent Order No. 09-1982 (Fisher
Body Division, Flint No. 1) provides for
the following schedule and emission
limitations:

Prime Operations: Until December 31,
1983, VOC emissions shall not exceed
186 pounds per gallon of applied coating
solids. After December 31, 1987, VOC
emissions shall not exceed 1.43 pounds
per gallon of applied coating solids.

Primer—Surfacer Operations: Until
December 31, 1983, VOC emissions shall
not exceed 53.8 pounds per gallon of
applied coating solids. After December
31, 1987, VOC emissions shall not
exceed 14.9 pounds per gallon of applied
coating solids.

Topcoat Operations: Until December
31, 1984, VOC emissions shall not
exceed 48.1 pounds per gallon of applied
coating solids. After December 31, 1987,
VOC emissions shall not exceed 14.9
pounds per gallon of applied coating
solids.

Final Repair Operations: Until
December 31, 1987, VOC emissions shall
not exceed 135 pounds per gallon of
applied coating solids. After December
31, 1987, VOC from repair coating
operations shall not exceed 34.3 pounds
per gallon of applied coating solids.

Consent Order No. 10-1982 (Chevrolet
Flint Truck Assembly) provides for the
following schedule and emission
limitations:

Prime Operations: After December 31,
1981, VOC emissions shall not exceed
1.43 pounds per gallon of applied coating
solids. (Lines No. 1 and 2)

Primer—Surfacer Operations: Until
December 31, 1987, VOC emissions shall
not exceed 48.1 pounds per gallon of
applied coating solids. (Line No. 1) Until
December 31, 1983, VOC emissions shall
not exceed 48.1 pounds per gallon of
applied coating solids. (Line No. 2) After
December 31, 1987, VOC emissions shall
not exceed 14.9 pounds per gallon of
applied coating solids. (Line No. 1) After
December 31, 1983, VOC emissions shall
not exceed 14.9 pounds per gallon of
applied coating solids. (Line No. 2).

Topcoat Operations: Until December
31, 1983, VOC emissions shall not
exceed 46.4 pounds per gallon of applied
coating solids. (Lines No. 1 and 2) After
December 31, 1987, VOC emissions shall
not exceed 14.9 pounds per gallon of
applied coating solids. (Line No. 1) After

December 31, 1983, VOC emissions shall not exceed 14.9 pounds per gallon of applied coating solids. (Line No. 2)

Final Repair Operations: Until December 31, 1983, VOC emissions shall not exceed 46.4 pounds per gallon of applied coating solids. (Lines No. 1 and 2) After December 31, 1983, VOC emissions shall not exceed 34.3 pounds per gallon of applied coating solids (Lines No. 1 and 2).

In summary, EPA has reviewed Consent Orders No. 08-1982, 09-1982 and 10-1982 for the GM facilities described above, and finds the December 31, 1987, date extension to be consistent with the October 20, 1981, policy statement. EPA believes these extensions will ultimately result in more cost effective compliance and can be implemented without jeopardizing the attainment and maintenance of the ozone NAAQS by December 31, 1982. EPA also believes these consent orders assure continued compliance with the requirements of Sections 110 and 172 of the Clean Air Act. For these reasons, EPA approves these Consent Orders as revisions to the Michigan VOC SIP.

Because EPA considers today's action noncontroversial and routine, we are approving it today without prior proposal. The action will become effective on (60 days from the date of this notice). However, if we received notice by (30 days from the date of this notice) that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

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

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 Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

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

This notice is issued under authority of (Sec. 110 of the Clean Air Act, as amended (42 U.S.C. 7410).)

Dated: June 28, 1983.

William D. Ruckelshaus,
Administrator.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart X—Michigan

1. Section 52.1170 is amended by adding paragraphs (c) (66), (67), and (68) as follows:

§ 52.1170 Identification of plan.

(c) * * *

(66) On September 8, 1982, the State of Michigan submitted as a State Implementation Plan (SIP) revision consent order No. 08-1982, between the General Motors, Buick Motor Division and the Michigan Air Pollution Control Commission. The Consent Order establishes a Volatile Organic Compound (VOC) emissions compliance schedule as required under Michigan's Rule 336.1603 and 336.1610, and extends the final compliance date for surface coating operations until December 31, 1987. On November 29, 1982, and March 10, 1983, the State submitted additional information.

(67) On September 8, 1982, the State of Michigan submitted Consent Order No. 09-1982, between the General Motors, Fisher Body Division and the Michigan Air Pollution Control Commission as a State Implementation Plan (SIP) revision. The Consent Order establishes a Volatile Organic Compound (VOC) emission compliance schedule as required under Michigan's Rule 336.1603 and 336.1610, and extends the compliance date for surface coating operations until December 31, 1987. On November 29, 1982, and March 10, 1983, the State submitted additional information.

(68) On September 8, 1982, the State of Michigan submitted as a State Implementation Plan (SIP) revision Consent Order No. 10-1982, between Chevrolet Truck Assembly and the Michigan Air Pollution Control Commission. The Consent Order establishes a Volatile Organic Compound (VOC) emission compliance schedule as required under Michigan's Rule 336.1603 and 336.1610, and extends the compliance date for surface coating operations until December 31, 1987. On November 29, 1982, and March 10, 1983,

the State submitted additional information.

[FR Doc. 83-18098 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-5-FRL 2364-6]

Approval and Promulgation of Implementation Plans; Illinois

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: EPA announces direct final rulemaking on the Illinois State Implementation Plan (SIP) for Carbon Monoxide (CO). This rulemaking incorporates an October 27, 1982 Illinois Pollution Control Board (IPCB) Opinion and Order No. 82-88 into the SIP. This Order grants to B. F. Goodrich a variance from IPCB Rule 206(a) which governs CO emissions from fuel combustion sources. This variance is applicable to a Fluidized Bed Combustion (FBC) boiler proposed for B. F. Goodrich's Henry County, Illinois, facility.

This action will be effective September 6, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

EFFECTIVE DATE: This action is effective September 6, 1983.

ADDRESSES: Copies of this revision to the Illinois SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: (It is recommended that you telephone Randolph O. Cano, at (312) 886-6035, before visiting the Region V Office.)

Environmental Protection Agency,
Region V, Air Programs Branch, 230
South Dearborn Street, Chicago,
Illinois 60604

Environmental Protection Agency,
Public Information Reference Unit, 401
M Street SW., Washington, D.C. 20460
Illinois Environmental Protection
Agency, Division of Air Pollution
Control, 2200 Churchill Road,
Springfield, Illinois 62706.

Written comments should be sent to:
Gary Gulezian, Chief, Regulatory
Analysis Section, Air Programs Branch
(5AP-26), Environmental Protection

Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano, Air Programs Branch (5AP-26), Environmental Protection Agency, Region V, Chicago, Illinois 60604, (312) 886-6035.

SUPPLEMENTARY INFORMATION: On January 4, 1983, Illinois EPA submitted a variance from Illinois Rule 206(a) for a new Fluidized Bed Combustion (FBC) boiler at B. F. Goodrich's plant in Henry County, Illinois, as a proposed revision to the Illinois SIP. Rule 206(a) limits CO emissions from fuel combustion sources with actual heat input greater than 10 MMBTU/hr. to no more than 200 ppm (corrected to 50% excess air). The proposed variance allows CO emissions from the FBC boiler of up to 400 ppm until October 1, 1987, or until the facility is no longer subject to Rule 206(a), whichever comes first. Because the FBC boiler is a major new source in an attainment area, it must meet the best available control technology (BACT) requirements of the PSD regulations. The PSD program in Illinois was delegated to the Illinois Environmental Protection Agency (IEPA) on April 7, 1980. It is, therefore, IEPA's responsibility to make a BACT determination for this facility. In today's rulemaking, EPA's finding is limited to the determination that the CO national ambient air quality standard (NAAQS) will not be violated by this variance. In this notice, EPA makes no finding on the State's BACT determination.

In reaching today's finding, EPA utilized the State's air quality analysis completed as part of the requirements of the PSD regulations. The details of this analysis are contained in Attachment 3 of Illinois, submittal. This analysis, which relies on EPA reference modeling methodology, indicates that maximum 1-hour and 8-hour CO impacts from the proposed FBC will not exceed 83.4 and 23.6 $\mu\text{g}/\text{m}^3$, respectively. These CO ambient levels are well below the corresponding 40,000 and 10,000 $\mu\text{g}/\text{m}^3$ CO (NAAQS) and even the 2000 $\mu\text{g}/\text{m}^3$ and 500 $\mu\text{g}/\text{m}^3$ 'significance' levels. Consequently, it can be concluded that this B. F. Goodrich FBC boiler will not have a significant impact on CO air quality in Henry County and, therefore, will not interfere with attainment and maintenance of the CO NAAQS. Consequently, EPA is today approving PCB 82-88 as a revision to the Illinois SIP. This variance does not affect the PSD regulations requirement for BACT level control for CO from this FBC boiler.

Because EPA considers today's action noncontroversial and routine, we are

approving it today without prior proposal. The action will become effective on September 8, 1983. However, if we receive notice by August 5, 1983, that someone wishes to submit critical comments, then EPA will publish: (1) A notice that withdraws the action, and (2) a notice that begins a new rulemaking by proposing the action and establishing a comment period.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 48 FR 8709.)

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 September 6, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Note.—Incorporation by reference of the State Implementation Plan for the State of Illinois was approved by the Director of the Federal Register on July 1, 1982. (Secs. 110 and 172 of the Clean Air Act, as amended (42 U.S.C. 7410 and 7502))

Dated: June 28, 1983.

William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Illinois

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

1. Section 52.720 is amended by adding paragraph (c)(42) to read as follows:

§ 52.720 Identification of plan.

(c) . . .

(42) On January 4, 1983, the State submitted a revision to the Illinois State Implementation Plan in the form of an October 27, 1982, Illinois Pollution Control Board (IPCB) Opinion and Order (PCB 82-88). This Opinion and Order grants a variance from the requirements of Rule 203(a) of Chapter 2 of the Air Pollution Control Regulations to a

proposed fluidized bed combustion boiler at B.F. Goodrich's Henry County, Illinois facility. This variance continues until October 1, 1987, or until the facility is no longer subject to Rule 206(a), whichever comes first.

[FR Doc. 83-10096 Filed 7-5-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[AWO34aPA; A-3-FRL 2340-2]

Commonwealth of Pennsylvania; Revision of the Pennsylvania State Implementation Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This notice approves an alternative emission reduction plan (bubble) for the Bethlehem Steel Corporation plant in Bethlehem, Pennsylvania. The bubble allows increased particulate matter emissions from the sinter plant windboxes to be offset by reducing emissions from two other sinter plant emission sources, resulting in a net reduction in emissions. The Pennsylvania Department of Environmental Resources (PaDER) requested that EPA propose approval of this bubble on June 8, 1982. The final bubble was submitted on December 30, 1982.

EFFECTIVE DATE: July 6, 1983.

ADDRESSES: Copies of the SIP revision and the accompanying support documents are available for inspection during normal business hours at the following locations:

U.S. EPA, Air Programs & Energy Branch, 6th & Walnut Streets, Curtis Building, Philadelphia, PA 19106, Attn: David Arnold (3AW11)

Pennsylvania Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary L. Triplett

Copies of the State submittal are available for review at: The Office of the Federal Register, 1100 L St. NW., Room 8401, Washington, D.C. 20408.

FOR FURTHER INFORMATION CONTACT: Mr. Gregory D. Ham at the address listed above, or at (215) 597-2745.

SUPPLEMENTARY INFORMATION: The changes to the Pennsylvania State Implementation Plan (SIP) were originally submitted by Secretary Peter S. Duncan, PaDER, on June 8, 1982. A public hearing on this bubble was held on June 17, 1982 in Norristown.

Pennsylvania. DER and EPA processed this proposal concurrently. EPA proposed to approve this bubble on November 30, 1982 (47 FR 54051), and received one favorable comment during the comment period.

The bubble being approved today for the Bethlehem Steel Corporation plant in Bethlehem, Pa., allows the particulate matter emissions from two electrostatic precipitators (ESP's) controlling sinter plant windbox emissions to exceed the previously applicable regulations. The increase in emissions is offset by improving the control efficiency of two baghouses which control emissions from the sinter machine discharge and the cold sinter screen. The resulting net emissions are less than that allowed under previous regulations.

The previous regulations (§ 123.13(b) of the Pennsylvania's Air Resources Regulations) for the windbox allow emissions of 38 lbs./hour each. Limits for the baghouses were 12 lbs./hour for the cold sinter screen baghouse and 51 lbs./hour on the baghouse for the sinter machine discharge. Therefore, the total emissions were 139 lbs./hour. The limits being approved today (as § 128.20 of the Air Resources Regulations) are 60 lbs./hour for each ESP, 10 lbs./hour for the sinter machine discharge baghouse, and 6 lbs./hour from the cold sinter screen baghouse. In addition, concentration limits are set at 0.035 gr/dscf, 0.006 gr/dscf, and 0.020 gr/dscf respectively. The total emissions from the four sources will be 136 lbs./hr, resulting in a net decrease of 3 lbs./hr. The relevant emission sources are located in the same immediate vicinity, and no increases in emissions will occur at the sources with the lower effective plume heights. Therefore, in accordance with EPA's Emission Trading Policy of April 7, 1982 (47 FR 15076), no modeling was required.

EPA Action

EPA has reviewed this bubble according to all the requirements of the proposed Emissions Trading Policy of April 7, 1982 (47 FR 15076), and is today approving this bubble. One comment was received in support of this action. No other comments were received. EPA finds that good cause exists for making this action effective immediately so that the alternate emission control plan can proceed to achieve the reduction of particulate matter emissions expeditiously and in a less costly manner. In addition, 40 CFR 52.2020 (Identification of Plan) is amended to reflect the inclusion of this bubble plan in the State Implementation Plan for Pennsylvania.

Under 5 U.S.C. 605(b) the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. See 46 FR 8709 (January 27, 1981).

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 52

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

Authority: 42 U.S.C. 7401-7642.

Dated: June 28, 1983.

William D. Ruckelshaus,
Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Subpart NN—Pennsylvania

Title 40, Part 52, Subpart NN of the Code of Federal Regulations is amended as follows:

In § 52.2020, *Identification of Plan*, new paragraph (c)(52) is added to read:

§ 52.2020 Identification of plan.

(c) The plan revision listed below was submitted on the date specified. * * *

(52) Regulations and supporting documents implementing a TSP bubble plan for Bethlehem Steel Corporation's plant in Bethlehem, Pa., submitted by the Secretary of the Pennsylvania Department of Environmental Resources on December 30, 1982.

[FR Doc. 83-18099 Filed 7-5-83; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 52

[A-1; FRL 2372-2]

Approval and Promulgation of Implementation Plans; Rhode Island; 1982 Ozone Attainment Plan

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: EPA is approving the 1982 State Implementation Plan (SIP) revisions for the State of Rhode Island which were submitted on May 14, 1982, July 1, 1982, July 7, 1982, October 4, 1982 and March 2, 1983. These revisions meet the applicable requirements of the Clean Air Act and EPA policy. The intended effect of this action is to provide for attainment and maintenance of the primary National Ambient Air Quality Standard (NAAQS) for ozone, as required under Part D of the Clean Air Act Amendments of 1977.

EFFECTIVE DATE: August 5, 1983.

ADDRESSES: Copies of the submittal 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, 1100 L Street, NW., Room 8401, Washington, D.C. 20408 and at the Department of Environmental Management, 75 Davis Street, Cannon Building, Rm. 204, Providence, Rhode Island 02908.

FOR FURTHER INFORMATION CONTACT: Marcia L. Spink, (617) 223-5130, FTS 223-5130.

SUPPLEMENTARY INFORMATION: On February 3, 1983 EPA published a notice of proposed rulemaking (NPR) proposing approval of revisions to the Rhode Island SIP which demonstrate attainment of the primary NAAQS for ozone by December 31, 1982 (48 FR 5062).

That NPR, cited above, detailed the regulatory and federal policy requirements for ozone attainment plan revisions. It also provided a description of the elements of Rhode Island's ozone attainment plan including:

- Emissions Inventories.
- Modeling and Monitoring.
- Stationary Source Controls.
- Reasonable Further Progress.
- Other Issues.

As the revisions and the rationale for EPA's approval were fully explained in the NPR, they will not be restated here. A copy of the NPR may be obtained from any of the offices listed in the ADDRESSES section of this notice.

Since attainment was demonstrated by December 31, 1982, no motor vehicle inspection and maintenance (I/M) program is required as part of the Rhode Island ozone SIP. On May 7, 1981, EPA conditionally approved Rhode Island's I/M program. In its July 1, 1982 submittal, Rhode Island requested that the I/M program not be part of the O₃ attainment strategy in its federally approved SIP. With today's action, EPA is withdrawing its approval of Rhode

Island's I/M program (May 7, 1981, 46 FR 25460). EPA is also removing the condition relating to I/M codified at 40 CFR 52.2084(a)(2). In addition, as explained in the notice of proposed rulemaking, Rhode Island has satisfied the two remaining conditions that EPA imposed in 1981. EPA, therefore, is also removing these conditions.

In the NPR, EPA proposed approval of draft amendments to Regulation 15, Section 15.5 of the Rhode Island SIP to determine and impose reasonably available control technology (RACT) on otherwise unregulated stationary sources of volatile organic compounds (VOCs) greater than or equal to 100 TPY. Those RACT determinations are to be submitted to EPA for approval as sourcespecific SIP revisions by December 31, 1983. As provided by Regulation 15, sources may utilize the generic VOC bubble provisions of Section 15.4 to meet their applicable RACT requirements once those RACT levels have been incorporated into the federally-approved SIP. At the time of proposed rulemaking, the State provided a schedule for adoption of the amendments to Regulation 15. Rhode Island adhered to that schedule, and with today's action EPA is approving Regulation 15 as formally submitted on March 2, 1983 as part of Rhode Island's ozone attainment plan.

Final Action

1. EPA is approving the revisions submitted on May 14, 1982; July 1, 1982; July 7, 1982; October 4, 1982 and March 2, 1983 by the State of Rhode Island for attainment of the NAAQS for ozone.

2. EPA is withdrawing its May 7, 1981 approval of Rhode Island's I/M program coded in § 52.2084(a) of Title 40 of the CFR.

3. EPA is removing the following conditions imposed on May 7, 1981 coded in § 52.2084(a) of Title 40 of the CFR:

- Submittal of emission data for all VOC sources of 25 tons or greater.
- Submittal of I/M program-related studies, data collection/analysis, and program changes.
- Submittal of individual compliance schedules for paper and fabric surface coating sources.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by September 6, 1983.

This action may not be challenged later in proceedings to enforce its requirements. (See section 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.

Authority: Sections 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 28, 1983.
William D. Ruckelshaus,
Administrator.

Part 52, 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)(19) as follows:

§ 52.2070 Identification of plan.

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

(19) Revisions to the Rhode Island State Implementation Plan for attainment of the primary National Ambient Air Quality Standard for ozone as submitted on May 14, 1982; July 1, 1982; July 7, 1982; October 4, 1982 and March 2, 1983 by the Department of Environmental Management. Also included are generic bubble rules which provide for regulatory flexibility for VOC sources subject to RACT requirements under Regulations 15, 19 and 21 of the Rhode Island SIP

§ 52.2084 [Amended]

2. Section 52.2084 is amended by removing and reserving paragraph (a).

[FR Doc. 83-18067 Filed 7-5-83; 8:45 am]

BILLING CODE 0560-50-M

40 CFR Part 271

[SW-9-FRL 2394-3]

Hazardous Waste Management Program; Request for Extension of Application Deadline for Interim Authorization

AGENCY: Environmental Protection Agency.

ACTION: Notice of extension of application submittal and interim authorization period.

SUMMARY: The states of Arizona, California, Nevada and Guam have requested an extension of the July 26, 1983 deadline for submittal of a Phase II Interim Authorization application under the Resource Conservation and Recovery Act. By this action, EPA is granting an extension to allow these four states to submit their applications for interim and/or final authorization after July 26, 1983 (see Supplementary Information). This action thus avoids termination on July 26 of the interim authorization awards previously granted to these states.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION: Alexis Strauss, Toxics & Waste Programs Branch, Environmental Protection Agency Region 9, 215 Fremont Street, San Francisco, CA 94105, telephone (415) 974-8126.

SUPPLEMENTARY INFORMATION: 40 CFR 271.122(c)(4) (formerly § 123.122(c)(4), 47 FR 32377, July 26, 1982) requires states with interim authorization to apply for all components of Phase II by July 26, 1983. 40 CFR 271.137(a) (formerly § 123.137(a), 47 FR 32378, July 26, 1982) mandates that interim authorization of state programs will terminate on July 26, 1983 unless the state has submitted an application for all phases and components of interim authorization by that date. However, the regulations provide Regional Administrators with the authority to extend the July 26 deadlines for submittal of applications and termination of the authorized programs. (Note: 40 CFR Part 123 was recodified on April 1, 1983 as 40 CFR Part 271). If EPA terminates a state authorization, EPA administers and enforces the Federal program in that state.

Arizona received Phase I authorization on August 11, 1982. It did not have adequate statutory authority to receive the full Phase II authorizations, and thus has dedicated the past nine months to securing passage of a comprehensive hazardous waste management statute. In so doing, it now has the authority to adopt regulations to support a Phase II application. On May 26, 1983, Arizona requested an extension of the Phase II application deadline due to the lengthy statutory and regulatory adoption processes required to support an authorized program.

Arizona has chosen to apply for all remaining elements of the program in its 1984 final authorization application. It has begun the regulatory adoption process, and has committed to the following schedule for submittal of a final authorization application: submit

draft regulations to EPA and Attorney General (September, 1983); conduct public meetings and hearing (October, November 1983); forward regulations for adoption (December, 1983); submit draft application to EPA (February, 1984); and submit final application to EPA (June, 1984).

California received Phase I authorization on June 4, 1981 and Phase II A authorization (excluding surface-impoundments) on January 11, 1983. On March 22, California requested an extension of the Phase II application deadline, as almost twelve months would be required for adoption of regulations. The state has chosen to adopt all Phase II regulations in one process, and to apply for final authorization in lieu of additional increments of authorization. It has committed to the following schedule for submittal of a final authorization application: issue public notice and conduct hearings on proposed regulations, submit draft application to EPA (September, 1983); submit regulations for review and approval (December, 1983); adopt regulations (March, 1984); and submit final application to EPA (June, 1984).

The Territory of Guam received Phase I interim authorization on May 16, 1983. In order to achieve final authorization as quickly as possible, Guam has chosen to apply for all remaining components in its 1984 final authorization application. Guam has committed to submitting a draft application by September, 1983, and a final application by April, 1984.

EPA expects to grant the State of Nevada interim authorization for Phase I, II A and II B in July, 1983. Nevada is currently adopting land disposal regulations. The State has committed to submit its draft application for final authorization by September, 1983, and a final application by March, 1984. This schedule will allow Nevada to achieve final authorization more quickly than if the state were to apply for Phase II C interim authorization first.

Decision: I have found good cause to extend the application deadlines for Arizona, California, Guam and Nevada to the dates specified above for submittal of their final authorization applications. If Arizona fails to submit its complete application by June, 1984, or if California fails to submit its complete application by June, 1984, or if Guam fails to submit its complete application by April, 1984, or if Nevada fails to submit its complete application by March, 1984, approval of the program in the delinquent state(s) will be terminated by EPA, and administration of the hazardous waste management program will revert to EPA.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indian-lands, Reporting and record-keeping requirements, Waste treatment and disposal, Water pollution control, Water supply, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: June 23, 1983.

John Wise,

Acting Regional Administrator.

[FR Doc. 83-18154 Filed 7-5-83; 8:45 am]

BILLING CODE 5560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 1-12 and 1-18

[FPR Temp. Reg. 70]

Labor Standards for Contracts Involving Construction

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This FPR temporary regulation prescribes changes to the labor standards for contracts involving construction. The basis for the regulation is the revised Department of Labor regulations issued April 22, 1983 (48 FR 19532-19553, April 29, 1983). The intended effect is to provide uniform contract clauses and guidance for use primarily in construction contracts entered into pursuant to invitations for bids issued or negotiations concluded on or after June 28, 1983.

DATES: Effective date: June 28, 1983. Expiration date: June 28, 1985, unless canceled earlier.

FOR FURTHER INFORMATION CONTACT: Mr. William B. Ferguson, Director, Office of Federal Acquisition and Regulatory Policy (VR), Office of Acquisition Policy ((202) 566-1043).

List of Subjects

41 CFR Part 1-12

Government procurement, Equal employment opportunity, Labor, Service Contract Act, Fair Labor Standards Act, Williams-Steiger Occupational and Safety Act.

41 CFR Part 1-18

Government procurement, Labor standards, Construction.

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

In 41 CFR Chapter 1, the following temporary regulation is added to the appendix at the end of the chapter to read as follows:

[Federal Procurement Regulations Temporary Regulation 70]

June 28, 1983.

To: Heads of Federal agencies.

Subject: Labor Standards for Contracts Involving Construction.

1. **Purpose.** This FPR temporary regulation provides contract clauses and guidance for implementing revised Department of Labor (DOL) regulations (29 CFR Parts 1 and 5).

2. **Effective date.** This regulation is effective June 28, 1983. The contract clauses and guidance set forth in this temporary regulation shall apply primarily to contracts involving construction entered into pursuant to invitations for bids issued or negotiations concluded on or after June 28, 1983.

3. **Expiration date.** This regulation will continue in effect until June 28, 1985, unless canceled earlier.

4. **Background.** The Department of Labor (DOL) by regulations dated April 22, 1983 (48 FR 19532-19553, April 29, 1983), revised the labor standards to be used in the procurement of construction. The regulations (a) increase the period for which project wage determinations will be effective, (b) revise the requirement concerning modification of the determinations, (c) clarify the approval process regarding additional wage rates, and (d) amend the overtime requirement concerning fire fighting or suppression and related services. The DOL regulations are applicable to Federally assisted construction contracts, as well as to Federal construction contracts. Although the provisions of this regulation are not mandatory for Federally assisted construction contracts, it is suggested that agencies obtain the DOL's approval to use these procedures for such contracts.

5. Explanation of changes.

a. Section 1-12.303 is revised as follows:

§ 1-12.303 Contract clauses.

(a) The following clause shall be included in contracts in accordance with the provisions of §§ 1-12.301 and 1-12.302. The clause may be modified as necessary to comply with the provisions of § 1-12.304.

Contract Work Hours and Safety Standards Act—Overtime Compensation (40 U.S.C. 327-333)

This contract, to the extent that it is of a character specified in the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), is subject to the following provisions and to all other applicable provisions and exceptions of such Act and the regulations of the Secretary of Labor thereunder.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 8 hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause in the sum of \$10 for each calendar day for which such individual was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by provisions set forth in paragraph (a) of this clause.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer shall upon his/her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the contract Work Hours and Safety Standards Act, which is held by the

same Prime Contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (b) of this clause.

(d) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (d) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause.

(End of clause)

(b) The following clause shall be used, in addition to the clause in § 1-12.303(a), when firefighters or fireguards are to be employed.

Contract Work Hours and Safety Standards Act—Overtime Compensation—Firefighters and Fireguards

A workday consisting of a fixed and recurring 24-hour period commencing at the same time on each calendar day may be used instead of the calendar day in applying the daily overtime provisions of the Act to the employment of firefighters or fireguards if:

(a) The employment is under a platoon system requiring these employees to remain in excess of 8 hours per day at their post of duty in a standby or on-call status;

(b) The use of the alternate 24-hour day was agreed upon between the employer and employees or their authorized representatives before performance of the work; and

(c) In applying the daily and weekly overtime requirements of the Act in any particular workweek of any employee whose established workweek begins at a time of the calendar day different from the time when the agreed 24-hour day commences, the hours worked in excess of 8 hours in any 24-hour day are counted in the established workweek (of 168 hours commencing at the same time each week) in which hours are actually worked.

(End of clause)

(c) The following clause shall be used, in addition to the clause in § 1-12.303(a), in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in 29 CFR 5.1, (see 29 CFR 5.5(c)):

Payrolls and Basic Records

(a) The Contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the contract work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

(b) The records to be maintained under paragraph (a) of this clause shall be made available by the Contractor or subcontractor for inspection, copying, or transcription by the Contracting Officer or the Department of Labor or their authorized representatives. The Contractor and subcontractors will permit such representatives to interview employees during working hours on the job.

(c) The Contractor shall insert paragraphs (a) through (c) of this clause in all subcontracts, and shall require their inclusion in all subcontracts of any tier.

(End of clause)

b. Section 1-18.703-1 is revised as follows:

§ 1-18.703 Contract clauses.

§ 1-18.703-1 Clauses for general use.

Except as provided in § 1-18.703-2, every construction contract in excess of \$2000 (or of such other amount as may be specifically indicated) for work within the United States shall include the following clauses:

(a) *Davis-Bacon Act (40 U.S.C. 276a-276a-7).*

Davis-Bacon Act (40 U.S.C. 276a-276a-7)

(a) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in

the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (d) of this clause; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in the clause entitled "Apprentices and Trainees." Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: *Provided*, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph (b) of this clause) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(b)(1) The Contracting Officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The Contracting Officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the Contractor and the laborers and mechanics to be employed in the

classification (if known), or their representatives, and the Contracting Officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the Contracting Officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator of the Wage and Hour Division, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(3) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and the Contracting Officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the Contracting Officer shall refer the questions, including the views of all interested parties and the recommendation of the Contracting Officer, to the Administrator for determination. The Administrator of the Wage and Hour Division, or an authorized representative, will issue a determination within 30 days of receipt and so advise the Contracting Officer or will notify the Contracting Officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (b)(2) or (b)(3) of this clause, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(c) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(d) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program. *Provided*, That the Secretary of Labor has found, upon the written request of the Contractor, that applicable standards of the Davis-Bacon

Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

(e) Paragraphs (a) through (d) of the clause shall apply to this contract to the extent that it is (1) a prime contract with the Government subject to the Davis-Bacon Act, or (2) a subcontract also subject to the Davis-Bacon Act under such prime contract.

(End of clause)

(b) *Contract Work Hours and Safety Standards Act—Overtime Compensation (40 U.S.C. 327-333).*

Contract Work Hours and Safety Standards Act—Overtime Compensation (40 U.S.C. 327-333)

This contract is subject to the Contract Work Hours and Safety Standards Act and to the applicable rules, regulations, and interpretations of the Secretary of Labor.

(a) *Overtime requirements.* No Contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of 8 hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 8 hours in any calendar day or in excess of forty hours in such workweek, whichever is greater.

(b) *Violation; liability for unpaid wages; liquidated damages.* In the event of any violation of the provisions set forth in paragraph (a) of this clause, the Contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such Contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory) for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the provisions set forth in paragraph (a) of this clause, in the sum of \$10 for each calendar day for which such individual was required or permitted to work in excess of 8 hours or in excess of the standard workweek of 40 hours without payment of the overtime wages required by

provisions set forth in paragraph (a) of this clause.

(c) *Withholding for unpaid wages and liquidated damages.* The Contracting Officer shall upon his/her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Prime Contractor, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same Prime Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the provisions set forth in paragraph (a) of this clause.

(d) *Subcontracts.* The Contractor or subcontractor shall insert in any subcontracts the provisions set forth in paragraphs (a) through (d) of this clause and also a clause requiring the subcontractors to include these provisions in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the provision set forth in paragraphs (a) through (d) of this clause.

(End of clause)

(c) *Apprentices and Trainees.*

Apprentices and Trainees

(a) *Apprentices.* Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any

worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(b) *Trainees.* Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage

determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination of the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(c) *Equal employment opportunity.* The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

(d) *Payrolls and Basic Records.*

Payrolls and Basic Records

(a) Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work and preserved for a period of 3 years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under paragraph (d) of the clause entitled

"Davis-Bacon Act" that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprenticeships and trainees, and the ratios and wage rates prescribed in the applicable programs.

(b)(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the Contracting Officer if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the Contracting Officer. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under paragraph (a) of this clause. The information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents, Government Printing Office. The Contractor is responsible for the submission of copies of payrolls by all subcontractors.

(2) Each payroll submitted shall be accomplished by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be maintained under paragraph (a) of this clause entitled "Payrolls and Basic Records" and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible

deductions as set forth in Regulations, 29 CFR Part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (b)(2) of this clause.

(4) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(c) The Contractor or subcontractor shall make the records required under paragraph (a) of this clause available for inspection, copying, or transcription by the Contracting Officer or the Department of Labor or their authorized representatives. The Contractor and subcontractors shall permit such representatives to interview employees during working hours on the job. If the Contractor or subcontractor fails to submit the required records or to make them available, the Contracting Officer may, after written notice to the Contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(End of clause)

(e) *Compliance with Copeland Act Requirements.*

Compliance with Copeland Act Requirement

The Contractor shall comply with the requirements of 29 CFR Part 3, which are incorporated by reference in this contract.

(End of clause)

(f) *Withholding.*

Withholding

The Contracting Officer shall upon his/her own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this contract or any other Federal contract with the same Prime Contractor, or any other

Federally-assisted contract subject to Davis-Bacon prevailing wage requirements which is held by the same Prime Contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers employed by the Contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the Contracting Officer may, after written notice to the Prime Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(End of clause)

(g) *Subcontracts.*

Subcontracts

The Contractor or subcontractor shall insert in any subcontracts the clauses entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Act Requirements," "Withholding," "Subcontracts," "Contract Termination-Debarment," "Disputes Concerning Labor Standards," "Compliance With Davis-Bacon and Related Act Requirements," and "Certification of Eligibility," and such other clauses as the Contracting Officer may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Prime Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with all the contract clauses cited above.

(End of clause)

(h) *Contract Termination; Debarment.*

Contract Termination; Debarment

A breach of the contract clauses entitled "Davis-Bacon Act," "Contract Work Hours and Safety Standards Act—Overtime Compensation," "Apprentices and Trainees," "Payrolls and Basic Records," "Compliance with Copeland Act Requirements," "Subcontracts," "Compliance with Davis-Bacon and Related Act

Requirements," and "Certification of Eligibility," may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(End of clause)

(i) *Disputes Concerning Labor Standards.*

Disputes Concerning Labor Standards

Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the Contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(End of clause)

(j) *Compliance with Davis-Bacon and Related Act Requirements.*

Compliance with Davis-Bacon and Related Act Requirements

All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract.

(End of clause)

(k) *Certification of Eligibility.*

Certification of Eligibility

(a) By entering into this contract, the Contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the Contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(b) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(c) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

(End of clause)

c. In §§ 1-18.704-2 and 1-18.704.3, the installation and individual (project) wage determinations will be effective for 180 calendar days rather than 120 calendar days.

d. To the requirements in § 1-18.704-7, add the following:

"If the contract has not been awarded within 90 calendar days after bid opening, any modifications to the wage determinations published in the Federal Register prior to award shall be effective with respect to that contract except when an extension from the 90 day period has been obtained from DOL. If a situation arises where award cannot be made within 90 calendar days after bid opening, the agency Labor Relations Advisor or Legal Counsel should be contacted for guidance or assistance in obtaining an extension to the 90 day requirement. (Note—If an extension is deemed necessary, the Contracting Officer shall not incorporate modifications to the general wage determination published subsequent to the bid opening without obtaining legal review and concurrence.)"

e. In addition to the requirements in § 1-18.704-7(c), the Contracting Office shall include in the contract file a written statement why a modification, if any, was not incorporated in the solicitation. A copy of the statement shall be furnished to the Department of Labor upon request.

f. The DOL has the final approval authority for all additional wage classification requests. The Contracting Officer shall continue to process additional classifications as provided in § 1-18.705-3. However, approvals by Contracting Officers are subject to review by the DOL. The DOL will approve, modify or disapprove every additional classification action within 30 days of receipt or will notify the contracting officer within the 30-day period that additional time is required.

g. The requirement of § 1-18.705-9 is revised to permit cross-withholding from any moneys payable on account of work performed by the contractor or subcontractor under the contract or any other Federal contract with the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of the contractor or subcontractor for unpaid wages and liquidated damages.

h. The underpayment reporting amount shown in § 1-18.705-10(b) is increased from \$500 to \$1000.

i. The threshold for waiver or adjustment of liquidated damages shown in § 1-18.705-13 is increased from \$100 to \$500.

j. Pending the issuance of a revised Standard Form 19-A, clauses in § 1-18.703-1 shall be used in lieu of the provisions shown on the form.

6. *Agency action.* Pending the issuance of a permanent amendment to the FPR, agencies shall follow the guidance set forth in this temporary regulation.

7. *Submission of comments.* Time did not permit the solicitation of comments prior to the issuance of this temporary regulation. However, agencies and other interested parties are invited to submit comments within 60 calendar days of publication of this regulation. Comments should be forwarded to Mr. William B. Ferguson, Director, Office of Federal Acquisition and Regulatory Policy, Office of Acquisition Policy, General Services Administration, Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services.

(FR Doc. 83-18052 Filed 7-5-83; 8:48 am)

BILLING CODE 6620-61-M

41 CFR Part 101-11

(FPMR Amdt. B-52)

Records Management; Records Equipment and Supplies; Stationery Standards

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation provides specifications governing the use of 8.5-by-11-inch stationery (not forms) by Federal agencies, increases agencies' authority and responsibility for the economical and efficient selection and use of stationery, cancels FPMR Temporary Regulation B-5, and cancels all General Services Administration stationery waivers issued before this date. Specifically, this rule: (1) Provides size and paper specifications for the use of 8.5-by-11-inch paper, (2) delegates to heads of agencies the responsibility for authorizing the use of envelope markings and designs, (3) revises design standards for letterhead, and (4) promotes management policies and procedures to economically and efficiently select, store, and use stationery.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Richard P. Stephenson, Mail, Correspondence and Files Management Branch (202-535-7467).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions

underlying this rule on adequate information concerning the need for, and consequence of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

FPMR Temporary Regulation B-5 (October 2, 1979) and its Supplement 1 (August 1, 1980) are canceled and deleted from the appendix at the end of Subchapter B in 41 CFR Chapter 101.

List of Subjects in 41 CFR Part 101-11

Advisory committees, Archives and records, Classified information, Freedom of information, Government property management, Interagency reports, Micrographics, Privacy, Records and information management, and Word processing.

Accordingly, the General Services Administration amends 41 CFR Part 101-11 as follows:

PART 101-11—RECORDS MANAGEMENT

1. The table of contents for Part 101-11 is amended by revising the table of contents for subpart 101-11.6 to read as follows:

Subpart 101-11.6—Records Equipment and Supplies

Sec.

- 101-11.601 [Reserved]
- 101-11.602 [Reserved]
- 101-11.603 Stationery standards.
- 101-11.603-1 General provisions.
- 101-11.603-2 Definitions.
- 101-11.603-3 Standard stationery specifications.
- 101-11.603-4 Procurement and stocking.
- 101-11.603-5 Printing of letterhead stationery.
- 101-11.603-6 Preparing and using letterhead stationery.
- 101-11.603-7 Manifold (tissue) sheets.
- 101-11.603-8 Envelopes.

Sec.

- 101-11.603-9 Envelopes and post cards (printing).
- 101-11.603-10 Optional Form 10, United States Government Memorandum.
- 101-11.603-11 Optional Form 41, Routing and Transmittal Slip.
- 101-11.603-12 Standard Form 63, Memorandum of Call.
- 101-11.603-13 Standard Form 65, U.S. Government Messenger Envelope.
- 101-11.603-14 Optional Form 27, United States Government 2-Way Memo.
- 101-11.603-15 Waivers.

Subpart 101-11.6—Records Equipment and Supplies

2. Sections 101-11.601 and 101-11.602 are removed and reserved as follows:

§ 101-11.601 [Reserved]

§ 101-11.602 [Reserved]

3. Sections 101-11.603 through 101-11.603-15 are revised to read as follows:

§ 101-11.603 Stationery standards.

§ 101-11.603-1 General provisions.

(a) Section 101-11.603 prescribes mandatory standards for selection and use of blank and printed stationery paper, including the format designs of formal letters and informal letters (memoranda). Also prescribed are formal standards for the Optional Form 10, U.S. Government Memorandum; Optional Form 41, Routing and Transmittal Slip; Standard Form 63, Memorandum of Call; Standard Form 65, U.S. Government Messenger Envelope; and Optional Form 27, United States Government 2-Way Memo.

(b) Nothing in this subpart shall supersede, in any manner, the provisions of the "Government Paper Specification Standards" and the "Government Printing and Binding Regulations" issued by the Congressional Joint Committee on

Printing (JCP) or any applicable U.S. Postal Service (USPS) regulation.

§ 101-11.603-2 Definitions.

The following definitions apply to terms used in this section:

(a) "Stationery" means paper products used in correspondence, such as letterhead, continuation sheets, manifold carbon tissue sets, carbon paper, carbonless paper, memoranda, post cards, and envelopes.

(b) "Letterhead" means paper, showing agency identification, used for official correspondence. Identification includes name, acronym, logo, seal, code, and/or address affixed by printing, engraving, embossing, typing stamping, or other labeling.

(c) "Manifold carbon tissue set" means a tissue sheet attached to a one-time carbon sheet and is commonly called "tissue."

(d) "Continuation sheet" means the second or succeeding page of a letter.

(e) "Foundry type fonts" means those fonts readily available at no additional cost for printing stationery.

(f) "Lettersize" envelopes means rectangular envelopes with minimum dimensions of 5 inches in length, 3.5 inches in height, and .007 inches in thickness and maximum dimensions of 11.5 inches in length, 6.125 inches in height, and .25 inches in thickness.

(g) "Flat" envelop, also called "oversize" envelope, means a rectangular envelope that exceeds one or more of the maximum dimensions for lettersize envelopes, but does not exceed 15 inches in length, or 12 inches in height, or .75 inches in thickness.

§ 101-11.603-3 Standard stationery specifications.

Government stationery standard specifications are set forth in the "Table of Standard Specifications" as follows:

BILLING CODE 5820-26-M

TABLE OF STANDARD SPECIFICATIONS

Item	Color		Size		Paper quality shall not exceed		
	Paper	Printing	Inches (width x length)	Millimeters ² (width x length)	Grade ³	Pounds ⁴	Grams ⁵ (g/m ²)
Stationery	White	One Color	$\left\{ \begin{array}{l} 8.5 \times 11 \dots \\ 8.5 \times 7.3 \dots \\ 8.5 \times 5.5 \dots \end{array} \right\}$	$\left\{ \begin{array}{l} 216 \times 279 \dots \\ 216 \times 185 \dots \\ 216 \times 140 \dots \end{array} \right\}$	50 percent rag or 25 percent rag	32 40	60 75
	Match agency letterhead.	None	8.5 x 11	216 x 279 ...	$\left\{ \begin{array}{l} 50 \text{ percent rag} \\ \text{or} \\ 25 \text{ percent rag} \end{array} \right\}$	32 40	60 75
Manifold (tissue) letterhead	White	Match agency letterhead.	8.5 x 11 ...	216 x 279 ...	25 percent rag	18	34
Manifold (tissue)	Yellow and White ⁶	None					
Memorandum stationery designed for window envelopes	White	Match agency letterhead.	$\left\{ \begin{array}{l} 8.5 \times 11 \dots \\ 8.5 \times 7.3 \dots \\ 8.5 \times 5.5 \dots \end{array} \right\}$	$\left\{ \begin{array}{l} 216 \times 279 \dots \\ 216 \times 185 \dots \\ 216 \times 140 \dots \end{array} \right\}$	OW (writing) or 25 percent rag	40 32	75 60
	Match memo stationery.	None	8.5 x 11 ...	216 x 279 ...	$\left\{ \begin{array}{l} OW \text{ (writing)} \\ \text{or} \\ 25 \text{ percent rag} \end{array} \right\}$	40 32	75 60
Continuation sheets Manifold (tissue)	Yellow and White ⁶	None	8.5 x 11 ...	216 x 279 ...	25 percent rag	18	34

TABLE OF STANDARD SPECIFICATIONS

Item	Color		Size		Grade ³	Substance ¹		Grains (g/in ²)
	Paper	Printing	Inches (width x length)	Millimeters ² (width x length)		Pounds ⁴		
Envelopes	White	Match agency letterhead color and style.	Use smallest possible		Determined by Federal Supply Service	48		90
	Brown	Black ink in agency letterhead style or Green ink in agency style when diamond borders are used.	Use smallest possible		Kraft	56		105
United States Government Memorandum (OF 10)	White	Black	8.5 x 11 8.5 x 5.5	216 x 279 216 x 140	OW (writing)	40		75
Memorandum of Call [SF 63 (pads)]	At discretion of GPO		4 x 5.2	102 x 132	At discretion of GPO			
U.S. Government Messenger Envelope: (SF 65A) (SF 65B) (SF 65C)	Brown	Dark Brown ...	4.25 x 9.5 9.5 x 12 12 x 16	108 x 241 241 x 305 305 x 406	Kraft	48		90
Routing and Transmittal Slip (OF 41)	At discretion of GPO		8 x 5.25 ..	203 x 133	At discretion of GPO			
United States Government 2-Way Memo (OF 27)	White/ Yellow/Pink	Black	8.5 x 11	216 x 279	Chemical transfer	17		32

Joint Committee on Printing, Government Paper Specification Standards.

²Joint Committee on Printing sizes rounded to whole millimeter.

3. CW = Chemical Wood.

Weight per 1,000, 17" x 22" sheets.

Weight per 1,000 sheets, per 1 square meter.

⁹Other colors may be used but paper quality sh

§ 101-11.603-4 Procurement and stocking.

Agencies shall:

(a) Procure stationery through normal supply channels;

(b) Procure Standard and Optional forms, prescribed in §§ 101-11.603-11 through 101-11.602-15, from the Federal Supply and Services, General Services Administration;

(c) Establish procedures to ensure that stationery inventories are economically maintained at levels consistent with need;

(d) Maintain economical levels and distribute stationery to avoid unneeded storage costs; stock loss due to deterioration; and obsolescence due to geographical, organizational, name, and design changes. Generally, agencies should limit stationery stock levels to a 1 year's supply;

(e) Limit stationery styles and sizes to the minimum needed to ensure efficient and effective program operations;

(f) Not change stationery designs without written justification, approved by the head of the agency, or if so delegated, the senior official for information resources management, documenting improved program operations; and

(g) Ensure that all reasonable, orderly, and economical means are used to deplete obsolete stationery.

§ 101-11.603-5 Printing of letterhead stationery.

Agencies may design letterhead stationery subject to the following conditions:

(a) The design provides for economical printing and efficient letter preparation;

(b) JCP regulations are followed;

(c) Requirements of § 101-11.603-3 are followed;

(d) The letterhead design is across the 8.5-inch top edge, supports the economical use of labor and materials, and does not prevent the proper use of window envelopes;

(e) Standard foundry type fonts are used;

(f) The letterhead of agencies with a unique 5-digit ZIP Code is limited to the agency's full name and return address (city, State, and ZIP Code). For example:

Public Service Agency
Washington, DC 00000

The head of the agency or, if so delegated, the senior official for information resources management may grant written exceptions only to major bureaus, offices, and services, provided the cost to print, distribute, stock, and use additional letterhead is less

expensive than the clerical cost to type titles, etc.;

(g) The letterhead of agencies having more than one location where mail is received directly from USPS, or having offices that require other address block data to aid in return mail delivery, may also contain the street address or other identifying address, in addition to the items listed in paragraph (f) of this section; for example:

Public Service Agency
Region 00
Anytown, OK 00000
Public Service Agency
Service Building, Room 000
Anytown, MO 00000

(h) No other printing occurs below the letterhead, except as required in this section and except for nonletterhead printing of form letters;

(i) The head of the agency or, if so delegated, the senior official for information resources management determines that Optional Form 10 will not adequately serve an agency's needs for informal letterhead;

(j) End-of-text marks and fold marks are printed;

(k) Preprinted marks are provided for aligning the address block when using window envelopes;

(l) Within the range of paper quality specified by § 101-11.603-3, informal letterhead (memorandum) stock is of lower quality paper and easily distinguishable from formal letterhead; and

(m) In the left margin, below agency-designed informal letterhead (memorandum), are printed, in this order and flush with the left typing margin: Date, Reply to Attention of (or From), Subject, and To. For additional information, see the U.S. Government Correspondence Manual, part 1, chapter 1.

§ 101-11.603-6 Preparing and using letterhead stationery.

Agencies shall ensure that formal letterhead and informal letterhead (memorandum) stationery is prepared by the most economical use of labor and materials, including the style, format and other efficient steps prescribed in the United States Government Correspondence Manual (See § 101-11.206-3(a)(3)). Informal letterhead (memorandum) shall be the principal letterhead used in written, intra- and interagency correspondence.

§ 101-11.603-7 Manifold (tissue) sheets.

Agencies shall create copies only when need has been determined and shall use tissues to make them. A substitute for tissue sheets is permitted, provided (a) equal or better copy quality

is maintained and (b) labor and material costs to produce the substitution are no greater than those for tissue preparation. (See § 101-11.603-3.) Agencies shall use yellow tissues for official file copies if the record copy is to be filed in paper form. White tissues shall be used for all other purposes, unless color will aid in processing, identification, or disposition. Letterhead tissues may only be used for formal letters to addressees outside the originating agency who specifically request letterhead copies.

§ 101-11.603-8 Envelopes.

Agencies shall ensure that:

(a) Except for self-mailers, no printing is done on the inside of envelopes;

(b) Envelopes are sent using the most economical service consistent with delivery needs;

(c) The material-plus-postage cost of "flat" envelopes, made from material other than that specified in § 101-11.603-3, is more economical for mailing than the material-plus-postage cost of kraft envelopes.

(d) Envelopes and post cards that will be processed by USPS meet mailing requirements and are eligible for the most economical mail service; and

(e) Use of lettersize window envelopes is specifically prescribed in written agency policy requiring maximum possible use, except for mailing material that:

(1) Involves national security,

(2) Is highly confidential to the agency or the addressee,

(3) Is uneconomical to mail in window envelopes, or

(4) Is sent to high level officials in government or the private sector.

§ 101-11.603-9 Envelopes and post cards (printing).

(a) Agencies shall ensure that printed items on envelopes and post cards are arranged and located according to USPS specifications. Printed envelopes and post cards shall contain the agency's full name and return address, the USPS-required penalty statement, and the "official business" designation. When an agency pays the return postage, agency-supplied return envelopes and post cards must bear either prepaid postage or "Business Reply."

(b) Except for USPS-required items, no other printed, stamped, or affixed marking or design shall be placed on envelopes or on the front of post cards unless it has been determined in each instance that use of a given marking or design will either:

(1) Reduce the agency's costs,

(2) Expedite mail delivery or handling,

(3) Aid in the delivery of services to the public, or

(4) Promote a program or activity having major national impact. The use of each marking or design must be approved in writing by heads of agencies. The approval authority may only be delegated to the senior official for information resources management.

§ 101-11.603-10 Optional Form 10, U.S. Government Memorandum.

This form is designed to aid informal, intra-agency or interagency correspondence preparation and is designed for use with window envelopes. (See the U.S. Government Correspondence Manual.) Standard spaces are provided for the date, addressee, subject matter, and sender. It may be overprinted with the agency's name and address at the top. It is intended for use by agencies whose needs are met by a single format and whose identification and data requirements, if any, do not justify agency-designed letterhead.

§ 101-11.603-11 Optional Form 41, Routing and Transmittal Slip.

This form is designed to transmit brief informal messages and/or documents and not for use as a record of approvals, concurrences, disposals, clearances, or similar actions. Spaces are provided for routing, addressee initials, and the date.

§ 101-11.603-12 Standard Form 63, Memorandum of Call.

This form is designed to record telephone numbers, messages, or visits for personnel who are not available at the time of the call or visit. SF 63 is the only authorized telephone or visitor call slip, and agencies may not procure another type.

§ 101-11.603-13 Standard Form 65, U.S. Government Messenger Envelope.

This form is designed as a reusable envelope and is available in three sizes as SF 65A (preferred), SF 65B, and SF 65C. (See § 101-11.603-3.) It is designed to transmit correspondence and other matter between agencies in the Washington metropolitan area through USPS Official Mail Messenger Service (Stop-Run). Any agency component, whether located in the Washington metropolitan area or in the field, may use SF 65 internally if it is processed only by agency messengers. Consequently arranged spaces are provided on the front and back of the envelope for the name or title of the addressee, organization, and mail stop number. SF 65 is the only authorized messenger envelope, and agencies may not procure another type. SF 65 may not

be used to transmit unenveloped materials covered by the Privacy Act.

§ 101-11.603-14 Optional Form 27, United States Government 2-Way Memo.

This form is a 3-part carbonless set for informal communications. The message and reply are placed on the same page in brief informal language. It can be sent and returned in a window envelope, if an envelope is necessary. Each packet of 100 forms is accompanied by "Guides to Simplified Informal Correspondence."

§ 101-11.603-15 Waivers.

Agencies seeking a waiver of this regulation should submit a written request to the Director of Office Information Systems, Office of Information Resources Management [Mailing address: General Services Administration (KL), Washington, D.C. 20405]. Requests should include a statement of justification, pertinent specifications, and, if appropriate, scaled samples showing designs.

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

Dated: April 29, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-15118 Filed 7-5-83; 8:45 am]

BILLING CODE 6820-26-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6403

[NM 55234]

New Mexico; Withdrawal of Lands

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order will withdraw 8,960 acres from operation of the public land laws including the mining laws for research and development in connection with the Waste Isolation Pilot Plant Project. Of the total, 640 acres will be reserved for the exclusive use of the Department of Energy. The remainder will be managed by the Bureau of Land Management.

EFFECTIVE DATE: June 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dolores L. Vigil, New Mexico State Office, 505-988-6635

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. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale,

location or entry, under all of the general land laws, including the mining laws, 30 U.S.C. Chapter 2, for the purpose of the construction of full facilities for the Waste Isolation Pilot Plant Project of the Department of Energy and to protect the lands pending a legislative withdrawal if appropriate.

New Mexico Principal Meridian

T. 22 S., R. 31 E.,

Sec. 15;

Sec. 16;

Sec. 17;

Sec. 18, lots 1, 2, 3, 4, inclusive, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 19, lots 1, 2, 3, 4, inclusive, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 20;

Sec. 21;

Sec. 22;

Sec. 27;

Sec. 28;

Sec. 29;

Sec. 30, lots 1, 2, 3, 4, inclusive, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 31, lots 1, 2, 3, 4, inclusive, E $\frac{1}{2}$, and E $\frac{1}{2}$ W $\frac{1}{2}$;

Sec. 32;

Sec. 33;

Sec. 34.

The area described contains approximately 8,960 acres of public lands and 1,280 acres of State land for a total of 10,240 acres, more or less, in Eddy County, New Mexico.

2. The following two State sections are included in the withdrawal so that if they pass to Federal ownership, they will be subject to the withdrawal:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,

Sec. 16;

Sec. 32.

3. Subject to valid existing rights, the following land is reserved for the exclusive use of the Department of Energy for the purpose of the Waste Isolation Pilot Plant Project construction:

New Mexico Principal Meridian

T. 22 S., R. 31 E.,

Sec. 20, SE $\frac{1}{4}$;

Sec. 21, SW $\frac{1}{4}$;

Sec. 28, NW $\frac{1}{4}$;

Sec. 29, NE $\frac{1}{4}$.

Containing 640 acres.

4. The lands included in this withdrawal, with the exception of lands described in paragraph 3, shall be managed by BLM in accordance with a Memorandum of Understanding approved by the Secretary of the Interior.

5. This order does not authorize the use or occupancy of the lands hereby withdrawn for the transportation, storage, or burial of any radioactive materials, except as to radiological

instruments normally used for nondestructive testing and geophysical logging.

6. This withdrawal shall remain in effect for a period of 8 years from the effective date of this order.

The case file for this withdrawal and the aforementioned MOU will be available for public inspection at the Bureau of Land Management, New Mexico State Office, Joseph M. Montoya Federal Building, Room 313, South Federal Place, Santa Fe, New Mexico 87501.

J. J. Simmons III,

Acting Secretary of the Interior.

June 29, 1983.

[FR Doc. 83-18158 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 0

[Gen. Docket No. 79-263; FCC 83-279]

Commission Organization; Freedom of Information Rules To Modify Fees for Record Searches

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document establishes a revised schedule of fees for staff document searches conducted to fulfill Freedom of Information Act of "FOIA" requests. The revised fee schedule implements Section 552 of the FOIA, which permits government agencies to recover their direct costs for conducting document searches. This action is being taken to conform the Commission's FOIA schedule with the prevailing federal wage rate.

EFFECTIVE DATE: July 18, 1983.

FOR FURTHER INFORMATION CONTACT: Randy W. Thomas, Office of General Counsel, Federal Communications Commission, Washington, D.C. 20554, Tel. (202) 632-8990.

List of Subjects in 47 CFR Part 0

Freedom of Information.

Second Order

In the matter of amendment of Freedom of Information rules to modify fees for record searches; Gen. Docket No. 79-263.

Adopted: June 14, 1983.

Released: June 17, 1983.

By the Commission: Commissioner Fogarty not participating.

1. In November 1980, the Commission adopted a first Order in this docket that implemented a schedule of fees for staff

document searches conducted to fulfill Freedom of Information Act ("FOIA") requests. 84 FCC 2d 14 (1980). That Order amended § 0.466 of the Commission's Rules to include a fee schedule for FOIA searches based on the grade level (computed at Step 5 of the General Schedule) of the employees who make the search. 47 CFR 0.466.

2. A note to § 0.466 indicates that the Commission will periodically revise its fee schedule to correspond with the prevailing General Schedule rates for federal employees. This is the Commission's first periodic revision of the FOIA fee schedule. Further revisions will be made periodically to reflect the prevailing wage rate.

3. We find that prior notice and comment procedures are unnecessary to implement the rule amendments in the attached Appendix due to the ministerial nature of the rule change involved. See 5 U.S.C. 553(b)(3)(B). The new fee schedule we are adopting merely incorporates the prevailing federal wage rate into the Commission's Rules. Therefore, we believe that this action is noncontroversial and unlikely to originate any significant public comment.

4. In view of the foregoing and pursuant to Section 4(i) of the Communications Act of 1934, as amended, it is hereby ordered that Part 0 of the Commission's Rules is amended as set forth in the attached Appendix, effective July 18, 1983.

5. It is further ordered that the Secretary shall cause a copy of this Order to be published in the *Federal Register*.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 0—[AMENDED]

Part 0 of Chapter I of Title 47 of the Code of Federal Regulations is hereby amended as indicated below:

1. Section 0.466 is amended by revising the fee schedule to read as follows:

§ 0.466 Search Fee.

• • • • •

Grade	Hourly fee	Grade	Hourly fee
GS-2	\$5.70	GS-9	\$12.21
GS-3	6.41	GS-10	13.45
GS-4	7.20	GS-11	14.77
GS-5	8.06	GS-12	17.70

Grade	Hourly fee	Grade	Hourly fee
GS-6	8.98	GS-13	21.05
GS-7	9.98	GS-14	24.87
GS-8	11.05	GS-15	29.25

Note.—These fees will be modified periodically to correspond with modifications in the rates of pay approved by Congress.

The above fees were computed at Step 5 of each grade (based on the General Schedule effective October, 1982) and include 10.6 per cent for personnel benefits.

* * * * *

[FR Doc. 83-18157 Filed 7-5-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 25

[FCC 83-183]

Reconsideration of Commission Decision Establishing Processing Procedure for Domestic Fixed-Satellite Applications

AGENCY: Federal Communications Commission.

ACTION: Notice of order on reconsideration.

SUMMARY: The Commission denies a Petition for Reconsideration of Domestic Fixed-Satellite Services. This order established a group processing procedure for domestic satellite applicants. Petitioner failed to substantiate basis for its argument that applications filed after the formation of the processing group are mutually exclusive with those contained in the group.

EFFECTIVE DATE: April 27, 1983.

FOR FURTHER INFORMATION CONTACT: Cecily Holiday, Common Carrier Bureau (202) 634-1624.

List of Subjects in 47 CFR Part 25

Communications common carriers, Communications equipment, Government procurement, Radio, Satellites, Securities.

Memorandum Opinion and Order

Adopted: April 27, 1983.

Released: June 20, 1983.

By the Commission: Commissioner Jones absent.

In the matter of processing of pending space station applications in the domestic Fixed-Satellite Service; FCC 83-183; (May 26, 1982; 47 FR 22958).

1. Before the Commission is GTE Satellite Corporation's (GSAT's) petition for partial reconsideration of *Domestic Fixed Satellite Service*, 90 FCC 2d 1 (1982) (hereinafter *Order*). In its petition,

GSAT argues that our *Order* is unlawful insofar as it bars domestic satellite applications filed after May 18, 1982 from consideration with earlier filed applications with which they may be mutually exclusive. Advanced Business Communications, Inc. (ABCI), American Satellite Company (ASC), Rainbow Satellite, Inc. (RSI), RCA American Communications, Inc. (RCA Americom), Satellite Business Systems (SBS) and United States Satellite Systems, Inc., (USSSI) filed oppositions to GSAT's petition. Because the alleged condition of mutual exclusivity does not exist, and because our processing procedure is preferable to that proposed by GSAT, we deny reconsideration.

I. Background

2. In the *Order* we adopted a procedure to process as a group the then-pending domestic satellite space station applications. Applications filed subsequent to the adoption of the *Order* are to be processed after those then on file. The applications were "frozen" in order to define the group for processing purposes. This procedure allows us to act upon the applications in a timely manner and to assign orbital locations efficiently. We noted that in assigning orbital locations, we must consider the specific proposals of the applicants to minimize potential interference and to maximize the number of satellites to be accommodated. Thus, the *Order* was made effective immediately upon adoption because we feared that speculative filings otherwise would be encouraged, thus delaying action on any of the then pending applications. However, in defining this group we did not preclude favorable action on subsequently filed applications. Thus, we emphasized that our group approach did not prevent the subsequent filing, or granting, of new applications for the 4/6 GHz bands, the 12/14 GHz bands or the 18/30 GHz bands.

II. Pleadings

3. GSAT asserts that the usable portions of the orbital arc in the 4/6 and 12/14 GHz bands are fast reaching the saturation point. Thus, according to GSAT, the grant of one application may preclude the grant of another and there exists a very real possibility of mutual exclusivity in applications for orbital assignments. Therefore, the Commission's processing *Order* is an unlawful cut-off and must be modified. GSAT asserts that the *Order* is unlawful because we did not give advance notice to potential applicants prior to its adoption. Additionally, GSAT claims that the *Order* "Sub silentio" repealed the Commission's general procedural

rule—Section 1.227(b)—which assures comparative consideration to prospective domestic satellite applicants in mutually exclusive situations. According to GSAT, insofar as the Commission's *Order* bars domestic satellite applications filed after May 18, 1982 from comparative consideration with earlier-filed applications with which they might be mutually exclusive, the *Order* is in conflict with the court's ruling in *Kessler*¹ in that it denies applicants their substantive rights that flow from *Ashbacker*.² GSAT also believes that the Commission's 1980 *Processing Order*, 77 FCC 2d 946 (1980), which similarly identified a group of applications for simultaneous processing, if distinguishable. In that case there was no possibility of mutual exclusivity between applications. Today, GSAT argues, this is no longer true.

4. In particular, GSAT claims that the usable orbital arc at 12/14 GHz for its dual-polarized satellite system and 50-state coverage is effectively limited to the arc from 98° to 106° West Longitude. According to GSAT, orbital locations outside of this limited arc are inadequate for its purposes. In light of current authorizations and pending application, GSAT continues, the assumptions of 1980 as they relate to mutual exclusivity are no longer valid. Therefore, GSAT argues, the Commission must modify its procedures in order not to preclude comparative consideration of later-filed applications that may be mutually exclusive with the applications that have been grouped for processing.

5. GSAT contends that the Commission may legally accomplish its fundamental objectives of allocating the usable orbital arc in the most efficient manner possible only through a modification of the processing procedure

contained in our *Order*. Specifically, it suggests that the Commission defer action on all pending applications until the orbital spacing policies are resolved in CC Docket No. 81-704.³ The Commission should then allow a discrete period in which existing applicants may amend their applications and new applicants may file applications in light of new rules and policies adopted in CC Docket No. 81-704. Only then GSAT states, should the Commission process and grant the pending applications.

6. Six parties filed oppositions to GSAT's proposal. Although all opponents address the merits of GSAT's arguments, USSSI and RSI also assert that GSAT lacks standing to petition for reconsideration. The opponents all agree that there is, at present, no potential mutual exclusivity among the 12/14 GHz satellite applicants.⁴ They identify the major problem with GSAT's petition as its failure to demonstrate that GSAT is in a mutually exclusive posture vis-a-vis those who had application on file prior to the adoption of our *Order*.

7. Specifically, ASC observes that to create a mutually exclusive situation GSAT relies on the assertion that its GSTAR satellites must be located within a small 8° segment of the orbital arc. Based upon its own self-defined concept of mutual exclusivity, GSAT alleges its application must be considered with the group selected by our *Order* for processing. ASC believes that GSAT should not be allowed to capitalize on the technological limitations of satellites it designed to the detriment of other satellite applicants. ABCI agrees that 50-state coverage and dual polarized satellites are factors that make 98° to 106° West Longitude the most desirable portion of the orbital arc. However, ABCI points out that, even taking into account these factors, an extended arc is in fact usable.⁵

¹ *Kessler v. FCC*, 326 F.2d 673 (D.C. Cir. 1963). In *Kessler* the Commission imposed a "freeze" on the acceptance of applications for most standard radio broadcast stations without providing advance notice. The action was taken so the Commission could reexamine the standards used in assigning new or changed standard broadcasting facilities. In affirming the Commission's decision, the *Kessler* court stated, *inter alia*, that pre-freeze applications may not be processed and granted without also considering timely-filed post-freeze applications with which they are mutually exclusive.

² *Ashbacker v. FCC*, 328 U.S. 327 (1945). In *Ashbacker* two applications had been filed, one for a new broadcast station and one for a change in frequency. For reasons of electrical interference both could not be granted. The Commission granted one application and set the other for hearing. The court reversed, finding "if the grant of one application effectively precludes the other, the statutory [47 U.S.C. 309] right to a hearing which Congress has accorded before denial of their applications becomes an empty thing." 328 U.S. at 330.

³ Domestic Fixed-Satellite Service, 88 FCC 2d 318 (1981). This proceeding is resolved in a companion order adopted today.

⁴ USSSI, while it rejects GSAT's claim to mutual exclusivity on the grounds that GSAT's applications were untimely filed, does believe that mutual exclusivity can arise between applications on file before the processing *Order* was adopted. USSSI believes that "Ashbacker rights arise when a timely filed and fully qualified domsat applicant is granted facilities substantially different from or inferior to those requested, and another applicant is given the authorization sought by the first or one which is mutually exclusive with it." USSSI's Opposition, fn. 1. Because it is unnecessary to the resolution of GSAT's petition, we need not and do not address USSSI's argument.

⁵ ABCI notes that it too proposes a satellite system with 50-state coverage and dual polarized satellites. However, it acknowledges that the orbital locations it requests between 85° and 125° West Longitude will provide acceptable service at 12/14 GHz.

8. ABCI also observes that nothing prevents the subsequent filing of an application that may seek one or more orbital positions previously assigned to another entity. Nor, ABCI believes, does anything to prevent the Commission from later adjusting assignments so as to achieve a more efficient and equitable scheme.⁶ The Commission could, ABCI believes, assign positions to the current group and still retain flexibility to make subsequent assignments. For example, it could reserve certain locations based on consideration of various criteria such as 50-state coverage.

9. ABCI, ASC, RCA Americom, RSI and SBS all state that the Commission's reserved right to assign orbital positions at variance with what an applicant requests, and to require operators to move their satellites after they are in orbit, prevents mutual exclusivity so long as new applicants can be accommodated in the orbital arc. Both RSI and RCA Americom state their belief that there still will be locations available, even if all pending applications in the current processing group are granted. Thus, according to RSI and RCA Americom, GSAT's application is not mutually exclusive with any other.

10. All opponents believe that the Commission's decision is sound. Because each satellite application may impact the entire satellite service, they argue, a group processing approach is the most expedient method of assigning orbital locations. Several also agree that discouraging speculative filings is a legitimate reason for not giving notice of the procedure before its adoption.

11. All of GSAT's opponents object to any modification of the processing order. They claim it would only result in additional delays and invite speculative filings. These delays, RCA Americom asserts, would culminate in the inefficiencies of comparative hearings. Such delays, SBS comments, would injure both the pending applicants and the public interest in the timely implementation of facilities and service by qualified carriers. ABCI concludes that the result of GSAT's proposal would be a nightmarish situation where the Commission's processes would be overwhelmed and the public denied additional service for a considerable period of time.

⁶ This, ABCI remarks, is especially true since the launch of many of the satellites authorized in this present group will not take place for three or four years.

III. Discussion

12. We are not persuaded to grant GSAT's petition for reconsideration.⁷ First, GSAT has not established that the *Order* impermissibly compromises any of its legal rights. In particular, GSAT has failed to demonstrate mutual exclusivity between its applications and those in our current processing group. Accordingly, because such mutual exclusivity does not exist, GSAT's arguments that our *Order* violates the principles of *Ashbacker* and *Kessler* are without merit. Second, we believe that the issuance of our *Order* without notice was reasonable and required by valid Commission objectives. Finally, in balancing the interests of the various parties, as well as the right of the public to receive prompt and efficient service, we believe the processing approach defined by the *Order* is superior to that proposed by GSAT.

13. GSAT claims that our *Order* is unlawful in that it denies mutually exclusive applicants substantive rights that flow from *Ashbacker*. In *Ashbacker*, the court held that when two bona fide applications are mutually exclusive the Commission shall not grant one without affording a hearing to both. To do otherwise deprives the loser of the opportunity for a hearing provided by Section 309 of the Communications Act. A mutually exclusive situation arises when the grant of one application for all practical purposes precludes the grant of another. Thus, to invoke *Ashbacker* or *Kessler* GSAT would have to demonstrate that its applications are mutually exclusive with those we have granted today. It has failed to do so. None of the applications granted today precludes favorable action on GSAT's applications.

14. Contrary to GSAT's speculative claims, all usable orbital locations have not been assigned by today's *Orbit Assignment Order*.⁸ GSAT asserts that even with a 2° orbital spacing standard, the entire usable arc—from 70° to 135° West Longitude—would be consumed if all pending and possible applications are granted. Notwithstanding GSAT's assertions, we consider the usable orbital arc in the 12/14 GHz band to be between about 60° and 132° West Longitude and thus larger than that assumed by GSAT. Moreover, on-ground spares are not, as GSAT believes, an express exception to our

⁷ Two opponents argue that GSAT lacks standing to petition for reconsideration. However, we believe it has demonstrated sufficient interest to address the merits of its argument.

⁸ Memorandum Opinion and Order, FCC 83-186, adopted today.

processing *Order*.⁹ Hence, after today's assignments, and with the adoption of reduced spacing criteria in CC Docket No. 81-704,¹⁰ there are still orbital locations available in the usable portion of the geostationary satellite arc. Several of the additional locations available both for new entrants and for the expansion of existing systems, such as GSAT's, are specifically identified in today's *Orbit Assignment Order*, *supra*.

15. GSAT also argues that, because it seeks orbital assignments between 98° and 106° West Longitude, the grant of any application within that orbital arc would render its application mutually exclusive by definition. According to GSAT, its satellite system is effectively limited to this portion of the orbital arc. However, GSAT's claim is based on broad generalizations rather than on concrete engineering analyses. No affidavits were submitted by GSAT to provide specific facts in support of its claims.

16. Consequently, GSAT has not established its claim of mutual exclusivity. In the first place, we note that at least one note that at least one orbital location is available for assignment in the portion of the orbital arc within which GSAT claims it must be located. But more importantly, in making such a claim, GSAT ignores our satellite processing procedures. These policies have successfully expedited the development of this dynamic industry, and continue to accommodate an increasing number of satellites in orbit.

17. The Commission has allocated spectrum differently in different services given the particular aspects of the services. For example, in many terrestrial services it is common for only specific channels to be available for assignment to licensees in specific areas of the country. In such instances two or more applicants requesting the same frequency allotment cannot be accommodated. In contrast, use of the radio spectrum in the domestic fixed satellite industry is assigned in a different and more flexible manner than in many terrestrial services. From the beginning of the service, the

⁹ GSAT claims that its third application, requesting authority to launch its on-ground spare, falls within the paragraph 9 exception of our *Order* and should thus be processed along with the applications on file prior to its adoption. We disagree. The exception articulated in Paragraph 9 was intended to allow for the filing of launch applications for satellites whose construction was previously authorized for in-orbit use or as emergency replacements of failed satellites. See Domestic Fixed Satellite Service, 77 FCC 2d 956 (1980), for an elaboration of the conditions under which this exception could be claimed.

¹⁰ Report and Order, FCC 83-184, adopted today.

Commission has recognized the high risk, large capital investment requirements and long lead times characteristic of the domestic satellite industry. We believe that the technology must be developed by those who take the risks, of both success and failure, in the marketplace. Thus, rather than inflexibly prescribing the technical parameters of orbital and frequency assignments, the Commission relies initially on applicants to design their own proposals for the Commission's consideration.¹¹ The Commission has also recognized the inherent flexibility of this technology to respond to changing circumstances and growing user needs. This includes the capability of satellites to provide adequate service over a significant range of orbital locations. For such fixed satellites, the entire allocated frequency band is assigned at the outset to insure sufficient capacity to make it economically viable over its lifetime.¹² However, orbital locations, which consider the applicant's needs along with those of other operators, are assigned to individual domestic satellites by Commission order. These assignments are temporary in nature, in that we have reserved the right to change them or adjust spacings between satellites if changing conditions so require.¹³

18. The Commission's flexible licensing policies and procedures have avoided institutional restraints and

¹¹ Domestic Communications Satellite Facilities, 22 FCC 2d 86, 93 (1970).

¹² This is not necessarily the case for other satellite services, such as Direct Broadcast Satellites, where different technologies, international regulations and economic considerations may make it necessary or feasible to assign only a portion of the allocated spectrum, or specific channels, to an individual licensee.

¹³ All satellite launch authorizations make the orbital assignment subject to change on 30 days notice. See, e.g., Orbit Deployment Plan, 84 FCC 2d 584 (1981). There have been a number of satellite relocations after initial positioning in orbit. These relocations were performed for a variety of reasons. For example, Westar II was relocated from its initial 90° West Longitude location to 123.5° West Longitude to provide service to Alaska. See Western Union Telegraph Company, 54 FCC 2d 976 (1975). Later, the RCA Satcom I satellite was moved from its initial location when Satcom II was launched to provide improved service to Alaska. See RCA Global Communications, 58 FCC 2d 656, 659 (1976). Both Westar I and Westar II were relocated at 79° West Longitude after their replacement by Westar IV and V at 99° and 123° West Longitude, respectively. See Western Union Telegraph Company, FCC 83-196, adopted today. See also COMSAT General Corporation, 84 FCC 2d 547, 558 (1981) (relocation of COMSTAR D-1). Finally, domestic satellites have been relocated to accommodate new systems. Satellite Business Systems, 86 FCC 2d 180 (1981) (to accommodate GSAT's initial satellite), and to adjust orbital spacings, Orbit Deployment Plan, *supra* at 614-615 (relocation of COMSTAR D-4).

inhibitions to the development of the technology. Thus, the acquisition of experience with the technology has not been delayed. Additionally, this flexibility has allowed us to adjust our policies as experience dictates. The public benefits which have flowed from this rapidly growing industry have resulted from our ability to accommodate all of the previously filed applications with a minimum of regulatory interference, delay, or uncertainty. This flexibility is important to accommodate new entrants, the changing requirements of existing carriers, and satellites proposed by other countries. Thus, an applicant's request for a particular orbital location cannot be dispositive of the location actually assigned by the Commission.

19. We have also concluded that conflicting requests by different applicants do not give rise to comparative hearing rights.¹⁴ The desire of an individual applicant for a particular location is, and must be, balanced against the requirements of other users (domestic and foreign) if the most efficient and practical use is to be made of the spectrum and the amount of service maximized. Assigning orbital locations is a complex process involving many factors, parties and even, at times, foreign countries. Although private interests may be considered, when they are balanced against strong public considerations, the latter must prevail. In addition, there are no significant differences between nearby locations in the same portion of the geostationary arc.¹⁵ Thus, the objective of our policies

¹⁴ Western Union Telegraph Company, 46 FCC 2d 162, 165 (1974). Although a hearing cannot be invoked with respect to the actual orbital location assigned to any particular satellite, such hearing rights might be invoked in the event all applications of fully qualified applicants within a processing group cannot be granted. However, even in such a situation, the Commission has wide discretion to fashion procedures to insure that administrative proceedings do not delay service to the public. See, e.g., Domestic Fixed Satellite Earth Stations—Alaska Bush, 81 FCC 2d 304 (1980), concerning our rulemaking powers under such circumstances.

¹⁵ Orbit Deployment Plan, *supra* note 13 at 598. In the past, applicants have requested identical locations in the orbital arc. We have, however, resolved these conflicts through our processing procedures and orbital assignment orders. For example, in a previous conflict over orbital locations, the Commission has found in GSAT's favor with respect to the particular locations at issue. See GTE Satellite Corporations, 84 FCC 2d 562 (1981) and Satellite Business Systems, 86 FCC 2d 180 (1981). GSAT is now using these decisions to support its claim of mutual exclusivity. However, those decisions simply resolved a controversy between the two parties. Although we indicated the desirability of GSAT's satellites being located within a specific portion of the orbital arc, we were focusing only on the accommodation of GSAT's initial in-orbit satellites. Engineering analyses were submitted in those proceedings that demonstrated that operations outside of the desired portion of the

and procedures has been to accommodate as many applicants as is efficiently possible with a minimum of administrative costs or delays. In particular, artificial or inflexible definitions of mutual exclusivity have been avoided and an increasing number of satellites have been authorized to satisfy growing demand. We have thus avoided traditional administrative procedures, such as comparative hearings, that have been used in other services that we regulate. The result has been an industry that has served the public interest through the timely implementation of facilities and services.

20. Similarly, just as *Ashbacker* is inapplicable in this instance because no mutual exclusivity exists, the holding of *Kessler* is not inconsistent with our Order. In *Kessler*, the court affirmed the Commission's imposition of a "freeze" on acceptance of applications, but created a limited exception for mutually exclusive applications timely filed, pursuant to our rules, after the freeze. The Court concluded that:

[I]f a grant of a pending application is to be considered under existing standards, the public interest would demand that mutually exclusive applications timely tendered be also considered in a comparative hearing designed to ascertain the applicant best qualified to provide the broadcasting service involved. The Commission will of course exercise its judgment as to whether mutual exclusivity does in fact exist in the case of any applicant claiming it. . . .

326 F.2d at 688 (emphasis added). The court was concerned that "the substantial effect of a contrary view would be . . . to freeze new applicants out of a right of substance—the comparative hearing . . ." *Id.* However, we have already established that GSAT's requests are not mutually exclusive with the applications filed before May 18, 1982. Thus, the limited exception created in *Kessler* is not available to GSAT.¹⁶

orbital arc were feasible, and we made no finding that service would be inadequate if GSAT's satellites were located outside of this portion of the orbital arc. Thus, GSAT cannot use the rationale of those decisions as support to limit its additional GSAT satellites, which are to be used to satisfy growth requirements, to a particular portion of the orbital arc. Growth satellites carry only a portion of the total system traffic, and services can be routed over any of the multiple satellites within the system which provides an adequate signal quality. Thus, growth satellites cannot have the same constraints as the initially authorized satellites over which all traffic must be routed during the start-up of the system. Rather, these additional system expansion satellites often must be located in adequate, though less than optimum, orbital positions, if they are to be accommodated at all.

¹⁶ We disagree with GSAT's assertion that our Order was an unlawful cut-off procedure. Cut-off

21. In addition to not infringing upon the rights of later applicants, our decision to "freeze" the inclusion of additional applications into the current processing group was reasonable and consistent with the public interest. Such a group of applications was required at that time for a number of reasons. For example, the *Order* was necessary to make the complex procedure of processing satellite applications a more manageable task. Processing such applications in groups lends more certainty and administrative efficiency to the pleading cycles because issues raised in the pleadings are often interrelated. Group processing avoids the problems caused by applications being filed over a period of several months, as had occurred prior to the adoption of our processing *Order*, which result in overlapping pleading cycles with numerous and duplicative pleadings being filed. Group processing procedures in the past have proven very useful.¹⁷ Additionally, in assigning orbital locations, it is helpful to take into consideration a well-defined set of satellites so that launch schedules and particular design characteristics, such as cross-polarization and power levels, can be used to maximum effectiveness.¹⁸ Finally, having a well-defined group of satellite proposals was necessary to effectively complete the technical and computer analyses required for our determinations on reduced orbital spacings in CC Docket No. 81-704.¹⁹

procedures, such as Section 1.227(b) of our rules, are intended to deny *Ashbocker* hearing rights to untimely filed applications so that the licensing process will function smoothly. These procedures are adopted by the Commission to insure an orderly discharge of the Commission's administration of its statutory licensing responsibilities. See, e.g., *Ranger v. FCC*, 294 F.2d 240 (D.C. Cir. 1961). Unlike a cut-off procedure, the *Order* at issue does not seek to—not does it—deny any applicant any hearing rights it may have under *Ashbocker*, or any rights it or any petitioner may have under Section 309(e) of the Communications Act. Such rights are fully preserved under our *Order* and the further processing order we are adopting today. See Memorandum Opinion and Order, FCC 83-185. Because we can no longer warrant the absence of mutual exclusivity, today's processing order will provide a 60 day notice period, from the publication of our Report and Order, for the filing of applications.

¹⁷ See e.g., Domestic Fixed Satellite Service, *supra* note 9.

¹⁸ In the event orbital reassignment becomes necessary, it is easier and less disruptive to users to accomplish this at the time a satellite is launched and initially positioned in orbit, rather than halfway through the life of a satellite. Having a well-defined group of applications and launch dates allows the Commission to devise an orbit assignment plan in an orderly fashion. It also minimizes the contingencies for which the Commission must plan to minimize disruption of service to users.

¹⁹ At the time the Commission adopted the present processing *Order*, it was in the midst of its CC Docket No. 81-704 rulemaking proceeding to

Thus, to avoid the need to begin anew the complex evaluation process each time a new and interrelated application was filed, as well as to achieve an effective outcome in the associated rulemaking on orbital spacings, a group processing procedure was adopted.

22. Moreover, our decision to define the current processing group without prior notice was not erroneous. As we explained in the processing *Order*, we feared that prior notice would trigger the filing of many speculative and hastily prepared applications for new and expansion satellites.²⁰ This could have precluded the timely availability of any new satellites to meet growing service demand if lengthy hearings had to be conducted before any applications were granted.²¹ Second, the necessity of undergoing the expense and delay of comparative hearings could have discouraged new entrants from prosecuting their applications.²² Third, it could have complicated and delayed the making of informed determinations on reduced spacing in Docket No. 81-704 if

reduce orbital spacing, as promised in the 1980 Processing *Order*, *supra* note 9. CC Docket No. 81-704 was initiated to reduce satellite separations to the smallest practical values. This would permit the authorization of the largest number of satellites without excessive costs or delays. In the past, a more generalized approach had been used to determine orbital spacings. Adjacent satellites could be operated independently of nearby satellites under this licensing procedure. However, with the number of additional satellites needed to satisfy user requirements, this approach no longer works satisfactorily. To achieve its objectives, the Commission recognized in CC Docket No. 81-704 that the specific characteristics of the satellites and services should be taken into account.

²⁰ We note that there was no legal prohibition to our granting, without notice, each application as it became ripe for action. These applications could have been granted subject to the outcome of CC Docket No. 81-704. We opted, instead, for a group processing approach. This approach avoids the confusion and uncertainty that might have resulted from incremental adjustments to each succeeding version of the plan of orbital assignments as orbital locations were reassigned to accommodate each newly granted proposal.

²¹ As a result of the reduced spacing criteria adopted today in CC Docket No. 81-704, there are sufficient orbital locations to satisfy all requests on file prior to the adoption of our processing *Order*. Additionally there will be several locations remaining under the current deployment plan to satisfy at least some of the requests of applicants who file subsequent to the adoption of our *Order*. However, if we were to group together all applications filed both prior to and subsequent to the adoption of our *Order*, along with any filed during a notice period, there would likely be more applications filed than orbital locations available under present standards. Many of these applications could be expected to be of a speculative nature.

²² Often long, drawn-out comparative proceedings discourage new entrants from prosecuting their applications. Thus, to encourage new entry, as has been our policy, we have attempted to fashion our licensing procedures in a way that avoids the administrative delay and expense of comparative hearings. See also note 24, *infra*.

comparative hearings had to be concluded before the new group of satellites could be finalized. Consequently, we believe these important public interest considerations justified our dispensing with prior notice before freezing the applications to be included in the current processing group.

23. Finally, we are unable to find that prejudice has resulted either to GSAT or to the public as a result of our procedures. The alternative processing plan advocated by GSAT would likely have encouraged speculative applications and resulted in the necessity of performing some type of comparative analysis of all applicants. Thus, it is not as a result of the procedure we have followed that GSAT may now be subjected to comparative hearings. If we considered together all applications on file, along with any applications that may be filed during the discrete period suggested by GSAT, conventional hearing delays and costs would likely be entailed. Thus, many years could have been required before the satellites are constructed and launched. Furthermore, since the entities to be accommodated would not be identified until the conclusion of the hearing, optimal orbital spacing criteria or deployment plans could not be established because we would not have a finite set of baseline transmission parameters and satellite designs to analyze. The result would be to the serious disadvantage of those applicants who filed prior to May 18, 1982, whose plans could be delayed substantially.²³ ²⁴ Ultimately, it is

²³ It should be noted that GSAT, having benefited from our earlier 1980 Processing *Order*, can hardly claim surprise at the current one. Additionally, GSAT had approximately two years in which to file applications for additional satellites. Applicants who have filed in opposition to GSAT's petition have had their applications for satellites in the 12/14 GHz band on file for at least two and one-half months before GSAT filed its applications, and in the case of one applicant, eight months.

²⁴ New entrants into the domestic satellite market are more likely to be vulnerable to long delays in the granting of their applications than are existing operators. Delayed market entry can only retard the development of a new operator's competitive position in the market and concomitantly strengthen the position of existing operators. If an operator has no facilities to offer, it cannot compete. GSAT has two orbital locations assigned to satellites currently under construction. Additionally, if Southern Pacific Company is permitted to transfer control of Southern Pacific Communications Company and Southern Pacific Satellite Company to GTE Corporation, GSAT's parent would control three additional orbital locations. Thus, GSAT, unlike the several new operators who are today being authorized their first orbital locations, will not be prevented from participating in the domestic satellite industry until its applications are acted upon. Delays to new entrants, on the other hand, would adversely impact the public interest to the extent that it would be antithetical to our competitive goals for domestic satellite service.

service to the public that would be delayed. This would impede our ability to fulfill our responsibilities under Section 1 of the Act. Additionally, it is not evident that any overriding public benefit would accrue from considering all of these applications together. Even if we could thereby assure ourselves that grants are awarded only to the best qualified applicants, this possible benefit would be more than offset by the harm to the public interest that would result from incurring substantial delays in the commencement of any additional satellite service.²⁵ We will, of course, attempt to take action on GSAT's requests for additional locations, as part of the next processing group, within a time frame that does not unduly disrupt its planning process. However, we will not disrupt the plans of other applicants who require a decision at an earlier date, nor delay needed services to the public, to do so for GSAT's benefit.²⁶

IV. Conclusion

24. Sections 4(i) and 4(j) of the Communications Act, 47 U.S.C. 154(i) and (j), afford the Commission wide discretion in establishing procedures to facilitate the orderly conduct of its business. It is well settled that the choice of agency procedure is committed to the agency's discretion.²⁷ Such principles are particularly important in the domestic satellite industry where

²⁵ We note that, through its passage of recent amendments to the Communications Act that allow the use of lotteries in initial licensing proceedings, Congress has expressly recognized the significant public interest in expediting service to the public, particularly in those instances where there may be a large number of mutually exclusive applications. House Report no. 97-765, 97th Cong., 2d Sess. 37 (1982). Therefore, whether or not we ultimately determine that lotteries are an appropriate mechanism for awarding licenses in the domestic satellite service, we believe that Congress has manifested a clear intention that the Commission, when fashioning its procedures, give appropriate recognition to the substantial public interest in assuring early commencement of service to the public. See also *United States v. FCC*, 652 F.2d 72 (D.C. Cir. 1980).

²⁶ Actually, GSAT requests authority to construct its fourth satellite as a ground spare, which is "subsequently (subject to further Commission approval) which GSAT will seek at a later date) to be launched and operated * * * at 100° W.L. or, contingently, at 98° W.L.". Application at p. 13. It has not been our practice to reserve orbital locations without a formal application before us. Thus, until GSAT files a formal application requesting authority to launch and operate its fourth satellite, we will treat its application in the same manner as we treat all applications for on-ground spares.

²⁷ *FCC v. Pottsville Broadcasting Company*, 309 U.S. 134 (1940).

start-up costs are high and lead times enormous.²⁸ Thus the Commission has consistently fashioned procedures and technical criteria to allow all qualified domestic satellite applicants to be accommodated with adequate orbital assignments. Frequency and orbital solutions have been devised that serve the public interest even if the resulting orbital assignments are not the same as those requested by the applicants.²⁹

25. GSAT has not been deprived of any substantive rights by our Order. It has already been assigned two orbital locations in the portion of the orbital arc it finds most desirable. The applications it filed after that Order are not mutually exclusive with these we grant today. When processing of GSAT's applications for additional satellites is completed, GSAT will have been afforded all due hearing rights with those applicants in the next group of applications. The procedures we have used in authorizing additional satellite facilities are designed to satisfy unmet consumer demand in a timely manner and thus most consistent with our statutory responsibilities. To reconsider our Order and adopt GSAT's proposed modifications could unduly delay satellite service and thus would not serve the public interest, convenience and necessity.

26. Accordingly, it is ordered, that the Petition filed by GTE Satellite Corporation for Partial Reconsideration of our May 18, 1982 Memorandum Opinion and Order, 90 FCC 2d 1 (1982), is denied.

27. It is further ordered, that the Secretary of the Federal Communications Commission shall cause this order to be published in the Federal Register at the earliest practical date.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 83-17505 Filed 7-5-83; 8:45 am]

BILLING CODE 6712-01-M

²⁸ *United States v. FCC*, note 25, *supra*.

²⁹ See, e.g., Orbit Deployment Plan, *supra* note 13. In particular, we have consistently declined to assign a single operator multiple orbital locations capable of serving all 50 states simply because the applicant requests such assignments. See, e.g., RCA Global Communications, *supra* note 13; COMSAT General Corporation, 69 FCC 2d 1278 (1978); Western Union Telegraph Company, 47 FCC 2d 274 (1974).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611, 672, and 675

[Docket No. 30627-115]

Foreign Fishing, Groundfish of the Gulf of Alaska, and Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Rule related notice; inseason adjustments.

SUMMARY: This document announces the apportionment of amounts of Alaska groundfish that were eligible in June 1983 for apportionment for total allowable level foreign and the domestic annual harvest, under provisions of the fishery management plans (FMPs) for Groundfish of the Bering Sea and Aleutian Islands Area and for the Groundfish of the Gulf of Alaska. Groundfish are apportioned according to the regulations implementing those FMPs. The intent of this action is to assure optimum use of these groundfish by allowing the foreign and domestic fisheries to proceed without interruption.

EFFECTIVE DATE: June 30, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey (Director, Alaska Region, National Marine Fisheries Service), 907-586-7221; or Janet Smoker (Fishery Biologist), 907-586-7230.

SUPPLEMENTARY INFORMATION: Background

Optimum yields (OY) for various groundfish species are established by the FMP for the Groundfish of the Bering Sea and Aleutian Islands Area and by the FMP for the Groundfish of the Gulf of Alaska. These FMPs were developed under the Magnuson Fishery Conservation and Management Act and are implemented by rules appearing at 50 CFR 611.92, and 611.93, and Parts 672, and 675. The OYs are apportioned initially among domestic annual harvest (DAH), reserve, and total allowable level of foreign fishing (TALFF). Each reserve amount, in turn, is to be apportioned to DAH and/or TALFF

during the fishing year, under 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b). In addition, surplus amounts of the three components of DAH (DAP—domestic processed fish, DNP—fish retained for bait or consumption, and JVP—foreign processed fish) may be apportioned to TALFF during the fishing year under those same regulations. The Director, Alaska Region, National Marine Fisheries Service, now announces the apportionments described below under these authorities.

The first scheduled date apportioning reserves in the Bering Sea and Aleutian Islands Area was in February 1983. At that time, all reserves were retained as explained in a Federal Register notice published on March 15, 1983 (48 FR 10846). Amounts eligible for apportionment at that time were added to the amounts eligible for the April 1983 apportionment. In the April apportionment, certain of the reserve amounts in the Bering Sea and Aleutian Islands and the Gulf of Alaska areas were apportioned to TALFF, and the entire pollock reserve in the Central Regulatory area of the Gulf was apportioned to JVP as explained in a Federal Register notice published on May 18, 1983 (48 FR 22299). Amounts eligible but not apportioned were added to those available for the June 1983 apportionment. In June, DAH amounts in the Bering Sea and Aleutian Islands areas were also subject to consideration for reapportionment to TALFF.

This action apportions certain Bering Sea, Aleutian Islands and Gulf of Alaska reserve amounts that became eligible for apportionment in June 1983.

1. *Bering Sea and Aleutian Islands.* The activity to date indicates that U.S. fisheries in this area are continuing to expand in 1983. Expansion of shoreside and floating processing capacity is expected to increase DAP. Also, harvests by joint ventures may exceed some JVP amounts. All DNP amounts are expected to be taken. Because it is currently uncertain what amounts, if any, will prove excess to the needs of U.S. fishermen, no DAH is reapportioned to TALFF now.

DAP: The stated capacity and intentions of domestic processors indicate the DAP amounts of sablefish in the Aleutian Islands area, Pacific ocean perch, and Pacific cod may be insufficient to meet domestic processing needs. DAP amounts specified for all other species appear to be adequate.

DNP: DNP amounts for all species appear sufficient for projected U.S. harvests.

JVP: The stated intentions of U.S. fishermen planning to deliver to foreign

processors indicate that JVP amounts of pollock, yellowfin sole, Pacific cod, Atka mackerel, turbot, and other rockfish are insufficient to meet their needs. JVP amounts specified for all other species appear to be adequate.

Reserves: Reserves of sablefish in the Aleutian Islands area and of pollock, Pacific ocean perch, yellowfin sole, Pacific cod, and Atka mackerel are being retained to supplement DAP and JVP in subsequent apportionments if those amounts are insufficient as discussed above. The available reserves (25% of the initial reserve) of sablefish in the Bering Sea and all the other species are apportioned to TALFF (see Summary Table of Apportionments to TALFF). The remainders of the turbot and other rockfish reserves after this apportionment are sufficient to supplement any future shortfall in the JVP amounts of those species.

2. *Gulf of Alaska:* U.S. fisheries have harvested large amounts of pollock in the Central Regulatory Area of the Gulf of Alaska. Additional joint venture activity is expected in the Western Regulatory area. U.S. processors are expected to operate in all three regulatory areas. Apportionment of reserves is addressed by individual regulatory area.

Western Regulatory Area

DAP: The stated capacity and intentions of domestic processors indicate the DAP amounts of Pacific cod and pollock are insufficient to meet their needs. DAP amounts for all other species appear to be adequate.

DNP: The DNP amount for Pacific cod appears sufficient for projected U.S. harvests.

JVP: A joint venture targeting on Pacific ocean perch has exceeded the JVP for that species. The stated intentions of U.S. fishermen planning to deliver to foreign processors indicate that JVP amounts of pollock, Pacific cod, and Atka mackerel may be insufficient to meet their needs. JVP amounts for all other species appear to be adequate.

Reserves: For the reasons stated above, the entire remaining reserve of Pacific ocean perch is apportioned to JVP. Reserves of Pacific cod and Atka mackerel are being retained to supplement JVP in subsequent apportionments if the JVP amounts are insufficient as discussed above. Although the available reserve of pollock is 80% of the initial reserve, only 40% of the initial reserve is apportioned to TALFF at this time, and the other 40% is being retained to supplement JVP or DAP amounts if those amounts prove

insufficient. The available reserves (40% of the initial reserve) for all other species are apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Central Regulatory Area

DAP: The DAP amounts for all species appear sufficient for projected U.S. processing.

DNP: The DNP amount for Pacific cod appears sufficient for projected U.S. harvests.

JVP: The joint venture fisheries, which targeted on pollock, have been completed and no further JVP activity in this area is expected.

Reserves: The entire pollock reserve was allocated to JVP at the April apportionment. For all other species, the available reserves (40% to the initial reserve) are apportioned to TALFF (see Summary Table of Apportionments to TALFF).

Eastern Regulatory Area

DAP: The DAP amounts for all species appear sufficient. A possible exception would be deliveries to processors in Seward and Cordova of sablefish caught in the Eastern Gulf of Alaska. Use of those processing facilities may expand U.S. fishing in the Eastern Gulf.

DNP: The Pacific cod DNP amount appears sufficient for projected U.S. harvests.

JVP: The JVP amounts for all species appear to be adequate.

Reserves: All but 214 mt of the sablefish reserves are being retained to supplement DAP; that amount (214 mt) is not expected to be needed for future DAP supplementation, and is allocated to TALFF. For all other species, the available reserves (40%) are apportioned to TALFF (see Summary Table of Apportionments to TALFF).

All Gulf Areas

DAP: Present DAP amounts for all four Gulf-wide species appear to be sufficient for anticipated U.S. processing.

DNP: the DNP amount of "other species" appears sufficient for anticipated U.S. fisheries.

JVP: The JVP amounts initially specified for squid, thornyheads, and "other species" appear to be sufficient for projected needs of the U.S. fisheries. The amount initially specified for rockfish may be too low in view of the rockfish bycatch in the joint-venture fishery targeting on Pacific ocean perch; however, the total DAH of rockfish appears sufficient to provide for the combined needs of the joint venture and domestic processors.

Reserves: The available reserves (40% of the initial reserve for all four Gulf-wide species are apportioned to TALFF (See Summary Table of Apportionments to TALFF).

Comments and Responses

In accordance with 50 CFR 611.929(c), 611.93(b), 672.20(c), and 675.20(b), aggregated reports on U.S. catches of Alaskan groundfish and the processing of those groundfish were available for public inspection. In addition, those provisions afforded the public an opportunity to submit timely comments on the extent to which U.S. fishermen will harvest and the extent to which U.S. processors will process Alaska groundfish. One comment was received during the comment period.

Comment: Available reserves of Pacific cod in the Central and Eastern Regulatory Areas of the Gulf of Alaska and of sablefish in the Western, Central, and (possibly) Eastern Regulatory Areas of the Gulf of Alaska are excess to the needs of domestic fishermen and should be apportioned to TALFF.

Response: Forty-percent of the initial reserves of Pacific cod in the Central and Eastern Regulatory Areas of the Gulf of Alaska are apportioned to TALFF at this time. Forty-percent of the initial reserves of sablefish in the Western and Central Regulatory Areas of the Gulf of Alaska are also apportioned to TALFF. Furthermore, an amount of sablefish (214 mt) in the Eastern Regulatory Area of the Gulf of Alaska (Western Yakutat area) which is not anticipated to be needed to supplement DAP, is also apportioned to TALFF.

Classification

This action is required by 50 CFR 611.92(c), 611.93(b), 672.20(c), and 675.20(b), and complies with E.O. 12291.

The apportionment of TALFF of reserve groundfish is announced in this notice in lieu of an amendment to the "TALFF table," which was formerly codified as Appendix 1 to 50 CFR 611.20 but was removed by a rule appearing at 47 FR 44264 (October 7, 1982). The apportionment of groundfish reserve to DAP is announced in this document without amending 50 CFR 675.20, Table 1, because that Table specifies initial rather than current DAP, DNP, JVP, DNP, reserve, and TALFF specifications (as of January 1, 1983).

3. Summary Table of Apportionments to TALFF (metric tons)

	Source			
	Re-serves	DAP	DNP	JVP
Bering Sea and Aleutians				
Pollock:				
Bering Sea	0	0	0	0
Aleutians	0	0	0	0
Pacific Ocean perch:				
Bering Sea	0	0	0	0
Aleutians	0	0	0	0
Sablefish:				
Bering Sea	88	0	0	0
Aleutians	0	0	0	0
Yellowfin sole	0	0	0	0
Atka mackerel	0	0	0	0
Other flatfish	763	0	0	0
Pacific cod	0	0	0	0
Turbot	1,125	0	0	0
Other species	967	0	0	0
Squid	125	0	0	0
Other rockfish	125	0	0	0
Gulf of Alaska				
Pollock:				
Western	4,560	0	0	0
Central	0	0	0	0
Eastern	1,328	0	0	0
Pacific cod:				
Western	0	0	0	0
Central	2,683	0	0	0
Eastern	792	0	0	0
Flounders:				
Western	832	0	0	0
Central	1,176	0	0	0
Eastern	872	0	0	0
Pacific ocean perch:				
Western	0	0	0	0
Central	632	0	0	0
Eastern	70	0	0	0
Atka mackerel:				
Western	0	0	0	0
Central	1,867	0	0	0
Eastern	255	0	0	0
Sablefish:				
Western	168	0	0	0
Central	304	0	0	0
Eastern	214	0	0	0
Other rockfish:				
Squid	400	0	0	0
Other species	1,296	0	0	0
Thornyhead rockfish:	300	0	0	0

In view of the prior notice provided in the authorizing regulation regarding the dates after which apportionment of reserves and reassessment of DAP are to occur, together with the need to avoid disruption of U.S. and foreign fisheries and the obligation to afford a reasonable opportunity to achieve OY, the Agency has determined that delaying the effective date of this rule-related notice would be impracticable, unnecessary, and contrary to the public interest.

(16 U.S.C. 1801 *et seq.*)

Dated: June 30, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-18111 Filed 6-30-83; 4:29 pm]

BILLING CODE 3510-22-M

50 CFR Part 674

[Docket No. 30630-120]

High Seas Salmon Fishery Off Alaska

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

ACTION: Notice of season opening.

SUMMARY: NOAA issues this notice of reopening of the southeast Alaska commercial salmon fishery in the fishery conservation zone beginning at 12:01 a.m., Pacific Daylight Time, July 1. Reopening of the fishery is necessary to allow commercial salmon trollers to continue to harvest chinook salmon until the season is terminated either by regulation or by a subsequent rule-related notice. The State of Alaska has announced a simultaneous reopening of territorial waters.

DATE: This notice is effective at 12:01 a.m., Pacific Daylight Time (PDT), July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Robert W. McVey, Director, Alaska Region, National Marine Fisheries Service, 907-586-7221.

SUPPLEMENTARY INFORMATION: This action is taken in accordance with a rule-related notice of closure issued by NOAA and published in the *Federal Register* on June 13, 1983 (48 FR 27080), which closed the southeast Alaska commercial troll salmon fishery in the 3-200 mile fishery conservation zone effective at 12:00 (midnight) June 8, 1983. The aforementioned notice stated that the fishery would reopen on a date between June 25 and July 10 which would be announced by the Director, Alaska Region, National Marine Fisheries Service, in accordance with procedures specified in 50 CFR 674.23(b)(2). Accordingly, this notice announces that the fishery will reopen simultaneously with the fishery in State of Alaska territorial waters at 12:01 a.m., PDT, July 1, 1983.

List of Subjects in 50 CFR Part 674

Administrative practice and procedures, Fish, Fisheries, Fishing, Reporting and recordkeeping requirements.

(16 U.S.C. 1801 *et seq.*)

Dated: June 30, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-18175 Filed 7-1-83; 9:22 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register

Vol. 48, No. 130

Wednesday, July 6, 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 Parts 27, 28, and 61

Cotton and Cottonseed; Revision in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed Rulemaking.

SUMMARY: This proposal would revise fees for cotton classification under the Cotton Futures Act. Fees for initial classification, review classification and micronaire determinations and certification thereof as well as supervision fees would be increased. Fees for classification and testing of cotton under the Cotton Standards Act are proposed to be increased including fees for grade, staple or micronaire readings; fees for a new memorandum or certificate; hourly fees for classification under Form C determinations; fees for practical classing examinations for cotton or cotton linters; and fees for classification or reviews of linters. Under the Agricultural Marketing Act of 1946, fees for licensing samplers and chemists, fees for administration paid by chemists as well as fees for review of grading of cottonseed would be increased. All proposed fee changes are the result of the increased costs of providing such services.

DATE: Comments by September 6, 1982.

ADDRESS: Comments may be mailed to Loyd R. Frazier, Chief, Marketing Services Branch, Cotton Division, AMS, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Loyd R. Frazier, (202) 447-2147.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under the USDA procedure established in accordance with Executive Order 12291 and Secretary's Memorandum 1512-1 and has been classified "non-major" as it does not meet the criteria contained

therein for major regulatory actions. William T. Manley, Deputy Administrator for Marketing Programs Operations, has determined that this action will not have a significant impact on a substantial number of small business entities because (i) the amount of the proposed increase in fees is too small to have a significant impact, (ii) the use of the services is voluntary, and (iii) further, if there is any impact, the Secretary has to recover the costs of the services from the users of the services. Since all of these services are directly related to the marketing of cotton, it is desirable that all fee increases have a uniform effective date. If adopted, an effective date for the fees of October 1, 1983, the beginning of Fiscal Year 1984, is anticipated.

The United States Cotton Futures Act (7 U.S.C. 15b) authorizes the Secretary to make such regulations as are determined to be necessary to carry out the provisions of that Act. Pursuant to that authority, Part 27 of the regulations (7 CFR Part 27) provides for cotton classification under the Cotton Futures Act including fees to recover the costs of classification and micronaire.

Certain fees have been reviewed and it is proposed that the fees which appear in § 27.80 for initial classification be increased from 95 cents per bale to \$1.00 per bale; for review classification to be increased from \$1.15 per bale to \$1.20 per bale; for micronaire determinations for 20 cents per bale to 25 cents per bale; and for combination service from \$2.10 per bale to \$2.20 per bale. All supervision fees would be increased by 5 cents except for transfers of cotton to a different delivery point which would increase 10 cents. Since pursuant to section 27.85, fees for withdrawal of requests or applications are the same as the fees in section 27.80 for services completed, such charges would be affected by the proposal. Fees for certificates which appear in § 27.81 would increase from 45 cents to 50 cents.

The United States Cotton Standards Act (7 U.S.C. 51 *et seq.*) authorizes the Secretary to promulgate such regulations as found necessary and to make such expenditures as necessary to the administration of the Act. Pursuant to that authority, Part 28 (7 CFR Part 28) was promulgated to provide for regulations for cotton classings, testing and standards including applicable fees.

These fees have been reviewed and it is proposed that the fees for classification of cotton or samples in § 28.116 be increased by 5 cents; for grade, staple and micronaire readings from \$1.05 per sample to \$1.10; for grade and staple only from 90 cents per sample to 95 cents; for grade only or staple only 65 cents to 70 cents; and by 5 cents for micronaire reading only from 20 cents per sample to 25 cents. The fee § 28.117 for each new memorandum or certificate issued in substitution for a prior one would increase from \$1.90 to \$2.00 per sheet.

Further, service fees when a request for classification of cotton is withdrawn (7 CFR 28.119) after classification has begun are the same as the classification fees if completed, and such changes will be affected by the proposal. The additional hourly fee charged for Form C determinations (7 CFR 28.120 and 28.149) would increase from \$14.65 per hour or each portion thereof to \$15.25 per hour, or each portion thereof, plus traveling expenses and subsistence or per diem. The fee in § 28.122 for complete practical classing examination for cotton or cotton linters would increase from \$95 to \$100.00 and fees in § 28.148 for the classification, comparison or review of linters would increase from 95 cents to \$1.00 per bale or sample involved. In § 28.84, the fee for classification or comparison of cotton linters and the issuance of a memorandum would increase from 95 cents to \$1.00 per sample.

Pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*) the Secretary is authorized to assess and collect such fees as will be reasonable and as nearly as may be practicable to cover the cost of services rendered under the Act. The regulations promulgated pursuant to that Act for the inspection, sampling and certification of cottonseed sold or offered for sale for crushing purposes (7 CFR Part 61) includes such fees. The fee in § 61.43 for a sampler's license would increase from \$15 to \$16 for the examination while the fee for renewal of such a license would increase from \$13 to \$14. In § 61.44, the fee for a chemist's license would increase from \$300 to \$310 for the examination while the fee for renewal of such a license would increase from \$100 to \$105. In § 61.45, those fees to cover in part the cost of administering the regulations in Part 61 charged to each

licensed cottonseed chemist would increase from \$1.15 per certificate issued by the chemist to \$1.20. The fee in § 61.46 for the review of the grading of any lot of cottonseed would increase from \$39 to \$42 with the disbursement to the two licensed chemists who performed the reanalysis increasing from \$13 to \$14.

Due to increases of USDA costs in providing these services since the last adjustment in fees on October 1, 1982 (47 FR 42959-42960), an average increase in fees of about 4.0 percent is proposed. The proposed increase in fees, if adopted, is anticipated to be effective on October 1, 1983, the beginning of Fiscal Year 1984. The continuation of operating costs at present levels for some services will necessitate the proposed increase in fees for the coming year. Many factors are considered in calculating the cost of providing services. Increases in personnel costs have had the most significant impact on these costs. Federal salaries were increased 4.0 percent on October 1, 1982. Some increases in expenditures for rent, utilities, and communications have also occurred during that period.

These increases, along with increased costs for supplies and materials, are responsible for an overall increase in the costs of providing services of approximately 4 percent. This fee increase is being proposed in conjunction with continuing cost-savings measures to reduce costs and thereby provide services more economically. These cotton programs will continue to be reviewed to determine their cost-effectiveness.

List of Subjects

7 CFR Part 27

Classification, Cotton, Micronaire, Samples.

7 CFR Part 28

Cotton linters, Grades, Staples.

7 CFR Part 61

Cottonseed, Chemists, and Grades.

Accordingly, the following amendments to 7 CFR Parts 27, 28, and 61 are proposed:

PART 27—COTTON CLASSIFICATION UNDER COTTON FUTURES LEGISLATION

1. Sections 27.80 and 27.81 are revised to read as follows:

§ 27.80 Fees; classification, micronaire, and supervision.

For services rendered by the Cotton Division pursuant to this subpart, whether the cotton involved is

tenderable or not, the person requesting the services shall pay fees as follows:

(a) Initial classification and certification—\$1.00 per bale.

(b) Review classification and certification—\$1.20 per bale.

(c) Micronaire determination and certification—25 cents per bale.

(d) Combination service—\$2.20 per bale. (Initial classification, review

classification, and Micronaire determination covered by the same request and only the review classification and Micronaire determination results certified on cotton class certificates.)

(e) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any two or more of these operations are performed together—\$1.20 per bale.

(f) Supervision, by a supervisor of cotton inspection, of the inspection, weighing, or sampling of cotton when any one of these operations is performed individually—\$1.20 per bale.

(g) Supervision, by a supervisor of cotton inspection, of transfers of cotton to a different delivery point, including issuance of new cotton class certificates in substitution for prior certificates—\$2.30 per bale.

(h) Supervision, by a supervisor of cotton inspection of transfers of cotton to a different warehouse at the same delivery point, including issuance of new cotton class certificates in substitution for prior certificates—\$1.55 per bale.

§ 27.81 Fees; certificates.

For each new certificate issued in substitution for a prior certificate at the request of the holder thereof, for his business convenience, or when made necessary by the transfer of the cotton under the supervision of an exchange inspection agency as provided in § 27.73, the person making the request shall pay a fee of 50 cents for each certificate issued.

90 Stat. 1841-1846; (7 U.S.C. 15b)

PART 28—COTTON CLASSING, TESTING, AND STANDARDS

2. Section 28.116 is amended by revising paragraph (a) to read as follows:

§ 28.116 Amounts of fees for classification; exemption.

(a) For the classification of any cotton or samples, the person requesting the services shall pay a fee, as follows, subject to the additional fee provided in paragraph (c) of this Section.

(1) Grade, staple, and micronaire reading—\$1.10 per sample.

(2) Grade, staple only—95 cents per sample.

(3) Grade only or staple only—70 cents per sample.

(4) Micronaire reading only—25 cents per sample.

3. Sections 28.117, 28.120, 28.122, 28.148, and 28.149 are revised to read as follows:

§ 28.117 Fee for new memorandum or certificate.

For each new memorandum or certificate issued in substitution for a prior memorandum or certificate at the request of the holder thereof, on account of the breaking or splitting of the lot of cotton covered thereby or otherwise for his business convenience, the person requesting such substitution shall pay a fee of \$2.00 per sheet.

§ 28.120 Expenses to be borne by party requesting classification.

For any samples submitted for Form A or Form D determinations, the expenses of inspection and sampling, the preparation of the samples, and the delivery of such samples to the classification room or other place specifically designed for the purpose by the Director shall be borne by the party requesting the classification. For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$15.25 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

§ 28.122 Fee for practical classing examination.

The fee for the complete practical classing examination for cotton or cotton linters shall be \$100. Any applicant who passes both parts of the examination may be issued a certificate indicating this accomplishment. Any person who passes one part of the examination, either grade or staple, and fails to pass the other part, may be reexamined for that part that was failed. The fee for this partial reexamination is \$55.

§ 28.148 Fees and costs; classification; reviews; other.

The fee for the classification, comparison, or review of linters with respect to grade, staple, and character or any of these qualities shall be at the rate of \$1.00 for each bale or sample

involved. The provisions of §§ 28.115 through 28.126 relating to other fees and costs shall, so far as applicable, apply to services performed with respect to linters.

§ 28.149 Fees and costs; Form C determination.

For samples submitted for Form C determinations, the party requesting the classification shall pay the fees prescribed in this subpart and, in addition, a fee of \$15.25 per hour, or each portion thereof, plus the necessary traveling expenses and subsistence, or per diem in lieu of subsistence, incurred on account of such request, in accordance with the fiscal regulations of the Department applicable to the Division employee supervising the sampling.

(Sec. 10, 42, Stat. 1519; 7 U.S.C. 61, unless otherwise noted)

4. Section 28.184 is revised to read as follows:

§ 28.184 Cotton linters; general.

Requests for the classification or comparison of cotton linters pursuant to this subpart and the samples involved shall be submitted to the Cotton Division. All samples classed shall be on the basis of the official cotton linters standards of the United States. The fee for classification or comparison and the issuance of a memorandum showing the results of such classification or comparison shall be \$1.00 per sample.

(Sec. 205, 60 Stat. 1090, as amended; 7 U.S.C. 1624)

PART 61—COTTONSEED SOLD OR OFFERED FOR SALE FOR CRUSHING PURPOSES (INSPECTION SAMPLING AND CERTIFICATION)

5. Sections 61.43, 61.44, 61.45, and 61.46 are revised to read as follows:

§ 61.43 Fee for sampler's license.

In the examination of an applicant for a license to sample and certificate official samples of cottonseed the fee shall be \$16, but no additional charge shall be made for the issuance of a license. For each renewal of a sampler's license the fee shall be \$14.

§ 61.44 Fee for chemist's license.

For the examination of an applicant for a license as a chemist to analyze and certificate the grade of cottonseed the fee shall be \$310, but no additional charge shall be made for the issuance of a license. For each renewal of a chemist's license the fee shall be \$105.

§ 61.45 Fee for certificates to be paid by licensee to Service.

To cover in part the cost of administering the regulations in this part each licensed cottonseed chemist shall pay to the Service \$1.20 for each certificate of the grade of cottonseed issued by him. Upon receipt of a statement from the Service each month showing the number of certificates issued by the licensee, such licensee will forward the appropriate remittance in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA."

§ 61.46 Fees for the review of grading of cottonseed.

For the review of the grading of any lot of cottonseed, the fee shall be \$42. Remittance to cover such fee, in the form of a check, draft, or money order payable to the "Agricultural Marketing Service, USDA" shall accompany each application for review. Of each such fee collected, \$14 shall be disbursed to each of the two licensed chemists designated to make reanalysis of such seed.

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

Dated: June 30, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-18089 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-02-M

Federal Grain Inspection Service

7 CFR Part 68

Request for Public Comment on Showing Factor Information on Commodity Inspection Certificates

AGENCY: Federal Grain Inspection Service¹, USDA.

ACTION: Notice—Request for public comment.

SUMMARY: The Federal Grain Inspection Service (FGIS) invites public comment as to whether the regulation requiring all factor information determined as part of an inspection to be shown on commodity inspection certificates should remain in effect. A request has been made to eliminate this requirement and to show only the grade on the certificate. Views and comments are solicited from interested parties to help

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

in determining if this requirement should continue without change, be revised, or eliminated.

DATE: Written comments must be submitted on or before September 6, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management, USDA, FGIS, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1738. All comments received will be made available for public inspection at the above address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., address as above, telephone (202) 382-2738.

SUPPLEMENTARY INFORMATION: Due to an industry request, FGIS is reviewing section 68.14 of the regulations under the Agricultural Marketing Act of 1946, as amended. This section states, in part, that " * * * For graded commodities, each official certificate shall show the grade in accordance with the official grade standards, all factor information requested by the applicant for inspection, any factor for which an official determination is made during the course of inspection, and for all commodities graded below the highest quality grade the certificate shall show all grade determining factors. * * * "

Before the amendment of this section, effective on January 1, 1976 (at 40 FR 53545), the inspection certificates were required to show only the results of the inspection. The regulations did not indicate how specific the certificate should be with regard to reporting various quality factors. For graded commodities inspected in domestic commerce, only the grade and the grade determining factor(s) were reported. Other quality factor information was only reported when requested by the applicant. The grade, but not the grade determining factors, was generally reported on certificates for graded commodities inspected for export.

This practice was changed when a final rule was printed in the *Federal Register* on November 19, 1975 (40 FR 53545). The summary stated, "The Department concludes it is desirable to show all available quality information on the grade certificates. * * * the amendment will provide both buyers and sellers with equal information on the quality of the commodity involved, help processors maintain better quality control of their products, and promote truth-in-certification of products."

A trade association has stated that its members are experiencing difficulty with the present certification procedure. It contends that reporting factor information that has not been requested by the buyer confuses both the buyer and financial institutions. It states that the confusion on the part of financial institutions has resulted in delayed payments. It further maintains that under normal trading circumstances showing the U.S. grade implies the relevant factor limits for that particular grade. If a buyer wants a specific factor limit, then this could be shown on the certificate upon request. As a result, the trade association has requested that the regulations requiring all factor information determined as part of an inspection to be shown on commodity inspection certificates be eliminated. It requests that only the grade be shown on the certificate.

Views and comments are solicited from interested parties so that a determination can be made if this requirement should be continued without change, revised, or eliminated. Further, comments are requested as to whether the problem, as described by the trade association, or any other problems with the requirements of § 68.14 are being experienced by the trade.

This request for public comment does not constitute notification that changes to § 68.14 are, or will be, proposed. Any action proposed with respect to the existing regulations will be published in the *Federal Register* at a later date. At that time, the regulations may be continued without change or revised.

The U.S. Department of Agriculture encourages citizen participation and solicits public views on any changes which may improve this regulation.

(Sec. 203(h), Pub. L. 79-733, 60 Stat. (7 U.S.C. 1622))

Dated: June 29, 1983.

Kenneth A. Gilles,
Administrator.

[FR Doc. 83-17926 Filed 7-5-83; 6:45 am]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Protection of Employees Who Provide Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its

regulations governing the domestic licensing of production and utilization facilities, principally nuclear power reactors, to require each licensee, permittee, and applicant to include in its procurement documents a provision which requires that contractors and subcontractors post a notice to employees related to employee protection. The required notice would contain information notifying employees that an employer is prohibited from discriminating against an employee engaging in protected activities and that an employee may seek a remedy for prohibited discrimination by filing a complaint with the Department of Labor. The proposed amendment would affect licensees, permittees, applicants, and their contractors and subcontractors who are contractually responsible for construction of basic components or production and utilization facilities.

DATE: Submit comments by September 6, 1983.

Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Send comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, ATTN: Docketing and Service Branch. Copies of comments received may be examined in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: A. J. DiPalo, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, (301)443-5997.

SUPPLEMENTARY INFORMATION:

Background

On July 14, 1982, the Commission published in the *Federal Register* (47 FR 30452) a final rule that, among other things, amended its regulation 10 CFR Part 50, "Domestic Licensing of Production and Utilization Facilities," by adding a new § 50.7, "Employee Protection." Similar amendments were made at that time to Commission regulations applicable to other types of Commission licensees. The amendments were intended (1) to complement Section 210, "Employee Protection," of the Energy Reorganization Act of 1974, as amended, 42 U.S.C. 5851, (2) to establish a framework for the direct protection of employees of NRC licensees, permittees and applicants, including their contractors and subcontractors and others who assist or participate in any proceeding under the Energy Reorganization Act or the

Atomic Energy Act, or assist or participate in any other action to carry out the purposes of the Acts, and (3) to complement the Department of Labor's regulations related to this matter (29 CFR Part 24).

Under Section 161 of the Atomic Energy Act of 1954, as amended, the Commission is authorized to obtain necessary information to assist the exercise of its other Atomic Energy Act authorities. Pursuant to that authority, the Commission seeks to insure that licensee, permittee or applicant conduct does not interfere with the Commission's ability to obtain necessary health and safety information. Prohibiting licensee, permittee and applicant discrimination against employees who provide information or assistance to the Commission is one way of preserving the free flow of health and safety information to the Commission and of protecting the Commission's ability to obtain such information.

Section 210 of the Energy Reorganization Act identifies specific acts of employees as protected activities, e.g., providing information to the NRC about possible violations of the Atomic Energy Act or the Energy Reorganization Act, requesting the Commission to institute action against any person for the administration or enforcement of requirements of these laws, and testifying in any Commission proceeding. Section 210 prohibits employers from discriminating against employees who engage in protected activities and provides the Department of Labor (DOL) with authority to investigate complaints of discrimination and to provide a remedy to employees following an administrative proceeding in the Department of Labor. DOL may order reinstatement of an employee terminated in violation of Section 210, with back pay and compensatory damages. Under Section 161 of the Atomic Energy Act, the Commission may act to protect its sources of health and safety information. Under Section 210 of the Energy Reorganization Act, the Department of Labor may act to protect employees.

On October 12, 1982, the amendments to Part 50 discussed above became effective. They require licensees, permit holders, and those persons that have had a license application pending with the Commission for over 30 days to post on their premises Form NRC-3. Form-3, among other things, advises employees of their protection against discrimination and the availability of a remedy through a Department of Labor administrative proceeding.

In the course of adopting the final rule noted above the Commission further directed its staff to prepare a proposed rule that would require contractors and subcontractors of licensees, permittees, and applicants for licenses and permits for production and utilization facilities (primarily nuclear power reactor facilities) to post Form NRC-3 on their premises. The Commission believes that in addition to preserving the free flow of necessary health and safety information between the Commission and employees of its licensees, permittees and applicants, it is equally important to establish a similarly unrestricted flow of information to the Commission from contractor and subcontractor employees where they may have important health and safety information. This proposed rule responds to the Commission's directive.

The Proposed Rule

As proposed, § 50.7(e) would include a new requirement that licensees, permittees, and applicants for Commission licenses and permits for production and utilization facilities insert a contractual provision in their procurement documents which obligates their contractors that construct production and utilization facilities or basic components to post Form NRC-3 on the contractor or subcontractor's premises. The procurement documents must also specify that the contractor will by contract with its subcontractors require its subcontractors to post NRC Form 3. This requirement would apply only with respect to subcontractors who construct production and utilization facilities or basic components. The proposed rule is intended to ensure that all employees protected by § 50.7 are aware that commencing or participating in Commission proceedings, and providing information or assistance to the Commission are protected activities; that discrimination in employment for these activities is prohibited by statute and by regulation and that a remedy for discrimination is available through the Department of Labor.

The rule as proposed is limited to contractors and subcontractors of licensees, permittees, or license applicants for production or utilization facilities (entities subject to 10 CFR Part 50). This proposed rule covers only those contractors and subcontractors who might violate requirements imposed under the Atomic Energy Act or Energy Reorganization Act in the course of supplying goods and services to Commission licensees, permittees, and applicants.

Employee discrimination complaints filed against these organizations (which

number less than 2% of all organizations holding specific NRC licenses), account for over 90% of the proceedings initiated by the Department of Labor pursuant to § 210 of the Energy Reorganization Act of 1974. If experience warrants, the Commission will consider further rulemaking to require other types of Commission licensees to ensure that their contractors and subcontractors also post Form NRC-3.

The proposed rule would extend the posting requirements to contractors and subcontractors of Part 50 licensees, permittees, or applicants that are contractually responsible for constructing facilities or basic components. The terms "constructing" and "basic component" are terms-of-art which are presently defined in the Commission's regulation, 10 CFR Part 21, "Reporting of Defects and Noncompliance."

The Commission's experience in adopting and amending 10 CFR Part 21, "Reporting of defects and noncompliance," indicates that the Commission can identify contractors and subcontractors who are contractually responsible for a basic component to be used in a production or utilization facility as a class of contractors and subcontractors who might violate requirements imposed by the Atomic Energy Act or the Energy Reorganization Act. "Basic component" is a term-of-art defined in 10 CFR Part 21 and is limited to those items and services in which a defect or failure to comply could create a substantial safety hazard.

The key point is that "basic component" is defined to exclude "commercial grade items" as set out in 10 CFR Part 21. On this basis, contractors and subcontractors who supply commercial grade items (which have no safety implications) are not subject to the procedures of 10 CFR Part 21. Those same contractors and subcontractors who supply commercial grade items are not required to post Form NRC-3 under the requirements of the proposed rule.

Since these definitions have been used in Part 21 for several years, the meaning of these terms and the scope of the posting requirement should be well understood. For administrative convenience, the definition of "constructing" and "basic component" now contained in Part 21 are proposed for inclusion in the definition section of Part 50 essentially without change. In addition, the term "procurement document," defined in § 21.3(i) of Part 21, is also proposed for inclusion in Part 50.

As proposed, § 50.7(e) would continue to require posting of NRC Form 3's at locations sufficient to permit employees covered by § 50.7 to observe a copy on the way to or from their place of work. Under the proposed rule, affected contractors and subcontractors would also be required to post NRC Form 3 at locations on their premises sufficient to permit their employees to observe a copy on the way to or from their place of work.

Contractors or subcontractors who would be subject to the posting requirement in proposed § 50.7(e) may obtain copies of Form NRC-3 from the following sources:

1. By writing to the Director, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555;

2. By writing to the Regional Administrator of any Commission Regional Office listed below:

U.S. Nuclear Regulatory Commission, Region I, 631 Park Avenue, King of Prussia, PA 19406

U.S. Nuclear Regulatory Commission, Region II, 101 Marietta St., N.W., Suite 3100, Atlanta, GA 30303

U.S. Nuclear Regulatory Commission, Region III, 799 Roosevelt Road, Glen Ellyn, IL 60137

U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 1000, Arlington, TX 76011

U.S. Nuclear Regulatory Commission, Region V, 1450 Maria Lane, Suite 210, Walnut Creek, CA 94596, or

3. By request from the licensees, permittees, and applicants to whom they are contractually responsible.

The rule does not require licensees, permittees and applicants to provide copies of Form 3. The Commission expects them to do so as a matter of convenience to their contractors and subcontractors.

The NRC staff is currently undertaking a revision to NRC Form 3 in response to comments received from the Commission to make it clearer and more graphic.

Paperwork Reduction Act Statement

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

Regulatory Flexibility Act Certification

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that, if promulgated, this rule

will not have a significant economic impact on a substantial number of small entities. This rule as proposed affects Commission licensees, permittees, applicants, and contractors and subcontractors of Commission licensees, permittees, and applicants governed by the provisions of 10 CFR Part 50. The companies that own production and utilization facilities licensed under 10 CFR Part 50 do not fall within the Scope of "small entities" set forth in the Regulatory Flexibility Act or the small business size standards set out in regulations issued by the Small Business Administration in 13 CFR Part 121. Some affected contractors and subcontractors may be small entities, however, the Commission has determined that the impact on those contractors and subcontractors due to the implementation of this rule will not meet the threshold of a significant economic impact. This conclusion is based on the fact that the physical task of posting Form NRC-3 is unlikely to result in significant costs to those required to post Form 3. Any affected contractor or subcontractor who believes there would be a significant economic impact imposed upon small entities as a result of adoption of the proposed rule should comment on this matter to the Commission.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire Prevention, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and Section 553 of Title 5 of the United States Code, notice is hereby given that adoption of the following amendments to 10 CFR Part 50 is contemplated.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 is revised to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2236, 2239, 2282); secs. 201, 202, 206, 88 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.58, 50.91 and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2073 (42 U.S.C. 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections

50.80-50.81 also issued under Sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Section 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161(b), 68 Stat. 948, as amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.2, new paragraphs (y), (z), and (aa) are added to read as follows:

§ 50.2 Definitions.

(y)(1) "Basic component," when applied to a nuclear power reactor means a plant structure, system, component, or part thereof necessary to assure (i) the integrity of the reactor coolant pressure boundary, (ii) the capability to shut down the reactor and maintain it in a safe shutdown condition, or (iii) the capability to prevent or mitigate the consequences of accidents which could result in potential offsite exposures comparable to those referred to in § 100.11 of this chapter.

(2) "Basic component," when applied to other facilities and when applied to other activities licensed pursuant to this part, means a component, structure, system, or part thereof that is directly procured by the licensee of a facility or activity subject to the regulations in this part and in which a defect or failure to comply with any applicable regulation in this chapter, order, or license issued by the Commission could create a substantial safety hazard.

(3) In all cases "basic component" includes design, inspection, testing, or consulting services important to safety that are associated with the component hardware, whether these services are performed by the component supplier or others.

(4) A commercial grade item is not a part of a basic component until after that item is designated for use as a basic component.

(z) "Constructing" or "construction" means the design, manufacture, fabrication, placement, erection, installation, modification, inspection, or testing of a facility of activity which is subject to the regulations in this part and consulting services related to the facility or activity that are important to safety.

(aa) "procurement document" means a contract that defines the requirements which facilities or basic components

must meet in order to be considered acceptable by the purchaser.

3. In § 50.7, paragraph (e) is revised to read as follows:

§ 50.7 Employee protection.

(e)(1) Each licensee, permittee, and applicant shall post Form NRC-3, "Notice to Employees," on its premises:

- (i) Not later than 30 days after an application is docketed;
- (ii) While the application is pending before the Commission;
- (iii) During the term of the license; and
- (iv) For 30 days following license termination.

(v) At locations sufficient to permit employees covered by this section to observe a copy on the way to or from their place of work.

(2) Each licensee, permittee, and applicant shall ensure that each new procurement document or modification of an existing procurement document for a production and utilization facility or a basic component it issues specifies that the contractor post Form NRC-3 on its premises during the term of the contract which shall continue for 30 days following performance of all other contract requirements. Each new or amended procurement document must also specify that the contractor shall require its subcontractor who is contractually responsible for the construction of a production or utilization facility or a basic component to post Form NRC-3 on the subcontractor's premises during the term of the subcontract which shall continue for 30 days following performance of all other subcontract requirements. Posting must be at locations which permit employees covered by this section to observe a copy.

Note.—Copies of Form NRC-3 may be obtained by writing to the Regional Administrator for the appropriate U.S. Nuclear Regulatory Commission Regional Office listed in Appendix D, Part 20 of this chapter or the Director, Office of Inspection and Enforcement, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

Dated at Washington, D.C., this 30th day of June, 1983.

For the Nuclear Regulatory Commission:
Samuel J. Chilk,
Secretary of the Commission.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-121-83]

Withdrawal of Treasury Decision 7747
Relating to Debt and Equity**AGENCY:** Internal Revenue Service,
Treasury.**ACTION:** Notice of proposed withdrawal
of a Treasury decision.

SUMMARY: This document provides a notice of the proposed withdrawal of Treasury decision 7747 (final regulations under section 385 relating to the treatment of certain interests in corporations as stock or indebtedness) that were originally published in the *Federal Register* for December 31, 1980 (45 FR 86438), and revised by Treasury decision 7774, published in the *Federal Register* for May 4, 1981 (46 FR 24945), Treasury decision 7801, published in the *Federal Register* for January 5, 1982 (47 FR 147), and Treasury decision 7822, published in the *Federal Register* for July 2, 1982 (47 FR 28915).

Neither the final regulations, as published in December 1980, nor the proposed revisions, as published in January 1982, however, fully reflect the Treasury or IRS position on debt/equity matters. Several public statements to this effect have been made by Treasury officials and so it was decided to withdraw the final regulations, published as T.D. 7747 in December 1980, since it is intended that provisions contained in those regulations will never become effective as published.

DATES: Written comments must be delivered or mailed by August 5, 1983. The withdrawal is proposed to be effective August 5, 1983. An announcement of the date, time, and place of a public hearing on the proposed withdrawal is published in the proposed rules section of this issue of the *Federal Register*.

ADDRESS: Send comments to:
Commissioner of Internal Revenue,
Attention: CC:LR:T (LR-121-83)
Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT:
Carolyn Swift of the Legislation and
Regulations Division, Office of the Chief
Counsel, Internal Revenue Service, 1111
Constitution Avenue NW., Washington,
D.C. 20224 (Attention: CC:LR:T) (202-
566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

The regulations under section 385 relating to treatment of certain interests in corporations as stock or indebtedness were published as proposed rules in the *Federal Register* for March 24, 1980 (45 FR 18957). Following a public hearing on July 23, 1980, final regulations were published in the *Federal Register* for December 31, 1980 (45 FR 86438). As published on December 31, 1980, the regulations were scheduled to take effect prospectively so that they would apply to interests in corporations created after April 30, 1981, and further comments on the regulations were invited. A large number of comments were received and in order to have more time to consider and review all the comments, the effective date of the final regulations was postponed in a Treasury decision published in the *Federal Register* for May 1, 1981, (46 FR 24945) so that the regulations would apply to interests only if they were created after December 31, 1981.

After reviewing the comments, a decision was made to revise the regulations under section 385 and revisions to the regulations under section 385 were published in the *Federal Register* for January 5, 1982 (47 FR 184). In order to prevent the final regulations as published in December 1980, from going into effect until these revisions were made final, the effective date of the December 1980, regulations were again postponed first by Treasury decision 7801, also published in the *Federal Register* for January 5, 1982 (47 FR 147), and then by Treasury decision 7822, published in the *Federal Register* for July 2, 1982 (47 FR 28915).

Neither the final regulations, as published in December 1980, nor the proposed revisions, as published in January 1982, however, fully reflect the Treasury or IRS position on debt/equity matters. Several public statements to this effect have been made by Treasury officials and so it was decided to withdraw the final regulations, published as T.D. 7747 in December 1980, since it is intended that provisions contained in those regulations will never become effective as published. In connection with this withdrawal, conforming amendments to regulations under sections 166, 482, 992, and 1371 which were also made by T.D. 7747 are being withdrawn. The proposed revisions published in January 1982, are also being withdrawn. (See the proposed rule section of this issue of the *Federal Register*).

Comments and Requests for a Public Hearing

Before this proposed withdrawal of a Treasury decision is adopted, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing has been scheduled. Notice of the time and place of this hearing appears in the proposed rule section of this issue of the *Federal Register*.

Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is, therefore, not required. The Secretary of the Treasury has certified that this rule, if issued, will not have a significant economic impact on a substantial number of small entities since it merely withdraws a Treasury decision that has never been effective. A Regulatory Flexibility Analysis is, therefore, not required under the Regulatory Flexibility Act (5 U.S.C. 605 (b)).

Drafting Information: The principal author of these proposed regulations is Carolyn Swift of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the proposed regulations, both on matters of substance and style.

List of Subjects in 26 CFR 1.301-1
through 1.385-10

Income taxes, Corporations,
Corporate distributions, Corporate
adjustments, Reorganizations.

It is proposed to withdraw Treasury decision 7747, published in the *Federal Register* for December 31, 1980 (45 FR 86438) as revised by Treasury decision 7774, published in the *Federal Register* for May 4, 1981 (46 FR 24945), Treasury decision 7801, published in the *Federal Register* for January 5, 1982 (47 FR 147), and Treasury decision 7822, published in the *Federal Register* for July 2, 1982 (47 FR 28915).

Philip E. Coates,

Acting Commissioner of Internal Revenue.

[FR Doc. 83-16196 Filed 7-1-83; 10:59 am]

BILLING CODE 4830-01-M

26 CFR Part 1

(LR-121-83)

Withdrawal of Treasury Decision 7747 Relating to Regulations Under Section 385; Public Hearing on Proposed Withdrawal of Regulations**AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Notice of public hearing on proposed withdrawal of regulations.**SUMMARY:** This document provides notice of a public hearing on proposed withdrawal of regulations relating to the withdrawal of Treasury Decision 7747 (final regulations under section 385 relating to the treatment of certain interests in corporations as stock or indebtedness) which was originally published in the *Federal Register* for December 31, 1980.**DATES:** The public hearing will be held on Thursday, August 18, 1983, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Thursday, August 4, 1983.**ADDRESS:** The public hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-121-83), Washington, D.C. 20224.**FOR FURTHER INFORMATION CONTACT:** Lou Ann Craner of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, 202-566-3935, not a toll-free call.**SUPPLEMENTARY INFORMATION:** The subject of the public hearing is proposed regulations under section 385 of the Internal Revenue Code of 1954. The proposed regulations appear in the Proposed Rules section of this issue of the *Federal Register* (See FR Doc. 83-18196).

The rules of § 601.601 (a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearing. Persons who submit written comments within the time prescribed in the notice of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Thursday, August 4, 1983, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by

questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

George H. Jelly

Director, Legislation and Regulations Division.

(FR Doc. 83-18197 Filed 7-1-83; 10:59 am)

BILLING CODE 4830-01-M

26 CFR Parts 1 and 15A

(LR-75-81)

Treatment of Certain Interests in Corporations as Stock or Indebtedness; Withdrawal of Notice of Proposed Rulemaking**AGENCY:** Internal Revenue Service, Treasury.**ACTION:** Withdrawal of notice of proposed rulemaking.**SUMMARY:** This document withdraws the notice of proposed rulemaking relating to the treatment of certain interests in corporations as stock or indebtedness that was published in the *Federal Register* for January 5, 1982 (47 FR 164).**FOR FURTHER INFORMATION CONTACT:** Carolyn Swift of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave. NW., Washington, D.C. 20224, Attention: CC:LR:T (LR-75-81), 202-566-3458, not a toll-free call.**SUPPLEMENTARY INFORMATION:****Background**This document withdraws the notice of proposed rulemaking that was published in the *Federal Register* for January 5, 1982 (47 FR 164). That notice proposed regulations under section 385 of the Code to provide rules for classifying certain corporate instruments as stock or indebtedness for federal tax purposes. Certain conforming amendments to sections 166, 171, 453, and 482 were also proposed. A number of comments were received concerning the notice and a public hearing was held on March 10, 1982. After consideration of all comments regarding the proposed regulations, it was determined that this notice should be withdrawn because the notice

contains rules which do not fully reflect the Treasury and IRS position with respect to debt/equity issues. Treasury officials have made several statements that provisions in the notice do not fully reflect the Treasury position. Accordingly, the notice is being withdrawn.

Drafting Information

The principal author of this document is Carolyn Swift of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing this document, both in matters of substance and style.

List of Subjects in 26 CFR 1.301-1 through 1.385-10

Income taxes, Corporations, Corporate distributions, Corporate adjustments, Reorganizations.

Withdrawal of Proposed AmendmentsThe proposed amendments to 26 CFR Parts 1 and 15A relating to treatment of certain interests in corporations as stock or indebtedness published in the *Federal Register* for January 5, 1982 (47 FR 164), are hereby withdrawn.

James I. Owens,

Acting Commissioner of Internal Revenue.

(FR Doc. 83-18198 Filed 7-1-83; 10:59 am)

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Surface Coal Mining and Reclamation Enforcement in Tennessee; Review of Amendments to State Regulatory Program**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.**ACTION:** Reopening of public comment period.**SUMMARY:** OSM is reopening the period for review and comment on proposed amendments to the Tennessee regulatory program under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).On June 6, 1983, OSM issued a notice in the *Federal Register* announcing a 30-day comment period on proposed amendments to the Tennessee regulatory program submitted by the State for the Secretary of the Interior's

approval on May 2, 1983, OSM is reopening the comment period to allow the public an opportunity to consider and comment on additional amendments submitted by the State on May 2, 1983, June 20, 1983, and June 24, 1983.

DATE: Written comments, data or other relevant information relating to the proposed amendments must be received on or before 4:00 p.m. July 21, 1983 to be considered.

ADDRESS: Comments on the State's submission should be mailed or hand-delivered to: Office of Surface Mining, ATTENTION: Tennessee Administrative Record, 530 South Gay Street, SW., Suite 500, Knoxville, Tennessee 37902.

FOR FURTHER INFORMATION CONTACT: Mr. James Curry, Field Office Director, Office of Surface Mining, 530 South Gay Street, SW., Suite 500, Knoxville, Tennessee 37902. Telephone: (615) 623-9523.

SUPPLEMENTARY INFORMATION: On May 2, 1983, OSM received program amendments submitted by the Tennessee Division of Surface Mining (DSM) to satisfy conditions (b), (c), (d), (e), (f), (g), (h), (i) and (j) of the Secretary's approval of the Tennessee regulatory program, as listed in the Secretary's notice of approval published August 10, 1982 (47 FR 34724-34754).

On June 6, 1983, OSM published a notice of a public hearing and a 30 day comment period on the amendments submitted by the State (48 FR 25229). On May 2, 1983, and June 20, 1983, Tennessee also submitted for OSM's approval additional modifications to the statutory provisions of the State program. These amendments are not required to satisfy conditions of approval. In addition, on June 24, 1983, Tennessee submitted a revision of the amendment to § 731.14(g)(1) of the State program submitted for approval on May 2, 1983, relating to the State's bond calculation procedures. OSM is reopening the comment period to allow the public an opportunity to review the additional statutory modifications submitted by the State on May 2, 1983 and June 20, 1983, and the revision submitted on June 24, 1983.

Following is a listing of the sections of the Tennessee program affected by the statutory amendments submitted for approval on May 2, 1983 and June 20, 1983:

Tennessee Code Annotated

Section 59-8-325, subsections (a), (c)—Liens

Section 59-8-307, subsection (i) and new subsection (n)—Permits, requirements and criteria—Amendments—Renewal

Section 59-8-303, subsection (33)(i)—Definition of "surface mining operations"

Section 59-8-313, subsection (m) and new subsection (s)—Permit approval and/or denial

Section 59-8-306, new subsection (g)—Exploration permits

Section 59-8-310, new subsection (g)—Mining and reclamation plan for coal surface mines

Section 59-8-321, subsection (a)—Board of reclamation review

The full text of the amendments submitted by the State are available for public review at the address listed above.

OSM is seeking comment on the adequacy of the proposed program changes in satisfying the criteria for approval of State program amendments set forth under §§ 732.15 and 732.17 of OSM's regulations.

Dated: June 30, 1983.

Carl C. Close,

Acting Assistant Director, Program Operations and Inspection.

[FR Doc. 83-16169 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 86

[AMS-FRL 2393-6]

Air Pollution Control; Public Hearing on Emission Standards for Light-Duty Diesel-Powered Vehicles for 1982, 1983 and 1984 Model Years

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: This notice announces that EPA has received an application from Revere Classics, Inc. (Revere) for waivers of the oxides of nitrogen (NO_x) emission standard applicable to light-duty diesel-powered vehicles for model years 1982, 1983 and 1984. EPA is scheduling a public hearing to consider requests for waivers of the NO_x standard by Revere and any other parties timely requesting such a waiver.

DATES: EPA has scheduled a public hearing on July 20, 1983, beginning at 9:00 a.m., to consider applications for waiver of the NO_x standard by Revere and any other parties submitting such application by July 15, 1983. Parties desiring to testify should notify the Manufacturers Operations Division, as noted below, not later than July 18, 1983. Interested parties should submit any

relevant written comments by July 29, 1983 to ensure that the Administrator can consider these comments in deciding on the applications. If no party testifies at the hearing, EPA will consider the waiver requests based on written submissions to the record.

ADDRESSES: The hearing will be held at the Manufacturers Operations Division Conference Room, 499 South Capitol Street, SW., 2nd floor, Washington, D.C. Parties planning to testify at the hearing should notify Ms. Mary T. Smith as noted below. Manufacturers submitting applications, or parties submitting written comments, should direct their submissions to the Director, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. All public portions of applications and other relevant information will be available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at U.S. Environmental Protection Agency, Central Docket Section (A-130), Gallery I, Waterside Mall, 401 M Street, S.W., Washington, D.C. 20460 (Docket No. EN-83-04).

FOR FURTHER INFORMATION CONTACT: Ms. Mary T. Smith, Attorney/Advisor, Manufacturers Operations Division (EN-340), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, (202) 382-2514.

SUPPLEMENTARY INFORMATION:

I. Background

Section 202(b)(6)(B) of the Act, 42 U.S.C. 7521(b)(6)(B) (1977), allows any manufacturer to petition the Administrator of EPA for waiver of the 1981-1984 model year NO_x standard of 1.0 gram per vehicle mile (g/mi). The Administrator, after notice and opportunity for public hearing, may waive the standard for any class or category of light duty vehicles manufactured during the four model year period, beginning in model year 1981, up to a maximum level of 1.5 g/mi, if the manufacturer can show that the waiver is necessary to permit diesel engine technology to be used on the subject vehicles.

The waiver may be granted if the Administrator determines:

(i) That the waiver will not endanger public health;

(ii) That the waiver will result in significant fuel savings at least equal to the fuel economy standard applicable in each year under the Energy Policy and Conservation Act; and

(iii) That the technology has a potential for long-term air quality

benefit and has the potential to meet or exceed the average fuel economy standard applicable under the Energy Policy and Conservation Act at the expiration of the waiver.

EPA published guidelines for diesel NO_x waiver applications in the *Federal Register* at 43 FR 30341 (July 14, 1978), in order to apprise manufacturers of the information then deemed necessary to demonstrate that a waiver should be granted. EPA subsequently published a notice in the *Federal Register* at 46 FR 20705 (April 7, 1981), also announcing procedures for submitting NO_x waiver applications covering model years 1981-1984.

EPA has received an application from Revere for waiver of the NO_x standard for its modified version of the European Mercedes Benz 300D vehicle for model years 1982, 1983 and 1984. This is the first time that a commercial importer for resale has requested a NO_x diesel waiver. Some commercial importers have recently requested and received clarification that they are manufacturers under the Act, and, hence, may be eligible for a NO_x waiver.

II. Hearing Procedures

The hearing will provide an opportunity for interested persons to state their views or arguments, or to provide pertinent information concerning the waiver request at issue. Any party desiring to make an oral statement at the hearing should notify Mary T. Smith of EPA's Manufacturers Operations Division as listed above no later than July 18, 1983. The procedures for the hearing will be the same as those EPA has employed in previous diesel NO_x waiver hearings.¹

Presentations by the participants at the hearing and interested parties who make written submissions or file applications should address the considerations listed in previous NO_x waiver hearing notices² and in the *Federal Register* notice that announced consolidated proceedings to consider NO_x waiver applications for the 1981-1984 model years.³

Interested parties should submit written information to the record by July 29, 1983, to ensure its consideration by the Administrator in formulating waiver decisions. At the hearing, the Agency will make a verbatim record of any testimony. The Administrator will base determinations with regard to manufacturers' waiver requests on the record of the public hearing and on any other relevant written materials. This

information will be available for public inspection at the EPA Central Docket EN-83-04. Interested parties may obtain copies of documents in the public docket as provided in 40 CFR Part 2.

Dated: June 22, 1983.

Charles Elkins,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-18095 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 271

[SW-4-FRL 2392-4]

Hazardous Waste Management Program; South Carolina; Application for Interim Authorization, Phase II, Component C

AGENCY: Environmental Protection Agency.

ACTION: Notice of public comment period and of a public hearing.

SUMMARY: Today EPA is announcing the availability for public review of the South Carolina application for Phase II, Component C, Interim Authorization, Hazardous Waste Management Program, inviting public comment, and giving notice that if significant public interest is expressed, EPA will hold a public hearing on the application.

DATE: If significant public interest is expressed in holding a hearing, a public hearing is scheduled for August 8, 1983. EPA reserves the right to cancel the public hearing if significant public interest in holding a hearing is not communicated to EPA by telephone or in writing by August 5, 1983. EPA will determine by August 5, 1983, whether there is significant interest to hold the public hearing. All written comments on the South Carolina interim authorization application must be received by the close of business on August 8, 1983.

ADDRESSES: If significant public interest is expressed, EPA will hold a public hearing on South Carolina's application for interim authorization on August 8, 1983, at 7:00 p.m. at the Rutledge Building, Conference Room, Basement Floor, 1429 Senate Street, Columbia, South Carolina.

Written comments on the application and written or telephone communication of interest in EPA's holding a public hearing on the South Carolina application must be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. EPA, 345 Courtland St., N.E., Atlanta, Georgia 30365, 404/881-3016.

If you wish to find out whether or not EPA will hold a public hearing on the

South Carolina application based upon EPA's decision that there was significant public interest in such a hearing, write or telephone after August 5, 1983, the EPA contact person listed below or telephone Mr. Robert E. Malpass, Chief Bureau of Solid and Hazardous Waste Management, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, 803/758-5681.

Copies of the South Carolina interim authorization application for Phase II Component C, are available during normal business hours at the following addresses for inspection and copying:

Bureau of Solid and Hazardous Waste Management, S.C. Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201, Telephone: 803/758-5681

Environmental Protection Agency, Regional Office Library, Room 121, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: 404/881-4216

Written Comments should be sent to: James H. Scarbrough, Chief, Residuals Management Branch, U.S. Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365, Telephone: 404/881-3016.

The public hearing will be held at: Rutledge Building, Conference Room, Basement Floor, 1429 Senate Street, Columbia, South Carolina.

FOR FURTHER INFORMATION CONTACT: James H. Scarbrough, Chief, Residuals Management Branch, Environmental Protection Agency, 345 Courtland Street, N.E., Telephone: 404/881-3016

SUPPLEMENTARY INFORMATION: In the May 19, 1980 *Federal Register* (45 FR 33063) the Environmental Protection Agency promulgated regulations, pursuant to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended, to protect human health and the environment from the improper management of hazardous waste. These regulations included provisions under which EPA can authorize qualified State hazardous waste management programs to operate in lieu of the Federal program. The regulations provide for a transitional stage in which qualified State programs can be granted interim authorization. The interim authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program will take effect.

¹ See 45 FR 27788 (April 24, 1980).

² See, e.g., 45 FR 73790 (November 6, 1980).

³ 46 FR 20705 (April 7, 1981).

The State of South Carolina received interim authorization for Phase I on February 25, 1981.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of interim authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface impoundments and waste piles. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

The State of South Carolina received interim authorization for Phase II, Components A and B, on November 3, 1982.

In the July 26, 1982 **Federal Register** (47 FR 32378) the Environmental Protection Agency announced that states with qualified programs can be authorized for Phase II Interim Authorization, Component C. Component C published in the **Federal Register** includes standards for permitting of land disposal facilities.

A full description of the requirements and procedures for State interim authorization is included in 40 CFR Part 271, Subpart B (48 FR 14257).

As noted in the May 19, 1980 **Federal Register**, copies of complete State submittals for Phase II interim authorization are to be made available for public inspection and comment. In addition, a public hearing is to be held on the submittal.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians—lands, Reporting and recordkeeping

requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Charles R. Jeter,
Regional Administrator.

[FR Doc. 83-18039 Filed 7-5-83; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 61

[CC Docket No. 82-122]

Interconnection Arrangements Between and Among the Domestic and International Record Carriers

AGENCY: Federal Communications Commission.

ACTION: Withdrawal of denial of petition for reconsideration.

SUMMARY: By Order published April 11, 1983, 48 FR 16708, April 19, 1983, the FCC largely denied petitions for reconsideration of FCC orders implementing the Record Carrier Competition Act of 1981. One issue was inadvertently not resolved. It concerned Graphnet, Inc.'s request for a second telex access code. In this order the FCC sets aside its denial of Graphnet's petition with respect to this issue and states that it will address the issue in a further order.

FOR FURTHER INFORMATION CONTACT: Daniel Grosh, Common Carrier Bureau, (202) 632-6917.

Order

Adopted: May 18, 1983.

Released: May 19, 1983.

By the Common Carrier Bureau.

In the matter of Interconnection Arrangements Between and Among the Domestic and International Record Carriers; CC Docket No. 82-122.

1. In a recent order, *Interconnection Arrangements Between and Among the Domestic and International Record Carriers*, CC Docket No. 82-122, FCC 83-84, released April 11, 1983, 48 FR 16708, April 19, 1983, the Commission largely denied petitions for reconsideration of two earlier Commission orders. However, one issue raised in the petitions was, inadvertently, not addressed. Graphnet, Inc. had requested that we require Western Union to assign it a 308 international telex access code in San Francisco in addition to its current 108 international access code in New York City. Western Union opposed this request. In order to address this issue properly, the Bureau hereby sets aside the denial of Graphnet's petition for reconsideration with respect to this issue, pursuant to authority delegated to the Chief, Common Carrier Bureau under § 0.291 of the Commission's Rules, 47 CFR 0.291, and Section 1.108 of the Commission's Rules, 47 CFR 1.108. The Commission will address this matter in a later order. This order is effective immediately.

Federal Communications Commission.
Jack D. Smith,
Deputy Chief, Common Carrier Bureau.

[FR Doc. 83-15888 Filed 7-5-83; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register

Vol. 48, No. 130

Wednesday, July 6, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Soybean Research Advisory Institute; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Agricultural Research Service announces the following meeting:

Name: Soybean Research Advisory Institute.

Date: July 18-20, 1983 (9:00 a.m. daily).
Place: Room 3109, South Building, U.S. Department of Agriculture, 12th and Independence Avenue, SW, Washington, DC 20250.

Type of meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: This is the second meeting of the Soybean Research Advisory Institute established in compliance with Section 1446 of the Agriculture and Food Act of 1981. The purpose of this Advisory Institute is to provide a temporary advisory body to assess soybean production and utilization research in the United States and to submit a comprehensive report to Congressional committees on its findings. The second meeting includes a report by National Program Staff, ARS, and by the staffs of the Cooperative State Research Service and Economic Research Service on the current soybean research program in the U.S., reports assessing the impediments to increased U.S. soybean production and future soybean research needs by the *Production and Utilization and Marketing Task Forces* of the Advisory Institute, and work sessions on drafting reports.

Contact person: Dr. Robert C. Leffel, Executive Secretary, Soybean Research Advisory Institute, Bldg 011, HH 19, BARC-West, Beltsville MD 20705. Telephone: (301) 344-1722.

Done at Beltsville, Maryland, this 22nd day of June, 1983.

Robert C. Leffel,

Executive Secretary, Soybean Research Advisory Institute.

[FR Doc. 83-18059 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-03-M

Food and Nutrition Service

National School Lunch, Special Milk, and School Breakfast Programs; National Average Payments/Maximum Reimbursement Rates

AGENCY: Food and Nutrition Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the annual adjustments to the "national average payments," the amount of money the Federal Government gives States for lunches and breakfasts served to children participating in the National School Lunch and School Breakfast Programs. The Department also announces adjustments in the "maximum reimbursement rates," the maximum per lunch rate a State can provide a School Food Authority for lunches served to children participating in the lunch program. Further, this notice announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in *only* the Special Milk Program for Children. These adjusted payments and rates are in effect from July 1, 1983-June 30, 1984, and are adjusted on an annual basis each July. The annual payments and rates adjustments for the school lunch and school breakfast programs reflect changes in the food away from home series of the Consumer Price Index for all Urban Consumers. The annual rate adjustment for milk reflects changes in the Producer Price Index for Fresh Processed Milk.

EFFECTIVE DATE: July 1, 1983.

FOR FURTHER INFORMATION CONTACT: Stanley C. Garnett, Branch Chief, Policy and Program Development Branch, School Programs Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756-3620.

SUPPLEMENTARY INFORMATION:

Classification

This notice has been reviewed under Executive Order 12291 and has been

classified as not major because it does not meet any of the three criteria identified under the Executive Order. The action announced in the notice will not have an annual effect on the economy of \$100 million, will not cause a major increase in costs or prices and will not have a significant impact on competition, employment, investment, productivity, innovation or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or foreign markets.

This notice has also been reviewed with regard to the requirements of Pub. L. 96-354, the Regulatory Flexibility Act. The Administrator of the Food and Nutrition Service has certified that this action will not have a significant adverse economic impact on a substantial number of small entities.

This notice imposes no new reporting or recordkeeping provisions that are subject to OMB review in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3587).

Definitions

The terms used in this notice shall have the meanings ascribed to them in the regulations governing the National School Lunch Program (7 CFR Part 210), the regulations for School Breakfast Program (7 CFR Part 220) and the regulations for Determining Eligibility for Free and Reduced Price Meals and Free Milk in Schools (7 CFR Part 245).

Background

Special Milk Program for Children—Pursuant to Section 3 of the Child Nutrition Act, as amended (42 U.S.C. 1772), the Department announces the rate of reimbursement for a half-pint of milk served to nonneedy children in a school or institution which participates in *only* the Special Milk Program for Children. This rate is adjusted annually to reflect changes in the Producer Price Index for Fresh Processed Milk.

For the period July 1, 1983 to June 30, 1984, the rate of reimbursement for a half-pint of milk served to a nonneedy child in a school or institution which participates in *only* the Special Milk Program is 9.25 cents. This reflects no change over the current rate because the Producer Price Index for Fresh Processed Milk during the period May 1982 to May 1983 did not increase significantly enough to trigger a change in the reimbursement rate.

As a reminder, schools or institutions with pricing programs which elect to serve milk free to eligible children, continue to receive the average cost of a half-pint of milk (the total cost of all milk purchased during the claim period divided by the total number of purchased half-pints) for each half-pint served to an eligible child.

National School Lunch and School Breakfast Programs—Pursuant to Section 11 of the National School Lunch Act, as amended (42 U.S.C. 1759(a)) and Section 4 of the Child Nutrition Act of 1966, as amended (42 U.S.C. 1773), the Department annually announces the adjustments to the national average payment factors, and to the maximum reimbursement rates for lunches served to children participating in the National School Lunch Program. Adjustments are made each July 1, based on changes in the food away from home series of the Consumer Price Index for all Urban Consumers, published by the Bureau of Labor Statistics of the Department of Labor.

Lunch Payment Factors—Section 4 of the National School Lunch Act provides general cash for food assistance payments to States to assist schools in purchasing food. There are two Section 4 National Average Payment Factors (NAPFs) for lunches served under the National School Lunch Program. The lower payment factor applies to lunches served in School Food Authorities in which less than 60 percent of the lunches served in the school lunch program during the second preceding school year were served free or at a reduced price. The higher payment factor applies to lunches served in School Food Authorities in which 60 percent or more of the lunches served during the second preceding school year were served free or at a reduced price.

To supplement these Section 4 payments, Section 11 of the National School Lunch Act provides special cash assistance payments to aid schools in providing free and reduced price lunches. The Section 11 NAPF for each reduced price lunch served is set at 40 cents less than the factor for each free lunch.

As authorized under Sections 8 and 11 of the National School Lunch Act, maximum reimbursement rates for each type of lunch are prescribed by the Department in this notice. These maximum rates ensure equitable disbursement of Federal funds to School Food Authorities.

Breakfast Payment Factors—Section 4 of the Child Nutrition Act of 1966, as amended, establishes national average payment factors for free, reduced price

and paid breakfasts served under the School Breakfast Program and additional payments for schools determined to be in "severe need" because they serve a high percentage of needy children.

Revised Payments

The following specific Section 4 and Section 11 National Average Payment Factors and maximum payments are in effect through June 30, 1984. Due to a higher cost of living, the average payments and maximum reimbursements for Alaska and Hawaii are higher than those for all other States. The Virgin Islands, Puerto Rico and the Pacific Territories use the figures specified for the contiguous States.

National School Lunch Program Payments

Section 4 National Average Payment Factors—In School Food Authorities which served less than 60 percent free and reduced price lunches in School Year 1981-83 the payments are: *Contiguous States*—11.50 cents, maximum rate 19.50 cents; *Alaska*—18.75 cents, maximum rate 30.25 cents; *Hawaii*—13.50 cents, maximum rate 22.50 cents.

In School Food Authorities which served 60 percent or more free and reduced price, payments are: *Contiguous States*—13.50 cents; maximum rate 19.50 cents; *Alaska*—20.75 cents, maximum rate 30.25 cents; *Hawaii*—15.50 cents, maximum rate 22.50 cents.

Section 11 National Average Payment Factors—*Contiguous States*—free lunch 108.75 cents, reduced price lunch 68.75 cents; *Alaska*—free lunch 178.25 cents, reduced price lunch 136.25 cents; *Hawaii*—free lunch 127.25 cents, reduced price lunch 87.25 cents.

School Breakfast Program Payments

For schools "not in severe need" the payments are: *Contiguous States*—free breakfast 62.75 cents, reduced price breakfast 32.75 cents, paid breakfast 9.0 cents; *Alaska*—free breakfast 101.75 cents, reduced price breakfast 71.75 cents; paid breakfast 14.75 cents; *Hawaii*—free breakfast 73.50 cents, reduced price breakfast 43.50 cents, paid breakfast 10.75 cents.

For schools in "severe need" the payments are: *Contiguous States*—free breakfast 75.50 cents, reduced price breakfast 45.50 cents, paid breakfast 9.00 cents; *Alaska*—free breakfast 122.25 cents, reduced price breakfast 92.25 cents; paid breakfast 14.75 cents; *Hawaii*—free breakfast 88.25 cents,

reduced price breakfast 58.25 cents, paid breakfast 10.75 cents.

Payment Chart

The following chart illustrates: the lunch national average payment factors with the Sections 4 and 11 already combined to indicate the per meal amount; the maximum lunch reimbursement rates; the breakfast national average payment factors including severe need schools; and the milk reimbursement rate. All amounts are expressed in dollars or fractions thereof. The payment factors and reimbursement used for the Virgin Islands, Puerto Rico and the Pacific Territories are those specified for the contiguous States:

(Catalog of Federal Domestic Assistance Nos 10.553, and 10.555 and 10.556)

Authority: Sections 4, 8, and 11 of the National School Lunch Act, as amended, (42 U.S.C. 1753, 1757, 1759(a)) and Sections 3 and 4(b) of the Child Nutrition Act, as amended (42 U.S.C. 1772 and 42 U.S.C. 1773).

Dated: June 30, 1983.

John H. Stokes III,

Acting Administrator, Food and Nutrition Service.

SCHOOL PROGRAMS; MEAL AND MILK PAYMENTS TO STATES AND SCHOOL FOOD AUTHORITIES—EFFECTIVE FROM JULY 1, 1983-JUNE 30, 1984

(Expressed in dollars or fractions thereof)

National School Lunch Program ¹	Less than 60 percent	60 percent or more	Maximum rate
Contiguous States:			
Paid	.1150	.1350	.1950
Reduced Price	.8025	.8225	.9725
Free	1.2025	1.2225	1.3725
Alaska:			
Paid	.1875	.2075	.3025
Reduced Price	1.5500	1.5700	1.8100
Free	1.9500	1.9700	2.2100
Hawaii:			
Paid	.1350	.1550	.2250
Reduced Price	1.6075	1.6275	1.8025
Free	1.4075	1.4275	1.6025

School Breakfast Program	Non-severe need	Severe need
Contiguous States:		
Paid	.0900	.0900
Reduced Price	.3275	.4550
Free	.6275	.7550
Alaska:		
Paid	.1475	.1475
Reduced Price	.7175	.9225
Free	1.0175	1.2225
Hawaii:		
Paid	.1075	.1075
Reduced Price	.4350	.5825
Free	.7350	.9925

Special milk program	All milk	Paid milk	Free milk
Pricing programs without free option	\$.0925	NA	NA

Special milk program	All milk	Paid milk	Free milk
Pricing programs with free option	NA	\$0.025	(*)
Nonpricing programs	\$0.025	NA	NA

* Payments listed for Free & Reduced Price Lunches include both Section 4 and 11 funds.
 * Average cost 1/4 pint milk.

[FR Doc. 83-18071; Filed 6-30-83; 2:11 pm]

BILLING CODE 3410-30-M

Office of the Secretary

Soybean Research Advisory Institute; Intent To Reestablish Advisory Institute

Notice is hereby given that the Secretary of Agriculture intends to reestablish the Soybean Research Advisory Institute. The purpose of the Institute is to provide the Secretary of Agriculture for transmittal to the Senate Committee on Agriculture, Nutrition, and Forestry and the House Committee on Agriculture a comprehensive report on the findings of the Institute regarding research on soybean production and utilization, no later than April 1, 1984. The Soybean Research Advisory Institute was established by Act of Congress (Pub. Law 97-98—97th Congress 7 U.S.C. 2281) on December 22, 1981.

The Institute meets periodically as the Chairman deems necessary in Washington, D.C., to receive reports from U.S. soybean scientists and USDA staff on research progress with soybeans and long-range goals and to prepare the Institute's report in writing to the Secretary of Agriculture.

It has been determined that reestablishment of this Institute is in the public interest in connection with the work of the U.S. Department of Agriculture.

Interested parties are invited to submit written comments, views, or data concerning this proposal to Robert C. Leffel, Executive Secretary, Soybean Research Advisory Institute, Bldg. 011, HH-19, BARC-West, Beltsville, Maryland 20705, by July 21, 1983.

Done at Washington, D.C., this 29th day of June, 1983.

John J. Franke, Jr.,

Assistant Secretary of Agriculture for Administration.

[FR Doc. 83-18066 Filed 7-5-83; 8:45 am]

BILLING CODE 3410-03-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and invites interested parties to submit information relevant to the determination of whether a certificate should be issued.

DATES: Comments on this application must be submitted on or before July 26, 1983.

ADDRESS: Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 6711, Washington, D.C. 20230.

Comments should refer to the applications as "Export Trade Certificate of Review, application number 83-00008 and/or 83-00009."

FOR FURTHER INFORMATION CONTACT: Charles S. Warner, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131, or Eleanor Roberts Lewis, Assistant General Counsel for Export Trading Companies, Office of General Counsel, 202/377-0937. These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder from civil and criminal liability under Federal and state antitrust laws for the export trade, export trade activities and methods of operation specified in the certificate. A certificate of review is to be issued to any applicant that establishes that its specified export trade, export trade activities, and methods of operation will:

1. Result in neither a substantial lessening of competition or restraint of trade within the United States nor a substantial restraint of the export trade of any competitor of the applicant,

2. Not unreasonably enhance, stabilize, or depress prices within the United States of the goods, wares, merchandise, or services of the class exported by the applicant,

3. Not constitute unfair methods of competition against competitors engaged in the export of goods, wares, merchandise, or services of the class exported by the applicant, and

4. Not include any act that may reasonably be expected to result in the sale for consumption or resale within the United States of the goods, wares, merchandise, or services exported by the applicant.

The Office of Export Trading Company Affairs has received the following applications for an Export Trade Certificate of Review:

* **Applicant:** Intex International Trading Company.

Application No.: 83-00008.

Date Received: June 15, 1983.

Date Deemed Submitted: June 20, 1983.

Members in Addition to Applicant: None.

Summary of Application: Intex International Trading Company, a subsidiary of Sowers, Lewis, Wood and Associates, Inc., of 199 Sound Beach Avenue, Old Greenwich, Connecticut 06870, is an export trading company established to assist U.S. firms in the marketing of goods and services in foreign countries. Intex will seek to find foreign buyers for U.S. suppliers of goods and services (primarily engineering consulting services), and will develop and arrange for the sales, transportation, and distribution of the goods. The company will establish additional offices in overseas markets as appropriate.

Intex will provide a full range of export services and function as a "one-stop" export intermediary for U.S. producers of goods and services. The company intends to operate on a non-exclusive basis. Relationships with overseas associates involved in trade development are restricted to working on a specific project-by-project, job-by-job, or situation-by-situation basis. No agreements for pooling tangible or intangible property or resources are contemplated. It is the policy of Intex not to enter into any territorial or price maintenance restrictions.

* **Applicant:** International Trailer Sales, Inc.

Application No.: 83-00009.

Date Received: June 22, 1983.

Date Deemed Submitted: June 23, 1983.

Members in Addition to Applicant: None.

Summary of Application: International Trailer Sales, Inc. ("ITS" or "Applicant") of Independence, Missouri, will engage in all aspects of sales and servicing abroad of

commercial trailers for construction, heavy equipment and other hauling, truck/tractors, parts and supplies therefor. ITS has applied for issuance of an Export Trade Certificate of Review covering the following export trade, export trade activities, and methods of operation:

(A) Export Trade

ITS represents various U.S. manufacturers of commercial trailers for construction, heavy equipment and other hauling, truck tractors, parts and supplies therefor ("suppliers") as exclusive international distributor thereof. Incident thereto, ITS also renders certain services abroad for such products, including maintenance, safety, repair, etc.

ITS purchases its suppliers' products in the United States for purposes of resale abroad in accordance with the pricing terms of a standard "Exportation Agreement" with each of its suppliers. Sales price is based on standard published prices to all U.S. distributors less a discount reflecting ITS' services to the supplier in the international marketing of its products ("base price").

(B) Export Trade Services

As exclusive international distributor for its domestic suppliers' products, ITS, either directly or through foreign sales representatives abroad, performs the following export trade services:

1. Market Research and Development, including market intelligence and research, sales generation, communications services; and other research activities.
2. Project Services, including project research, specifications/standards analysis, product design, ancillary equipment service.
3. Export Financing/Payments Services, including credit research/evaluation, export financing services, and payments processing.
4. Forwarding/Shipping Services, including freight forwarding, shipping, and documentation.
5. Export Documentation.
6. Insurance Services.
7. Ancillary Procurement Services.

(C) Methods of Operations

ITS engages in export trade and export trade activities in the United States and abroad directly, or indirectly through designated sales representatives (agents, distributors) or brokers, through unsolicited sales contacts, advertising, and other standard sales promotion techniques, in response to inquiries from its sales representatives, brokers, or potential customers, or solicitations for bid or tender offers.

ITS' sales representatives abroad, whether agents or distributors, may be appointed on either an exclusive or non-exclusive basis for a particular country, a geographical sub-unit of a particular country, or for a region including one or more countries, or for particular products or product lines, or for individual procurement projects or sales transactions.

ITS is wholly-owned, controlled, managed and operated by its President, Howard L. Johnson, an individual, who is the only Member of Applicant. There are no restrictions on membership.

ITS contemplates that, in furtherance of its export trade and export trade activities, it may invest in warehouse facilities abroad or make other direct investments directly related to its export trade and export trade activities.

ITS' international sales prices will be established under the terms of agreements already entered into or to be entered into with its foreign sales representatives, by negotiations with prospective customers, or as required by solicitations to bid or tender offers. In most cases, prices will reflect ITS' base price plus standard additions for overhead, export trade services, commissions, fees and profit margins.

ITS asserts that its domestic or international operations do not require the exchange among competitors or suppliers of sales, production or price information or other confidential business information.

The Office of Export Trading Company Affairs is issuing this notice in compliance with section 302(b)(1) of the Act which requires the Secretary to publish a notice of the application in the *Federal Register*. Interested parties have twenty (20) days from the publication of this notice in which to submit written information relevant to the determination of whether a certificate should be issued. Information submitted by any person in connection with this application will be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

Dated: June 30, 1983.

Irving P. Margulies,
Deputy General Counsel.

(FR Doc. 83-18070 Filed 7-5-83; 8:45 am)
BILLING CODE 3510-25-M

**American National Metric Council;
Proposed Metric Changeover;
Guideline**

AGENCY: Office of Metric Programs,
Commerce.

ACTION: Solicitation of comments.

SUMMARY: In cooperation with the Office of Metric Programs, Department of Commerce, the American National Metric Council's Committee for Data Processing/Office Equipment seeks comments on its *Metric Changeover Guide for Data Processing/Office Equipment*.

DATE: All comments should be submitted no later than August 31, 1983.

ADDRESS: Mr. Robert J. Peterson,
Program Manager, Data Processing/
Office, Equipment Sector Committee,
American National Metric Council, 5410
Grosvenor Lane, Bethesda, Maryland
20814.

Telephone: Area Code 301-530-8333.

SUPPLEMENTARY INFORMATION: The Department of Commerce has been assigned certain responsibilities under the Metric Conversion Act of 1975 (Pub. L. 94-168, 89 Stat. 1007, 15 U.S.C. 205a-205K) and other legal authorities principally to perform metric coordination among Federal agencies and between the Federal and State Government as well as the private sectors.

The American National Metric Council is a private, non-profit organization which acts as a representative of the private sector in formulating and coordinating industrywide metric conversion plans. The Council's Committee on Data Processing/Office Equipment seeks comments on its proposed metric transition plan entitled *Metric Changeover Guide for Data Processing/Office Equipment*. The guideline has the objective of providing the first steps toward the generation of a metric transition plan for individual data processing and office equipment manufacturers and others in the industry impacted by such a change.

Comments are being sought from industry, interested trade associations and Federal agencies. The guideline has been under development for approximately one year with previous drafts being circulated. Interested parties are urged to review the proposed guideline and submit their comments.

Copies of the proposed guideline are available by contacting Mr. Robert J. Peterson at the above cited address or telephone number.

Dated: June 24, 1983.

D. Bruce Merrifield,
Assistant Secretary for Productivity,
Technology and Innovation.

(FR Doc. 83-18121 Filed 7-5-83; 8:45 am)
BILLING CODE 3510-18-M

President's Export Council; Open Meeting

A meeting of the President's Export Council's Incentives/Disincentives Subcommittee will be held July 20, 1983, 2:00 p.m., at the Herbert C. Hoover Building, Room 4830, 14th Street and Constitution Avenue, NW., Washington, D.C. The Council's purpose is to advise the President on matters relating to United States export trade.

Agenda: Discussion of export financing, DISC, industry targeting, indirect exports and other topics of interest.

The meeting will be open to the public with a limited number of seats available. For further information or copies of the minutes contact Elisabeth Vermilye (202) 377-1125, Room 3213, U.S. Department of Commerce, Washington, D.C. 20230.

Dated: June 30, 1983.

Henry Misisco,

Acting Director, Office of Planning and Coordination.

[FR Doc. 83-18120 Filed 7-5-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Issuance of Permit

On May 25, 1983, notice was published in the *Federal Register* (48 FR 23472), that an application had been filed with the National Marine Fisheries Service by Point Reyes Bird Observatory, 4990 Shoreline Highway, Stinson Beach, California 94970, for a permit to take Northern elephant seals (*Mirovanga angustirostris*), harbor seals (*Phoca vitulina*), Steller sea lions (*Eumetopias jubatus*) and California sea lions (*Zalophus californianus*) over a period of 5 years for scientific research.

Notice is hereby given that on June 29, 1983, and as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the National Marine Fisheries Service issued a Scientific Research Permit to Point Reyes Bird Observatory for the above taking subject to certain conditions set forth therein.

The Permit is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 29, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-18112 Filed 7-5-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Modification No. 1 to Permit No. 413

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and § 222.25 of the Regulations Governing Endangered Species Permits (50 CFR Part 222), Scientific Research Permit No. 413 issued to the Southwest Fisheries Center, National Marine Fisheries Service, P.O. Box 271, La Jolla, California 92038, on April 20, 1983 (48 FR 17638), is modified to allow the take by tagging of 10 yearling Hawaiian monk seals in lieu of 10 pups currently authorized.

Accordingly, Section A-4 is deleted and replaced by:

"4. Four hundred ninety (490) pups and ten (10) yearlings may be taken by tagging at any location except French Frigate Shoals and Kure Atoll."

This modification becomes effective upon publication in the *Federal Register*.

The Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: June 29, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-18170 Filed 7-5-83; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Dr. James R. Gilbert (P274A), Division of Wildlife.

b. Address: University of Maine, Orono, Maine 04469.

2. Type of Permit: Scientific Research.

3. Name and Number of Animals: Harbor seals (*Phoca vitulina*) up to 500.

Harbor porpoise (*Phocoena phocoena*) up to 1,250.

4. Type of Take:

Retain dead marine mammals legally caught incidental to commercial fishing operations.

5. Location of Activity:

New England.

6. Period of Activity: five (5) years.

Concurrent with the publication of this notice in the *Federal Register*, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, MA 01930-3799

Dated: June 30, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-18171 Filed 7-5-83; 8:45 am]

BILLING CODE 3510-22-M

National Technical Information Service Intent to Grant Exclusive Patent License

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to 3-M Company, having a place of business at

St. Paul, Minnesota, an exclusive right to manufacture, use and sell products embodied in the invention, "Method for the Control of Insects," U.S. Patent Application Serial No. 455,727 (filed January 5, 1983). The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed exclusive license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the date of this Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Government Inventions and Patents, NTIS, Box 1423, Springfield, VA 22151.

Dated: July 29, 1983.

Douglas J. Campion,

Program Coordinator, Office of Government Inventions and Patents, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 83-18125 Filed 7-5-83; 8:45 am]

BILLING CODE 3510-04-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Meeting Cancellation

July 1, 1983.

The Army Science Board Ad Hoc Subgroup meeting on Army Utilization of Space Assets scheduled for Thursday and Friday, 7 and 8 July 1983 has been canceled. Announcement of the meeting was made in the *Federal Register* published on 20 June 1983 (48 FR 28123, FR Doc. 83-18362). The meeting reschedule date is not yet determined.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 83-18275 Filed 7-1-83; 2:54 pm]

BILLING CODE 3710-08-M

Office of the Secretary

DOD Advisory Group on Electron Devices; Notice of Advisory Committee Meeting

Working Group D (Mainly Laser Devices) of the DOD Advisory Group on Electron Devices (AGED) will meet in closed session on August 3-4, 1983 at Rome Air Development Center, Hanscom AFB, MA 01731.

The mission of the Advisory Group is to provide the Under Secretary of Defense for Research and Engineering, the Director, Defense Advanced Research Projects Agency and the Military Departments with technical advice on the conduct of economical and effective research and development programs in the area of electron devices.

The Working Group D meeting will be limited to review of research and development programs which the military propose to initiate with industry, universities or in their laboratories. The laser area includes programs on developments and research related to low energy lasers for such applications as battlefield surveillance, target designation, ranging, communications, weapon guidance and data transmission. The review will include classified program details throughout.

In accordance with Section 10(d) of Pub. L. No. 92-463, as amended (5 U.S.C. App. 1 section 10(d) (1976)), it has been determined that this Advisory Group meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1976), and that accordingly, this meeting will be closed to the public.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

June 24, 1983.

[FR Doc. 83-18003 Filed 7-5-83; 8:45 am]

BILLING CODE 3510-01-M

DEPARTMENT OF ENERGY

International Atomic Energy Agreements Proposed Subsequent Arrangement; Japan

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the Government of Japan Concerning Civil Uses of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale:

Contract Number S-JA-334, six tritiated targets, containing a total of 4,600 curies of tritium, to be used as neutron sources for the study of fusion neutronics, by the Japan Atomic Energy Research Institute.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of the nuclear material will

not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: June 30, 1983.

George Bradley,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83-18116 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

Floodplain Statement of Findings

The Department of Energy proposes to issue a Notice of Effectiveness (NOE) to the Holyoke Water Power Company's (HWP) Mt. Tom Unit 1, effectuating a Prohibition Order issued to that unit on June 30, 1977, pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974, 15 U.S.C. 791 *et seq.* (ESECA). When the prohibition contained in the Order becomes effective, Mt. Tom Unit 1 will be prohibited from using petroleum or natural gas as its primary energy source. The owner of the generating station plans to continue burning low-sulfur coal.

The generating station is located in Holyoke, Massachusetts, on an 89 acre site on the west bank of the Connecticut River (See Attachment A). The station has been in operation since 1960. The unit was designed to burn coal, and did burn coal until 1970. Most of the existing station facilities were originally constructed in the 100-year floodplain. These include the powerhouse, switch yard, railyards, and the coal handling equipment.

Conversion of the unit to burning coal will necessitate modification of existing facilities, including the coal storage area and the settling basins, which are located in a 100-year floodplain and which, because of physical constraints, cannot be relocated within the site to avoid the floodplain (See Attachments B and C). Accordingly, the Department prepared a floodplain assessment for the proposed action pursuant to 10 CFR Part 1022. The floodplain assessment is incorporated in the final environmental impact statement the Department prepared for the proposed issuance of an NOE (DOE/EIS-0092, May 1983).

As part of the floodplain assessment, the Department considered alternate locations within the site and "no action" as alternatives to locating the proposed action in the floodplain. Alternate locations within the site that would avoid the floodplain are precluded by

physical constraints. The "no action" alternative would not serve the purposes of ESECA.

The necessary modifications to the coal pile and settling basins will not change the existing character of the floodplain nor alter the risk of loss due to flooding. Facilities in the floodplain will be flood-proofed to withstand wave action and inundation in conformance with applicable floodplain protection standards. Flood-proofing will include such measures as diking and structural reinforcement.

The Department has determined, on the basis of the floodplain assessment, that there is no practicable alternative to the proposed facility modifications in the floodplain and that the proposed action has been designed to minimize potential harm to or within the floodplain.

Issued in Washington, D.C. on July 5, 1983.

William A. Vaughan,

*Assistant Secretary, Environmental
Protection, Safety, and Emergency
Preparedness.*

BILLING CODE 6450-01-M

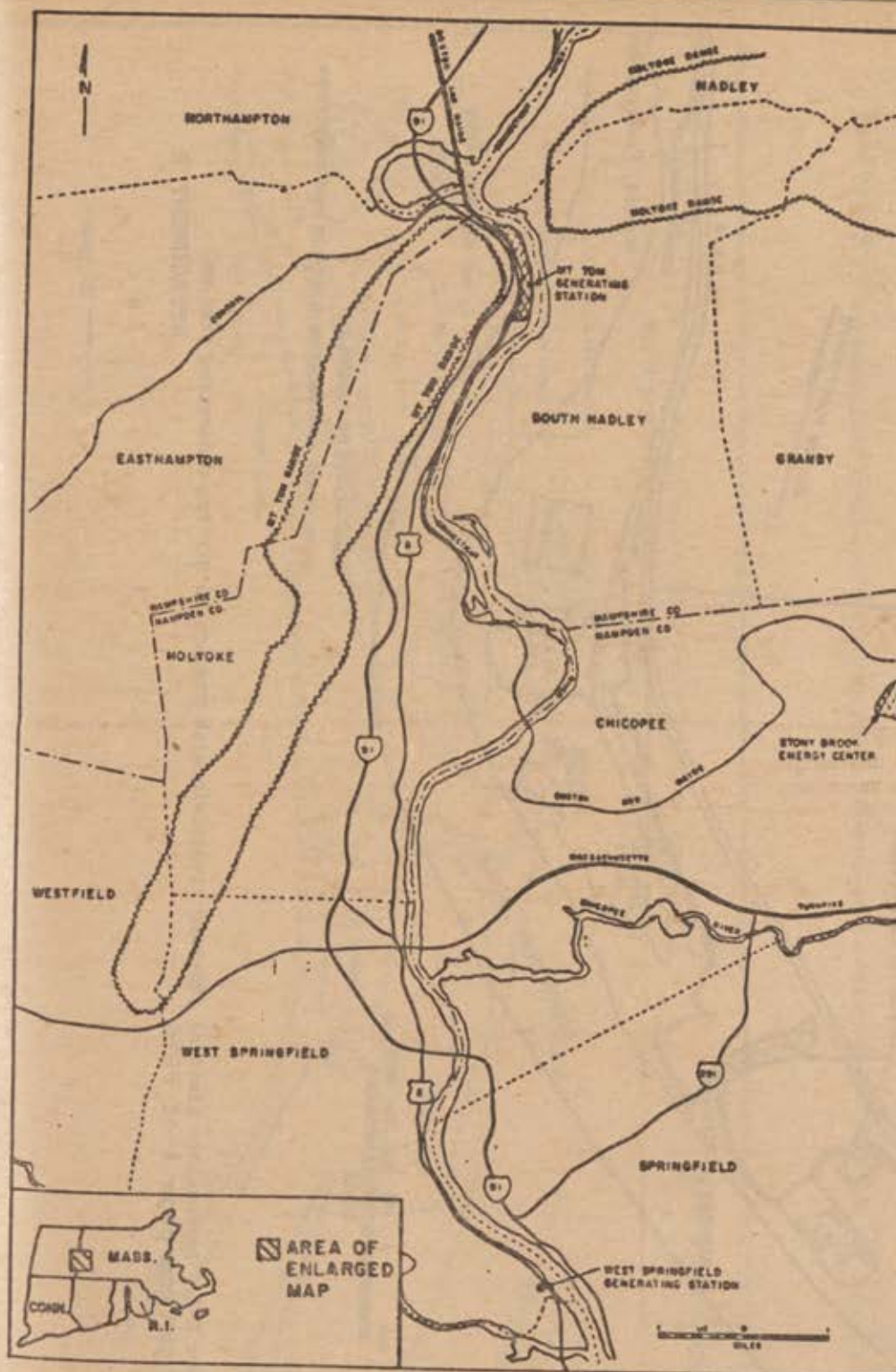


Figure 2-1. Mt. Tom Generating Station and Vicinity.

ATTACHMENT A

Taken from page 3 of FEIS

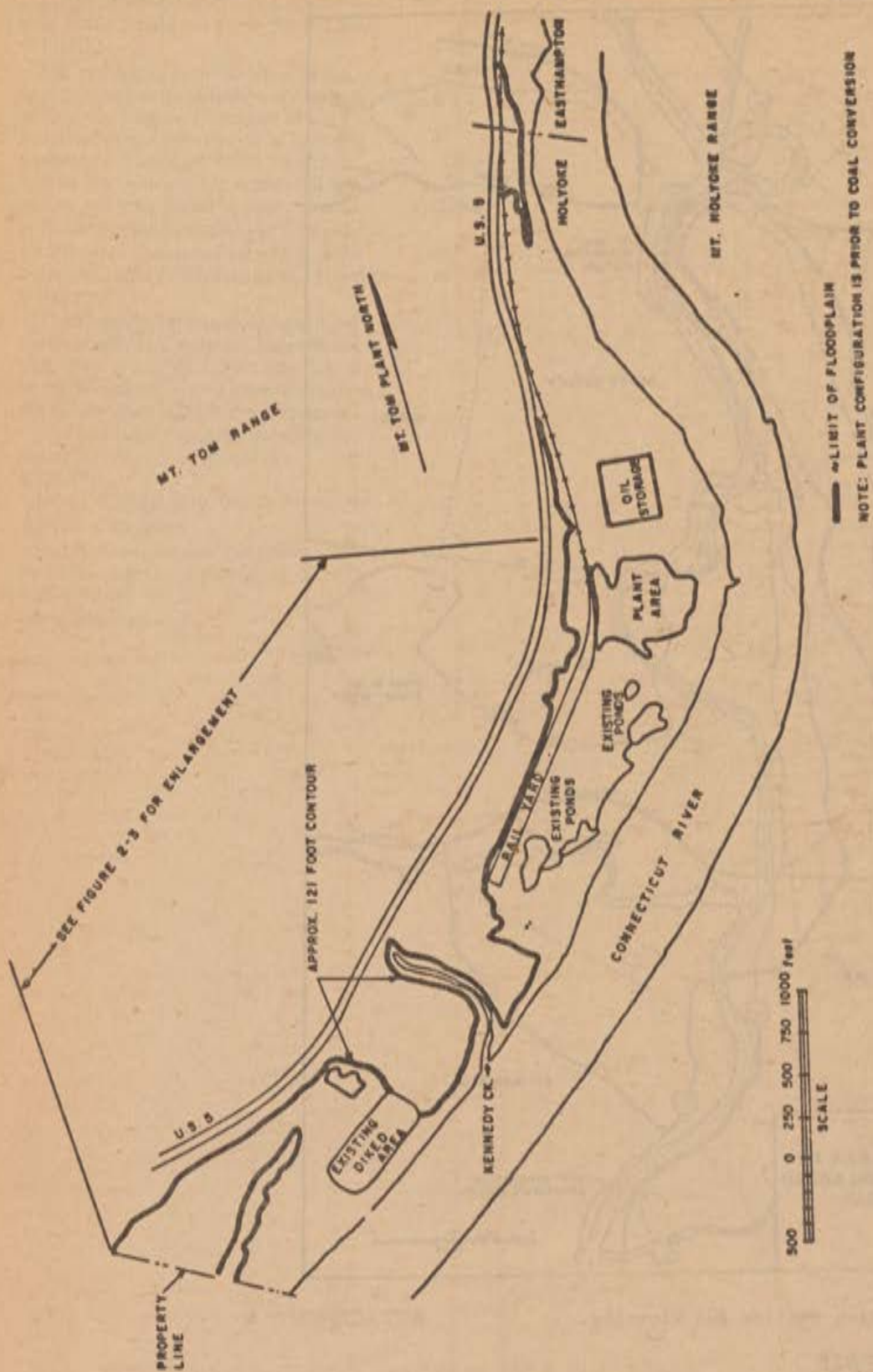


Figure 2-2. Approximate Limit of 100-Year Floodplain with Respect to Mt. Tom Generating Station.
Taken from page 4 of FEIS ATTACHMENT B

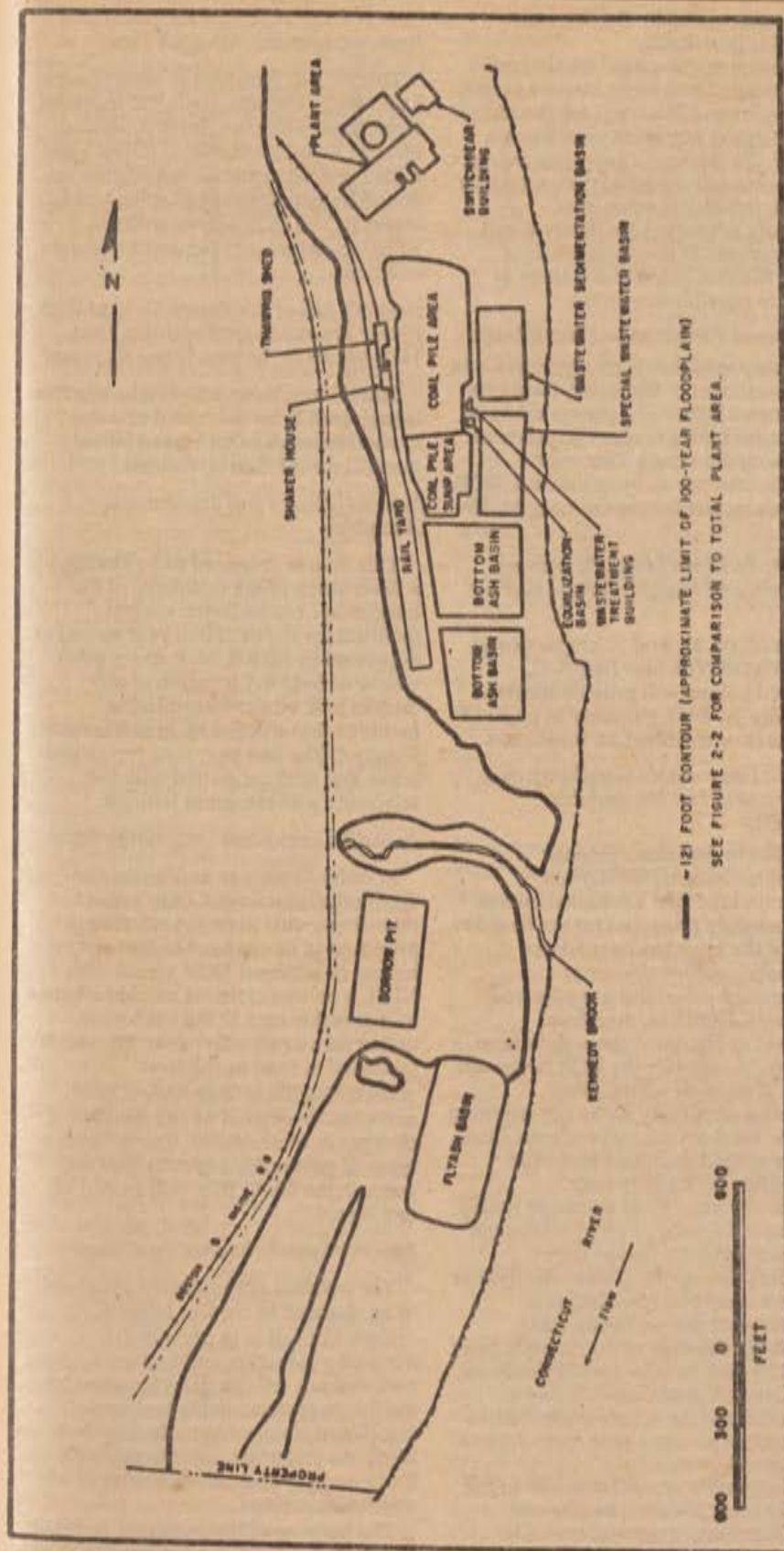


Figure 2-3. Mt. Tom Generating Station Coal Conversion Modifications - Present Configuration ATTACHMENT C
Taken from page 5 FEIS

[FR Doc. 83-38114 Filed 7-3-83; 8:45 am]
BILLING CODE 6450-01-C

Energy Information Administration

Revision of Form EP-411 (Voluntary) and Solicitation of Comments

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of revision of the Form EP-411 (Voluntary) and Solicitation of Comments.

SUMMARY: As part of its continuing program of reviewing and examining the need for and use of data filed by the electric utility industry, with the objective of reducing the reporting burden while still providing essential data, the Energy Information Administration, of the Department of Energy, announces proposed revisions to the annual EP-411 Coordinated Regional Bulk Power Supply Program Report. This is a voluntary form that was last revised in 1982, with a burden reduction of approximately 26%. The revisions now proposed remove ambiguities, change the manner in which some information is collected, update the regional grouping of utilities, consolidate reporting of some data, and delete the reporting of some data.

DATE: Written comments must be submitted on or before August 5, 1983.

ADDRESS: Comments should be sent to Richard E. Weiner, Director, Office of Energy Emergency Operations, EP-42, Mail Stop GB-270, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION OR COPIES OF THE REVISED FORM AND

INSTRUCTIONS CONTACT: Norton Savage, Office of Energy Emergency Operations, EP-422, Mail Stop GB-270, Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585. Phone (202) 252-8869.

SUPPLEMENTARY INFORMATION:

- I. Background
- II. Proposed Revisions to Form EP-411
- III. Request for Comments

I. Background

The Coordinated Regional Bulk Power Supply Program Report, Form EP-411, is a voluntary form which is filed annually by each of the nine Regional Electric Reliability Councils that comprise the contiguous United States and parts of Canada. The U.S. electric utilities which are members of the Councils together account for over 90% of the electric power supply and demand in the contiguous U.S. Form EP-411 was last revised in 1982 and was authorized by the Office of Management and Budget

for use through September 30, 1983 (OMB No. 1903-0043).

The revisions proposed herein revise the wording of two items to more clearly state the intent of the request; the utility reporting grouping is changed for one Council; the method of reporting outage data is changed; consolidated reliability data are requested; some data previously requested are deleted; and minor changes in the designation of several Electric Regions are made to eliminate possible confusion.

II. Proposed Revisions to Form EP-411

It is proposed that each report provide in the beginning of the report the name and phone number of a person who can be contacted if there are any questions concerning the report. This would facilitate communications between DOE and each respondent concerning the EP-411.

Item 3A: Estimated Peak Resources, Demands, and Margins for the 10-Year Period

Lines 05, 06, 11, and 12 are proposed to be deleted. The new Item 3-C, proposed below, will provide the data necessary for DOE purposes in place of the data now collected on these lines.

Item 3C: Unavailable Capability as a Percentage of Net Dependable Capability

The North American Electric Reliability Council (NERC) has commented that the scheduled outage data presently projected for the first five years of the report in Item 3A are extremely questionable since maintenance schedules are adjusted frequently. DOE has, therefore, proposed to eliminate these data from Item 3A. In order for the DOE to remain aware of possible unavailable generating capability while not requiring speculation from the respondents, Item 3C is proposed to collect historical information on this capacity.

Specifically Item 3C as proposed would have each Reporting Party provide the information below for the year preceding the reporting year. All data in this item would be reported as a percentage of the net dependable capacity at the time of the monthly peak load. The data to be reported would be:

- (1) Capability unavailable due to scheduled maintenance for the months of January, February, June, July, August, and December only;
- (2) Capability unavailable due to full forced outage for each month; and
- (3) Capability unavailable due to reasons other than scheduled maintenance or full forced outage for each month.

Item 4: Estimated Peak Demands and Resources for the Fifteenth Year

This item is proposed to be deleted in its entirety. The elimination of this item was proposed by the North American Electric Reliability Council (NERC) due to its highly speculative nature and the added burden imposed to collect and report it. The DOE agrees with the NERC argument and proposes to delete this item.

Item 5C: List of All Future Critical Bulk Power Transmission Facilities That Will Not Be in Service When Required

The information contained in this item is proposed to be combined into the revised Item 6A as discussed below. Item 5C would then be deleted.

Item 6A: Near Term Transmission Adequacy

This item is proposed to be changed to a description of the adequacy of the bulk power transmission system facilities for the next five year period as suggested by NERC. Such description would include a discussion of any critical bulk power transmission facilities that will not be in service when required. The five year time frame will make this item consistent with the adequacy assessment in Item 3B.

Item 6B: Conceptual Long Range Plans

In order to remove ambiguity and clarify the information DOE needs reporting in this item, the wording is proposed to be changed to that shown below. In addition, DOE agrees with NERC's comment that it would be better to report this item in full each year rather than every other year. Item 6B is proposed to read as follows:

Each Council is to provide a brief narrative discussion of any significant changes in transmission line voltages or types of generating capacity that may occur in the 6th to 10th year period of this report.

Item 6C: System Evaluation Criteria

The wording of this item is proposed to be changed to read as follows:

Each Council is to provide the network evaluation and system dynamic performance criteria used for appraising the future system, and is to discuss significant changes from the previous filing. As an option, each Reporting Party may instead submit copies of all applicable criteria.

The purpose of the proposed wording change is to clarify the intent of DOE as being concerned with "appraisal" criteria instead of "planning" criteria.

Items 7A and 7B

Reporting these two items in full only every fourth year with changes reported in intervening years is ambiguous and has caused some confusion according to NERC. NERC suggests that it would be preferable to report these requirements in full every year to allow each report to stand alone as a complete document. DOE agrees with these comments and proposes to change these items so that a full report is provided each time.

Appendix 1: Grouping of Utilities by Reporting Parties

It is proposed that the names and acronyms for Electric Regions 2, 13, and 14 be deleted; the name and acronym of Electric Region 18 be changed to "Lower Michigan Systems" and "LMS" respectively; and the name of Electric Region 19 be changed to "Wisconsin Upper Michigan" and its acronym be changed to "WUM".

These proposed changes are intended to remove the possibility that the name of a company or pool would be confused with the name of an Electric Region, and to bring the Appendix 1 grouping into conformance with actual utility practice.

III. Request For Comments

The following general guidelines are offered to assist in the preparation of comments:

For potential respondents to EP-411 and for those who may provide information to such respondents—

a. Are the instructions and definitions clear and sufficient?

b. Can the data requested be submitted, if the definitions in the instructions are adhered to?

c. Can the data be submitted within the response time specified in the instructions?

d. How many person-hours, including preparation and administrative review, will be required by your organization to complete and submit the form?

e. What is the estimated cost of completing and submitting this form, including the direct and indirect costs associated with the data collection and preparation? Direct costs should include all costs, such as development, assembly, equipment, data processing, and other administrative costs attributable to the preparation and submission of the form.

f. Do you know of other Federal, State, or local agencies that collect similar data? (If yes, please identify.)

g. How much of the data and information requested by the form would be collected and processed in some fashion, for your own business purposes, if not requested for Form EP-411?

h. How could Form EP-411 be improved?

For potential users of the Form EP-411—

a. Do you need the data at the levels of detail requested in the form?

b. For what purposes would you use the data? (Please be specific)

c. How could the form be improved to better meet your specific needs for data?

d. Are there alternative sources of data?

e. Do you use the alternative sources of data?

f. What are the deficiencies of the alternative sources?

The EIA is also interested in receiving comments from persons as to their views on the need for the collection of this information at all.

Comments submitted in response to this Notice will be included in the request for Office of Management and Budget approval for this data collection, and will become a matter of public record.

Issued in Washington, D.C., June 29, 1983.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 83-18026 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

Establishment of Technical Panel on Magnetic Fusion of the Energy Research Advisory Board

The Technical Panel on Magnetic Fusion of the Energy Research Advisory Board was established on June 29, 1983.

The purpose of the Panel is to review and make recommendations on the following items, and related matters:

(1) The preparation of the 5-year program plan required by Section 5 of the Magnetic Fusion Energy Engineering Act of 1980, Pub. L. No. 96-386;

(2) The type of future facilities needed to meet the goals of this Act along with their projected completion dates;

(3) The adequacy of participation by universities and industry in the program;

(4) The adequacy of international cooperation in magnetic fusion and any problems associated therewith; and

(5) Institutional, environmental, and economic factors limiting, or prospectively limiting, efforts to achieve commercial application of magnetic fusion energy systems.

The Panel will submit to the Energy Research Advisory Board on at least a triennial basis a written report of its findings and recommendations with regard to the magnetic fusion program. The first report is due in 1983.

Further information concerning this Panel can be obtained from Gloria Decker at 202/252-8990.

Dated June 29, 1983.

Howard H. Raiken,

Deputy Advisory Committee Management Officer.

[FR Doc. 83-18025 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration**Pel-Star Energy, Inc.; Proposed Remedial Order**

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Pel-Star Energy, Inc. (PSE), at 1760 One Dallas Center, Dallas, Texas 75201. This Proposed Remedial Order alleges pricing violations in the amount of \$9,327,705.78 plus interest in connection with the resale of crude oil at prices in excess of those permitted by 10 CFR 212, Subpart L during the time period June 1978 through December 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P.O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 13th day of June, 1983.

Ben L. Lemos,

Director, Dallas Office Economic Regulatory Administration.

[FR Doc. 83-18029 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

Southern Crude Oil Resources, Inc., Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Southern Crude Oil Resources, Inc. (SCORE), at 901 Oil and Gas Building, Fort Worth, Texas 76102. This Proposed Remedial Order charges SCORE with pricing violations in the amount of \$377,618.06 plus interest in connection with the resale of crude oil at prices in

excess of those permitted by 10 CFR 212, Subpart L during the time period March 1980 through August 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Manager, Crude Reseller Program, Economic Regulatory Administration, Department of Energy, P. O. Box 35228, Dallas, Texas 75235, or by calling (214) 767-7432. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., N.W., Washington, D.C. 20461, in accordance with 10 CFR 206.193.

Issued in Dallas, Texas, on the 13th day of June, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-15-028 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

[5COX00292]

Westport Petroleum Corp.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration of the Department of Energy hereby gives Notice of a Proposed Remedial Order which was issued to Westport Petroleum Corporation of Englewood, Colorado. This Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.186, 212.62(c), 205.202, 212.182 and 212.183. The total violation alleged during June 1980 through November 1980 is \$117,638.05.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: John W. Sturges, Director, 440 S. Houston, Room 306, Tulsa, Oklahoma 74127.

Within 15 days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, 12th & Pennsylvania Avenue, N.W., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Tulsa, Oklahoma on the 10th day of June 1983.

John W. Sturges,

Director, Tulsa Office Economic Regulatory Administration.

[FR Doc. 83-18027 Filed 7-5-83; 8:45 am]

BILLING CODE 6450-01-M

Record of Decision for Holyoke Water Power Company; Mt. Tom Generating Station Unit 1

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Decision to Issue Final Floodplain Statement of Findings and Notice of Effectiveness of Prohibition Order to Mt. Tom Unit 1.

SUMMARY: Pursuant to the Council on Environmental Quality Regulations (40 CFR Part 1505) implementing the procedural provisions of the National Environmental Policy Act (NEPA) and the Department of Energy's (DOE) NEPA guidelines (45 FR 20694, March 28, 1980), the Economic Regulatory Administration (ERA) of DOE is issuing a Record of Decision on the environmental impact statement (EIS) prepared for the Mt. Tom Generating Station Unit 1. DOE is also issuing the floodplain statement of findings for the proposed action pursuant to 10 CFR 1022.18.

Decision

The DOE will issue a Notice of Effectiveness (NOE) to the Holyoke Water Power Company's (HWP) Mt. Tom Unit 1, effectuating the Prohibition Order issued to that unit on June 30, 1977. As a result, Mt. Tom Unit 1 will be prohibited from using petroleum or natural gas as its primary energy source. The owner of the generating station plans to continue burning low-sulfur coal.

Project Description

On June 30, 1977 (42 FR 36292, July 14, 1977) the Federal Energy Administration¹ issued a Prohibition Order to Mt. Tom Unit 1 pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 791 *et seq.*). This order stated that it would become effective on the date specified in a Notice of Effectiveness (NOE), to be served on the powerplant subsequent to issuance of the Prohibition Order. The issuance of the NOE which effectuates the prohibition order will prohibit HWP from using either natural gas or petroleum as a primary energy source in the affected units. In December 1981, HWP began coal burning at the plant under the provisions of a Clean Air Act Delayed Compliance Order (DCO) issued by the U.S. Environmental Protection Agency (EPA) on November 24, 1981 (46 FR 57491) and under the

terms of a Memorandum of Understanding (MOU) with the Commonwealth of Massachusetts dated March 6, 1980.

A Massachusetts Draft Environmental Impact Report pursuant to the Massachusetts Environmental Policy Act was filed with the Massachusetts Office of Environmental Affairs in September 1981.

DOE published a Draft Environmental Impact Statement (DEIS) (DOE/EIS-0092-D) in October 1982 and a Final Environmental Impact Statement (FEIS) in May 1983 (DOE/EIS-0092-F).

Description of Alternatives

In the EIS, DOE has assessed the environmental impacts of:

A. No DOE action, i.e., to not issue the NOE-HWP elects to continue burning oil, or retire the plant.

B. DOE issues the NOE-HWP elects to convert to another fuel (low-sulfur coal).

The "no action" alternative would allow HWP continued use of oil in the unit and so would not change the present impacts to the environment. Thus the "no action" alternative is considered the environmentally preferable alternative. However, continued operation with oil would not satisfy the purpose and goal of ESECA to use energy other than oil or gas.

Fuels other than low-sulfur coal considered as potential major energy sources under the B option were high-sulfur coal, refuse-derived fuel and wood/wood chips. None of these is considered preferable to the use of low-sulfur coal either because they are not available in sufficient quantities or because they necessitate additional construction, transportation, or storage.

The major issues of concern in the environmental impact assessment were air and water quality, noise, disruption of archaeological sites and land use problems due to ash disposal. Impacts to regional or site geology, aquatic or terrestrial biota, transportation, housing, labor market or other socioeconomic factors were of lesser significance.

A prohibition order has enabled HWP to obtain a DCO allowing the use of coal as fuel under prescribed conditions while installing a new electrostatic precipitator.

Air Quality

Conversion to coal under the MOU and the DCO will increase SO₂ emissions over the short-term (24-hour average or shorter) but not for the 30-day averaging period. NO_x emissions are estimated to increase by 1,500 tons per year. Neither of these changes will produce a significant impact when

¹ Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (Pub. L. 95-91).

compared to emissions of SO₂ and NO_x on the regional scale. Particulate matter emissions increased nearly five fold (from 16.7 to 82.9 grams/second) over the first 8 months of coal burning. During the remainder of the DCO (about 17 months) they will be reduced to 3.6 times the rate under oil burning. Following installation of the new precipitator, they will be reduced to about 83 percent of pre-conversion emissions (all these emissions were calculated for the plant operating at 80 percent capacity.)

Increases in fugitive dust can be expected during construction activities and after conversion as a result of ash- and coal-handling activities. Mitigative measures to reduce impacts of increased dust include wetting down of construction roads and uncovered slopes and ponds, enclosing conveyors, wetting down of the coal pile, and wet sluicing of ash (initially; later, fly ash will be collected dry.)

Water Quality

The Mt. Tom generating station currently has ten waste streams which are discharged under an NPDES permit issued in November 1981. Conversion to coal required modification of the permit for the fly ash and bottom ash discharges. Under present plans the ash and normal wastewater ponds will not be lined, but the special wastewater basin and the coal pile and the coal pile runoff areas have been lined; any discharge from those areas will be routed through the wastewater treatment system.

A detailed hydrogeologic study was conducted at the plant site prior to the conversion. This study revealed the existence of a plume of contaminated water extending to the Connecticut River from the old coal pile area; the identification of this plume was the basis for the determination to line the coal pile and coal pile runoff areas. A second area of minor contamination was also noted in the southern part of the property in the vicinity of the old fly ash ponds, but it is believed this will be sufficiently diluted by ground water flow, soil attenuation, and mixing with river water that there will be no measurable change in quality of Connecticut River water. Under the MOU, a year of monitoring following conversion has been conducted; a final hydrogeologic report will be published in 1983.

This report will address the potential need for a long-term ground water monitoring program to identify and correct any future significant contamination.

Ash Disposal

Offsite disposal and sale of ash will limit displacement of the 100-year floodplain to 103 acre-feet. There will be a slight increase in truck traffic in the plant vicinity. An estimated 40 to 45 truck loads per week will be required to transport the ash offsite. Also, continued surveillance of the existing landfills will be required by DEQE to avoid adverse effects at those sites. The alternative of ash disposal onsite over the life of the plant would have encroached on 44 additional acre-feet of flood storage and would have eliminated some 15 acres of prime farmland.

Noise

Experience during previous periods of coal burning indicates that increased noise levels were noticeable at residences across the river. HWP has made modifications to the shaker house, including lining portions of the building and erecting a sound barrier adjacent to the structure. A new electric thawing system is being installed which is quieter than the system previously used. Use of bulldozers and conveyors to move coal onsite and the coal crusher may increase noise levels by 5 to 10 dB, but noise levels at noise sensitive receptors will be below 65 dB. Unloading of coal will be restricted to certain hours as required by the MOU.

Archaeological Sites

A re-review of information on archaeological sites on the property by the State Historical Commission staff indicated the presence of two sites on the property. An archaeological survey conducted by a consultant to the utility confirmed the presence of these sites. No other sign of significant cultural resources was identified. Most anticipated construction activity had been completed (the fly ash basin, the grub storage area, and the borrow pit) prior to the re-analysis by the Historical Commission. The utility will not conduct further construction in the area of the sites without consultation with the Massachusetts Historical Commission.

Floodplain Determination

Since the generating station is an existing facility, most of which was originally constructed within the 100-year floodplain, as delineated on the appropriate HUD floodplain map for the City of Holyoke, DOE was required to comply with its floodplain management regulations (10 CFR 1022).

DOE prepared a preliminary floodplain assessment which is included as Section 2.2 of the FEIS for Mt. Tom (May 1983). Alternatives to this

proposed action were identified, environmental impacts evaluated and mitigation measures were proposed. In addition, the preliminary floodplain statement of findings concluded that no practicable alternatives exist to the continued location of the generating station in the floodplain. No substantive comments on this issue, either during the review period for the DEIS or during the 30-day hold period of the FEIS were received by DOE.

Several of the modifications to the facility necessary to allow conversion to coal involved existing structures which are built in the floodplain, including the coal pile and settling basins. The structures cannot be relocated within the generating site boundary.

The proposed action includes all practicable measures to minimize harm to the floodplain. Facilities constructed in the floodplain that are subject to hurricane storm waves (V3 zone) will be floodproofed to withstand wave forces and inundation. Floodproofing will include such items as diking and reinforcement to reduce storm damage.

Since May 1983 DOE has further evaluated the matter and has determined that the proposed conversion will not change the existing character of the floodplain or alter the risk of loss due to flooding of adjacent property.

The Department has determined, based on the floodplain assessment, that there is no practicable alternative to the continued use of the existing facilities. The Floodplain Statement of Findings is attached.

Basis for Decision

HWP is desirous of converting Mt. Tom Unit 1 as evidenced by its current burning of coal in those units pursuant to the DCO issued in November 1981 and the MOU dated March 1980.

Conclusion

While the no-action alternative can be described as environmentally preferred (40 CFR 1505.2), benefits derived from this conversion have been balanced against the potential environmental impacts. In addition, reasonably available alternatives have been considered. As a result of these evaluations, the proposed conversion to coal is the preferred alternative of the EIS, and DOE will issue the Notice of Effectiveness effectuating the Prohibition Order for Mt. Tom Unit 1. In addition, as a result of its review of alternatives and evaluation of the environmental impacts, DOE has determined there is no practicable alternative to the existing location of the

generating station in the 100-year floodplain. All practical means to avoid or mitigate harm in the floodplain will be used.

Issued in Washington, D.C. on July 5, 1983.
James W. Workman,
Director, Office of Fuels Programs, Economic
Regulatory Administration.

[FR Doc. 83-18112 Filed 7-5-83; 8:45 am]
BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. RP83-24-003]

Alabama-Tennessee Natural Gas Co.; Revised PGA Rate Adjustment

June 29, 1983.

Take notice that on June 24, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama 35631, tendered for filing Substitute Forty-First Revised Sheet No. 3-A, as part of its FPC Gas Tariff, Third Revised Volume No. 1. This tariff sheet is proposed to become effective May 31, 1983.

Alabama-Tennessee states that the purpose of the revised tariff sheet is to adjust Alabama-Tennessee's rates to reflect changes in purchased gas costs in accordance with the Commission's letter order dated June 9, 1983, in Docket No. TA83-2-1-000 (PGA83-2A).

Substitute Forty-First Revised Sheet No. 3-A provides for the following rates:

Rate schedule	Rates after current adjust- ment
G-1:	
Demand	\$8.66
Commodity (cents)	371.97
SG-1:	
Commodity (cents)	435.24
I-1:	
Commodity (cents)	400.45

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

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 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18127 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-2-1-003]

Alabama-Tennessee Natural Gas Co.; Revised PGA Rate Adjustment

June 29, 1983.

Take notice that on June 17, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing Second Substitute Fortieth Revised Sheet No. 3-A, as part of its FPC Gas Tariff, Third Revised Volume No. 1. This tariff sheet is proposed to become effective May 1, 1983.

Alabama-Tennessee states that the purpose of the revised tariff sheet is to adjust Alabama-Tennessee's rates to reflect the effective rates of its primary supplier, Tennessee Gas Pipeline Company in Docket No. RP82-125-000.

Second Substitute Fortieth Revised Sheet No. 3-A provides for the following rates:

Rate schedule	Rates after current adjust- ment
G-1:	
Demand	\$7.91
Commodity (cents)	373.59
SG-1: Commodity (cents)	431.38
I-1: Commodity (cents)	399.56

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

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 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 filing are on file

with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18128 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. QF83-309-000]

American Chemugic Industries; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

[June 29, 1983]:

On June 6, 1983, American Chemugic Industries, of P.O. Box 6328, Oxnard, California 93031, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located in Humboldt County, California. The primary energy source will be biomass in the form of wood waste. The power production capacity will be 6,850 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18129 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA83-2-2-002]

East Tennessee Natural Gas Co.; Revised Rate Filing

June 29, 1983.

Take notice that on June 17, 1983, East Tennessee Natural Gas Company tendered for filing Substitute Sixth

Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective May 1, 1983.

East Tennessee states that the sole purpose of the revised tariff sheet is to change its rates to reflect the rates charged to East Tennessee by its supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., effective May 1, 1983, pursuant to the Commission's June 9, 1983 letter order in this proceeding.

East Tennessee requests waiver to make the filing effective as proposed and states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

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. 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18130 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-2-003]

East Tennessee Natural Gas Co.; Revised Rate Filing

June 29, 1983.

Take notice that on June 17, 1983, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Substitute Seventh Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff to be effective July 1, 1983.

East Tennessee states that the purpose of this tariff sheet is to revise various rate adjustments pursuant to the General Terms and Conditions of its Tariff previously filed on May 31, 1983, to reflect East Tennessee's simultaneously revised filing in Docket No. TA83-2-2 to be effective May 1, 1983.

East Tennessee requests waiver to permit this filing to become effective July 1, 1983, as proposed, and states that copies of this filing have been mailed to

all affected customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Secs. 385.211 and 385.214). 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18131 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Projects Nos. 4501-001, 4623-001, 4624-001 and 4646-001]

Frankfort Electric and Water Plant Board; Surrender of Preliminary Permits

June 29, 1983.

Take notice that Frankfort Electric and Water Plant Board, Permittee for the proposed Kentucky River Lock and Dam No. 2, FERC Project No. 4624; Kentucky River Lock and Dam No. 3, FERC Project No. 4646; Kentucky River Lock and Dam No. 4, FERC Project No. 4501; and Kentucky River Lock and Dam No. 5, FERC Project No. 4623, has requested that its preliminary permits be terminated. The permit for Project No. 4501 was issued on July 7, 1981 and would have expired on June 30, 1983; the permit for Project No. 4623 was issued on August 10, 1981 and would have expired on July 31, 1983; the permit for Project No. 4624 was issued on August 10, 1981 and would have expired on July 31, 1983; and the permit for Project No. 4646 was issued on September 24, 1981 and would have expired on August 31, 1983. The projects would have been located in Franklin, Anderson, Woodford, Henry and Owen Counties, Kentucky.

The Permittee filed its request on June 15, 1983, and the surrender of the preliminary permits for Projects Nos. 4501, 4623, 4624, and 4646 are deemed

accepted 30 days after issuance of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18132 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-307-000]

Kohala Mountain Wind Energy Investors—1983; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 29, 1983.

On May 27, 1983, Kohala Mountain Wind Energy Investors, of C/O Wagstaff and Brady, Managing General Partner, Berkeley, California 94710, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 209.207 of the Commission's regulations.

The 150 kilowatt wind facility will be located at the Kahua Ranch Land TMK 5-9-01-9, P.O. Box 1177, Kamaela, Hawaii 96743.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NW., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18133 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 5764-001]

Long Lake Energy Corp.; Surrender of Preliminary Permit

June 29, 1983.

Take notice that Long Lake Energy Corporation, Permittee for the Court Street Dam Project No. 5764, to be located on the Genesee River in Monroe County, New York, has

requested that its preliminary permit be terminated. The preliminary permit was issued on October 8, 1982, and would have expired on April 30, 1984. The Permittee states that analysis of the Court Street Dam Project did not indicate that development by a Utility System was economically feasible.

Long Lake Energy Corporation's request was filed on May 25, 1983. The surrender of the permit for Project No. 5764 is in the public interest and is accepted 30 days after the date of issuance of this notice.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18134 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. RP81-61-011 and RP82-80-000]

**Michigan Wisconsin Pipe Line Co.;
Tariff Filing Pursuant to Order Issuing
Certificate of Public Convenience and
Necessity**

June 29, 1983.

Take notice that on June 17, 1983 Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) tendered for filing Substitute First Revised Sheet Nos. 1AA, 1BB, 1CC, 1DD and Substitute Original Sheet Nos. 1EE and 2056.

Michigan Wisconsin states that these revised tariff sheets have been filed to reflect the settlement rates for those transportation and storage services which are conditioned to the settlement of Docket No. RP81-61. In addition, Michigan Wisconsin states that it is also revising the tariff sheets to change the effective dates of its transportation and storage services affected by the filing of Docket No. RP82-80 from June 1, 1982 to November 1, 1982. The change in the effective dates is being made in order to be consistent with the Commission's order issued May 28, 1982 in Docket No. RP82-80. In the order issued May 28, 1982, the Commission accepted the tariff sheets and suspended the effective date of the rate changes proposed in Docket No. RP82-80 until November 1, 1982.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rule 211 or Rule 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 11, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceedings. Any party wishing to

become a party to the proceeding 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. 83-18135 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ES83-51-000]

**Montana-Dakota Utilities Co.;
Application**

June 29, 1983.

Take notice that on June 20, 1983, Montana-Dakota Utilities Company (Applicant) filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an Order (a) exempting the Applicant from the competitive bidding requirements of the Act, and (b) authorizing the issuance of up to 750,000 additional shares of Common Stock, par value \$100, pursuant to Applicant's Automatic Dividend Reinvestment and Stock Purchase Plan.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before July 19, 1983, file with the Federal Regulatory Commission, Washington, D.C. 20426, petitions or protests with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). The application is on file and available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18136 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP82-50-005]

**Natural Gas Pipeline Company of
America; Petition To Amend**

June 29, 1983.

Take notice that on June 13, 1983, Natural Gas Pipeline Company of America (Petitioner), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP82-50-005 a petition to amend the order issued May 19, 1982, in Docket No. CP82-50-000, pursuant to Section 7(c) of the natural Gas Act so as to conform the authorization granted by such order to actual construction, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicated in its application that it would use 0.39 mile of 26-inch diameter pipe at the Canadian River Crossing, Hutchinson County, Texas.

Petitioner states that 30-inch diameter pipe was actually installed.

In addition, Petitioner indicated in its application that it would construct \$394,000 of miscellaneous facilities. Petitioner states that these facilities were constructed under its budget authorization in Docket No. CP80-86-000.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18737 Filed 7-5-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. CP61-139-009]

**Northern Natural Gas Company,
Division of InterNorth, Inc.; Petition To
Amend**

June 29, 1983.

Take notice that on June 2, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP61-139-009 a petition to amend further the order issued January 11, 1965,¹ in Docket No. CP61-139, as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the transportation and exchange of natural gas with El Paso Natural Gas Company (El Paso), at a revised delivery point and the establishment of five new delivery points from Northern to El Paso under the terms of an amended exchange arrangement between Northern and El Paso, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

¹This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

Northern states that it was authorized to construct and operate certain facilities and to transport and exchange natural gas with El Paso pursuant to the terms of a 1963 service agreement dated August 17, 1962, as amended. It is also stated that pursuant to the terms of a gas purchase agreement between Amoco Production Company (Amoco) and Northern dated November 22, 1977, as amended, Amoco would make volumes of residue gas produced at Amoco's Prentice plant in Yoakum County, Texas, available for delivery to Northern at Amoco's Slaughter plant in Hockely County, Texas. Amoco received authorization on October 5, 1981, in Docket No. G-11585-000 to transport casinghead gas from the Prentice plant to the Slaughter plant for processing, it is asserted. Furthermore, the amended gas purchase contract further requires that Northern continue to make volumes of gas available at the Prentice plant for compressor fuel and field use, it is averred. Northern is also obligated to deliver volumes of natural gas to Energas Company, Division of Pioneer (Energas), for resale to a Northern right-of-way grantor located at the outlet of the Prentice plant, it is further averred.

Upon the shutdown of the processing facilities at the Prentice plant in June 1982, El Paso commenced delivery of gas to Northern at the interconnection of El Paso's Dumas pipeline and Northern's discharge pipeline from the Prentice plant (Prentice delivery point) in order to enable Northern to fulfill its contractual obligations to Amoco and Energas, it is asserted. El Paso continued to deliver gas at the Prentice delivery point, which is an authorized Northern delivery point under the agreement, until January 1983 when it was concluded that the delivery of gas should not be continued without Commission approval, it is stated. El Paso resume emergency delivery of gas to Northern near the Prentice plant pursuant to Section 157.46(a)(3) of the Commission's Regulations, it is averred. Northern proposes herein to change the Prentice delivery point from a Northern delivery point to an El Paso delivery point pursuant to the terms of a January 31, 1983, amendment to the service agreement.

Northern and El Paso have further amended their service agreement to include five additional delivery points from Northern to El Paso, it is asserted. Specifically, Northern requests authorization to deliver gas to El Paso at Phillips Petroleum Company's (Phillips) Lee plant in Lea County, New Mexico, Phillips' Dumas plant in Moore County,

Texas; the No. 1 Cross B Well in Roger Mills County, Oklahoma; the Carruth 1-43 Well in Hemphill County, Texas; and the Poker Lake State 1-32 Well in Eddy County, Texas. These points would enable Northern to receive volumes of surplus gas it has contracted to purchase without duplication of existing facilities, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-18138 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-356-000]

Northern Natural Gas Co., Division of InterNorth, Inc.; Application

June 29, 1983.

Take notice that on June 3, 1983, Northern Natural Gas Company, Division of InterNorth, Inc. (Applicant), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP83-365-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas on behalf of Great Plains Gasification Associates (Great Plains), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to receive up to 20,000 dt equivalent of natural gas per day for Great Plains' account from Michigan Wisconsin Pipe Line Company (Mich Wisc) at an existing interconnection between the pipeline systems of Applicant and Mich Wisc located in Rock County, Wisconsin. Applicant then proposes to transport and cause Northern Border Pipeline Company to deliver thermally

equivalent volumes of natural gas for the account of Great Plains in Mercer County, North Dakota.

Applicant proposes to provide the subject service for two years or until the delivery of the total contract quantity of 2.5 million dt equivalent of natural gas. Applicant also states it has agreed to transport overrun volumes on a best efforts basis. Applicant further states the natural gas so delivered will be purchased by Great Plains from Michigan Consolidated Gas Company and used as start-up gas for Great Plains' coal gasification plant located near Beulah, North Dakota.

Applicant proposes to charge Great Plains a transportation rate of 9.39 cents per dt equivalent of natural gas for the subject service. Applicant states such rate is based on Applicant's system-wide average cost of service and allocation factor (4.65 cents per 100 miles of forward-haul plus 1.0 cent for general and administrative expenses). Applicant further states such rate is applied to the subject service which involves 361 miles of back-haul transportation.

Applicant also proposes to charge a minimum bill which is equivalent to the difference between 1.35 million dt and the total actual volumes transported multiplied by 9.39 cents per dt. The minimum bill quantity of 1.35 million dt is based upon 75 percent of the expected total deliveries of 1.8 million dt, it is explained.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this

application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18139 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-345-000]

**Northwest Central Pipeline Corp.;
Request Under Blanket Authorization**

June 29, 1983.

Take notice that on May 26, 1983, Northwest Central Pipeline Corporation (Applicant), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-345-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to construct and operate a new delivery point for the sale of gas to The Gas Service Company (Gas Service) for resale in a rural area in Rice County, Kansas, and to abandon and reclaim measuring facilities and the transportation and sale of gas through these facilities to three direct sale customers, under the authorization issued in CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant states that it proposes to construct and operate an additional town border meter and appurtenant facilities on its Chase Fuel System 6-inch pipeline to deliver gas to Gas Service near the City of Lyons, Kansas. Applicant anticipates that it would deliver approximately 2,000 Mcf annually to Gas Service at this location. It is estimated that the proposed facilities would cost \$4,430, which cost would be financed from treasury cash.

Applicant also proposes to abandon and reclaim measuring and appurtenant facilities and the transportation and sale of gas through these facilities to three direct sale customers on its pipeline. It is indicated that these customers would be turned over to Gas Service which has requested the installation of the additional delivery point near Lyons,

Kansas, in order to serve gas customers in this area. Applicant estimates that the cost to reclaim the subject facilities would be \$550 with an estimated salvage value of \$140.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18140 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-361-000]

Oasis Pipe Line Co.; Application

June 29, 1983.

Take notice that on June 2, 1983, Oasis Pipe Line Company (Applicant), P.O. Box 1188, Houston, Texas 77001, an intrastate pipeline, filed in Docket No. CP83-361-000 an application pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for El Paso Natural Gas Company (El Paso), an interstate pipeline, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it is currently engaged in the transportation of natural gas on behalf of El Paso pursuant to a transportation and treating agreement dated September 1, 1979 (1979 Agreement). It is stated that service under the 1979 Agreement commenced September 1, 1979, for an initial term of two years under the self-implementing provisions of Section 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing September 1, 1981, pursuant to Section 284.125 of the Commission's Regulations. In order that the transportation service might be continued on an uninterrupted basis, Applicant requests authorization to

continue the transportation arrangement for a period of two years commencing September 1, 1983 and ending August 31, 1985.

Applicant proposes to transport up to 2,000 Mcf of gas per day for El Paso. Applicant would transport El Paso's gas from a point located in Ward County, Texas to a point located at the interconnection of Applicant's and El Paso's pipeline facilities in Pecos County, Texas. It is stated that service would continue to be rendered under the terms and conditions of an amendment to the 1979 Agreement dated May 16, 1983.

Applicant states that effective September 1, 1983, El Paso would be charged 4.0 cents per Mcf of gas transported by Applicant, plus a 7.95 cent per Mcf treating charge.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18141 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-375-000]

**Ozark Gas Transmission System;
Application**

June 29, 1983.

Take notice that on June 13, 1983, Ozark Gas Transmission System (Ozark), 2700 Fidelity Union Tower, Dallas, Texas 75201, filed in Docket No. CP83-375-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Ozark to construct and operate tap and metering facilities necessary to permit an Ozark shipper, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), to receive gas on behalf of Natural Gas Pipeline Company of America (Natural) in Franklin County, Arkansas, all as more fully set forth in the application

which is on file with the Commission and open to public inspection.

Ozark indicates that the application is filed in accordance with the requirements of the stipulation and consent agreement executed by Ozark and approved by the Commission on March 21, 1983, in Docket No. CP78-532 which required, *inter alia*, that Ozark must obtain a certificate of public convenience and necessity before constructing any pipeline or compression facility in Township 9N, Range 26W in western Arkansas. It is noted that the facilities to be constructed are located in Township 9N, Range 26W in Franklin County, Arkansas.

Ozark proposes to construct and operate tap and metering facilities to connect Ozark's 20-inch mainline with the existing 6-inch line operated by Arkansas Western Gas Company. Ozark indicates that Natural would reimburse Tennessee for the cost of the facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18143 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-315-000]

Patapsco Association; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 29, 1983.

On June 17, 1983, Patapsco Association, of 1444 Foxwood Courts, Annapolis, Maryland 21401, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The hydroelectric facility will be located on the Patapsco River near to town of Ellicott City, Maryland. The power production capacity will be 600 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 18144 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-378-000]

Texas Gas Transmission Corp.; Notice of Application

June 29, 1983.

Take notice that on June 14, 1983, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP83-378-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public

convenience and necessity authorizing the transportation of natural gas in order to effect a direct sale of up to 69,876 Mcf of gas per day to Armco Inc., The Celotex Corporation, Chevron Corporation, Container Corporation of America, Davison Chemical Company, Division of W.R. Grace, Diamond Shamrock Company, Georgia Pacific Corporation, Kaiser Aluminum & Chemical Corporation, Middletown Paperboard, and Procter and Gamble Corporation (Consumers) for a term extending through December 31, 1983, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the gas to be sold is from Applicant's system supply and would be used to displace the present and future fuel oil purchases at Consumer's plants. Applicant states that it would deliver the gas to the Cincinnati Gas and Electric Company (Cincinnati Gas) at the outlet side of Applicant's Butler measurement station located in Butler County, Ohio, on Applicant's 26-inch main line at mile post 702.2691. It is submitted that Cincinnati Gas would redeliver the gas to existing delivery points at Consumer's plants. Applicant states that the sales are subject to interruption whenever necessary to assure service to its traditional customers and that no additional facilities would be constructed in connection with the proposed transactions.

Applicant proposes to sell the gas to Consumers at a negotiated rate of \$3.70 per Mcf, to be redetermined periodically, subject to a floor price of \$3.55 per Mcf which is Applicant's base system average load factor rate including the current adjustment, it is asserted. In addition, it is explained, Cincinnati Gas would charge Consumers 50.0 cents per Mcf for its transportation service which would be rendered pursuant to the term of a transportation agreement between Cincinnati Gas and Consumers, which is on file with the Ohio Public Utilities Commission.

Applicant further states that Consumers would apply or have applied for a certificate of eligible use from the Economic Regulatory Administration.

Applicant proposes to retain the revenues realized from the sale to Consumers.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules

of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-18146 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-371-000]

United Gas Pipe Line Co.; Request Under Blanket Authorization

June 29, 1983.

Take notice that on June 6, 1983, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-371-000 a request pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Applicant proposes to change a delivery point under the authorization issued in Docket No. CP82-430-000 pursuant to

Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Applicant proposes to reactivate a one-inch tap on its 12-inch Soso-Meridian Line in Jasper County, Mississippi, as an additional delivery point to Entex, Inc. (Entex), a distributor. The proposed sales tap would supply to the L.A. Grilling Company approximately an average of 20 Mcf of gas per day for residential and commercial use with service being provided by Entex, it is explained. It is indicated that peak day and annual volumes to be delivered at the proposed tap are 25 Mcf and 7,300 Mcf, respectively. There would be no increase in Entex's contractual maximum daily quantities nor Entex's entitlement under Applicant's effective curtailment plan, it is asserted.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-18146 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST81-457-001]

United Gas Pipe Line Co.; Extension Reports

June 29, 1983.

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the

Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before July 7, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

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 party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/Seller	Recipient	Date filed	Part 284 Subpart	Effective date
*ST81-457-001	United Gas Pipe Line Co., P.O. Box 1478, Houston, TX 77001.	Monterey Pipeline Co.	June 9, 1983	B	Sept. 1, 1983.

*This Extension Report was filed after the date specified by the Commission's regulations, and shall be the subject of a further Commission order.
NOTE.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.

[FR Doc. 83-18147 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-302-000]

Wehran Energy Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 29, 1983.

On May 31, 1983, Wehran Energy Corp., of 666 East Main Street, Middletown, N.Y. 10940, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at Town of Riverhead Landfill, Youngs Avenue, Riverhead, New York 11901. The primary energy source will be municipal waste in the form of methane gas. The power production capacity will be 550 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18148 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-301-000]

Wehran Energy Corp.—Huntington; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 29, 1983.

On May 31, 1983, Wehran Energy Corp., of 666 East Main Street, Middletown, New York 11743, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production

facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at Town of Huntington Landfill, Deposit Road, Huntington, N.Y. 11743. The primary energy source will be municipal waste in the form of methane gas. The power production of the facility will be 1650 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18149 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-300-000]

Wehran Energy Corp.—Southampton; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

June 29, 1983.

On March 31, 1983, Wehran Energy Corp., of 666 East Main Street, Middletown, New York 10940, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at Town of Southampton Landfill, Majors Path and Great Hill Road, Southampton, N.Y. 11946. The primary energy source will be municipal waste in the form of methane gas. The power production capacity will be 550 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such

petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18150 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-377-000]

West Texas Gas, Inc., Peoples Natural Gas Company, Division of InterNorth, Inc.; Application

[June 29, 1983.]

Take notice that on June 14, 1983, West Texas Gas, Inc. (WTG), 211 North Colorado, Midland, Texas 79701, and Peoples Natural Gas Company, Division of InterNorth, Inc. (Peoples), 25 Main Place, Council Bluffs, Iowa 51501, filed in Docket No. CP83-377-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation by WTG of certain jurisdictional natural gas facilities owned by Peoples and for permission and approval to allow Peoples to abandon the operation of these same jurisdictional facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

WTG requests authorization to acquire the Dalhart System from Peoples. It is stated that the Dalhart System consists of a 22-inch transmission line and related sales laterals which extend from Bivins, Texas to Clayton, New Mexico. Applicants state that these facilities currently are used by Peoples to make wholesale and retail natural gas sales to customers in Texas, New Mexico and Oklahoma. It is stated that the purchase price of the facilities to be acquired by WTG would be equal to the net book value of these facilities as of the date of closing and that the net book value of these facilities, as of December 31, 1982, was \$1,992,233. WTG would finance the acquisition of these facilities from funds obtained through a commercial bank.

Applicants state that WTG would operate the jurisdictional facilities in the same manner as these facilities are presently operated by Peoples. It is

stated that WTG would purchase the same gas supply, offer the same service, make the same sales, and charge the same rates as Peoples. Furthermore, WTG proposes to adopt, ratify and make its own Peoples' currently effective tariff and service agreements. Applicants further state that WTG's offices and operations are located in the Dalhart System area and are in closer proximity to the Dalhart System than are Peoples, and, therefore, WTG would be able to meet the market needs of this area in a timely manner.

Peoples requests that an order be issued permitting and approving the abandonment by Peoples of these same jurisdictional facilities which WTG proposes to acquire.

Any person desiring to be heard or to make any protest with reference to said application should on or before July 20, 1983, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to 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 or its designee on this application if no motion to intervene is filed within the time require herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for applicants to appear or be represented at the hearing.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-18151 Filed 7-5-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 1G2550/T422; PH-FRL 2392-6]

Acephate; Extension of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined residues of the insecticide acephate and its metabolite, in or on the raw agricultural commodity avocados.

DATE: This temporary tolerance expires August 31, 1983.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Program, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2800).

SUPPLEMENTARY INFORMATION: EPA issued a notice, that was published in the Federal Register of May 19, 1982 (47 FR 21613), announcing the establishment of a temporary tolerance for the combined residues of the insecticide acephate and its cholinesterase-inhibiting metabolite, methamidophos, in or on the raw agricultural commodity avocados at 2.0 parts per million (ppm). This tolerance was issued in response to pesticide petition PP 1G2550, submitted by Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804.

This temporary tolerance has been extended to permit the continued marketing of the raw agricultural commodity named above when treated in accordance with the provisions of experimental use permit (239-EUP-99), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that the extension of this temporary tolerance will protect the public health. Therefore, the temporary tolerance has been extended on the condition that the pesticide be used in accordance with the experimental use

permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Chevron Chemical Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires August 31, 1983. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: June 27, 1983.

Douglas D. Camp,
Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-18077 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2858/T421; PH-FRL 2392-8]

Aldicarb; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined

residues of the insecticide/nematocide aldicarb, and its cholinesterase-inhibiting metabolites in or on the raw agricultural commodity field corn grain. This temporary tolerance was requested by Union Carbide Corporation.

DATE: This temporary tolerance expires May 12, 1984.

FOR FURTHER INFORMATION CONTACT: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: Union Carbide Corporation, P.O. Box 12014, Research Triangle Park, NC 27709, has requested, in pesticide petition PP 3C2858 the establishment of a temporary tolerance for the combined residues of the insecticide/nematocide aldicarb (2-methyl-2-(methylthio)propionaldehyde)-(methylcarbamoyl) and its cholinesterase-inhibiting metabolites 2-methyl-2-(methyl-sulfonyl)propionaldehyde O-(methylcarbamoyl)oxime and 2-methyl-2-(methyl-sulfonyl)propionaldehyde O-methylcarbamoyl oxime in or on the raw agricultural commodity field corn grain at 0.05 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 264-EUP-67 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Union Carbide Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires May 12, 1984. Residues not in excess of this amount

remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 518 (21 U.S.C. 346a(j)))

Dated: June 27, 1983.

Douglas D. Campt,
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 83-10075 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30229; PH-FRL 2393-4]

Certain Companies; Applications To Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by August 5, 1983.

ADDRESS: Written comments, identified by the document control number [OPP-30229] and the file symbol, should be submitted to: Product Manager (PM), Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: The product manager at the telephone number cited.

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 39398-RT. Applicant: Sumitomo Chemical America, Inc., 345 Park Ave., New York, NY 10154. Product name: Danitol™ 2.4 EC Spray. Insecticide. Active ingredient: Fenpropathrin (alpha cyano-3-phenoxybenzyl 2,2,3,3-tetramethyl cyclopropanecarboxylate) 30.01%. Proposed classification/Use: General. For use on ornamentals and nonbearing fruit trees. Type registration: Conditional. (Product Manager (PM) 17-Tim Gardner, 703-557-2690).

2. File Symbol: 38906-L. Applicant: Glyco Inc., Greenwich Office Park 1, 51 Weaver St., PO Box 700, Greenwich, CT 06836-0700. Product name: Glycoserve™ Lad. Disinfectant. Active ingredients: 1,3-bis-hydroxymethyl-5,5-dimethylhydantoin 44.0% and hydroxymethyl-5,5-dimethylhydantoin 10.0%. Proposed classification/Use: General. For use as a preservative for soft detergents and soaps. (PM 32-Arturo Castillo, 703-557-3964).

3. File Symbol: 38906-A. Applicant: Glyco Inc., Greenwich Office Park 1, 51 Weaver St., PO Box 700, Greenwich, CT 06836-0700. Product name: Glycoserve™. Disinfectant. Active ingredients: 1,3-bis-hydroxymethyl-5,5-dimethylhydantoin 44.0% and hydroxymethyl-5,5-dimethylhydantoin 10.0%. Proposed classification/Use: General. For use as a preservative for room deodorizers, soft detergents, and household coatings and as a disinfectant, algicide, and/or slimicide for industrial uses. (PM 32-Arturo Castillo, 703-557-3964).

4. File Symbol: 518-TG. Applicant: Darworth Co., PO Box "K" Tower Lane, Avon, CT 06001. Product name: Darworth Copper Neoisoate. Fungicide. Active ingredient: Copper salt of fatty and rosin acids 35.2%. Proposed classification/Use: General. For use as a wood preservative. type registration: Conditional. (PM 21-Henry Jacoby, 703-557-1900).

5. File Symbol: 518-TE. Applicant: Darworth Co. Product name: Darworth Zinc Neoisoate. Fungicide. Active ingredient: Zinc salt of fatty and rosin acids 38.45%. Proposed classification/Use: General. For use as a wood

preservative. Type registration: Conditional. (PM 21-Henry Jacoby, 703-557-1900)).

Notice of approval or denial of an application to register a pesticide product will be announced in the Federal Register. Except for such material protected by section 10 of FIFRA, the test data and other scientific information deemed relevant to the registration decision may be available after approval under the provisions of the Freedom of Information Act. The procedure for requesting such data will be given in the Federal Register if an application is approved.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: June 27, 1983.

Douglas D. Camp, Jr.

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-18079 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-334; PH-FRL 2393-2]

Certain Companies; Pesticide, Feed, and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA)

ACTION: NOTICE.

SUMMARY: EPA has received pesticide, feed, and food additive petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments to: Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-334] and the petition number. All written comments filed in response to this notice will be available

for public inspection in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, PM-21, (703-557-2388).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide (PP), feed, and food additive petitions (FAP) relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filing

1. **PP 3F2898.** Chevron Chemical Co., 940 Hensley St., Richmond, CA 94804. Proposes amending 40 CFR 180.103 by reducing the established tolerances for the combined residues of the fungicide captan *N*-trichloromethylthio-4-cyclohexene-1,2-dicarboximide) and including the metabolite, 4-cyclohexene-1,2-dicarboximide in the tolerance expression in or in the following commodities:

Commodities	Parts per million	
	From	To
Almonds	2.0	1.0
Apricots	50.0	20.0
Beans (dry and succulent)	25.0	10.0
Beet greens	100.0	2.0
Blackberries	25.0	20.0
Blueberries	25.0	20.0
Cantaloupe	25.0	10.0
Celery	50.0	20.0
Cherries	100.0	40.0
Cranberries	25.0	10.0
Cucumbers	25.0	10.0
Dewberries	25.0	20.0
Grapefruit	25.0	15.0
Grapes	50.0	25.0
Honeydew	25.0	10.0
Lemons	100.0	15.0
Lettuce	100.0	20.0
Limes	25.0	15.0
Muskmelon	25.0	10.0
Nectarines	50.0	20.0
Oranges	25.0	15.0
Peaches	100.0	30.0
Peppers	25.0	10.0
Plums	100.0	15.0
Pumpkins	25.0	10.0
Raspberries	25.0	20.0
Rhubarb	25.0	15.0
Spinach	100.0	20.0
Squash	25.0	10.0
Strawberries	25.0	20.0
Tangerine	25.0	15.0
Tomatoes	25.0	15.0
Watermelons	.0	10.0

The proposed analytical method for determining residues is gas chromatography with electron capture and flame photometric detection.

2. **FAP 3H5400.** Chevron Chemical Corp. Proposes amending 21 CFR 193.40 by reducing the tolerance level

permitting residues of the fungicide captan, (*N*-trichloromethylthio-4-cyclohexene-1,2-dicarboximide) in or on washed raisins from 50.0 to 30.0 ppm and including the metabolite, 4-cyclohexene-1,2-dicarboximide in the tolerance expression.

3. **FAP 3H5400.** Chevron Chemical Corp. Proposes amending 21 CFR 561.65 by including the metabolite, 4-cyclohexene-1,2-dicarboximide in the tolerance expression.

4. **FAP 2H5369.** Proposes amending 21 CFR 193.277 by establishing a regulation permitting residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester each expressed as metalaxyl, in or on the commodity wheat milling fractions at 1.0 ppm.

II. Amended Petitions

1. **PP 2F2764.** Ciba-Geigy Corporation, P.O. Box 11422, Greensboro, NC 27409. EPA issued a notice published in the Federal Register of November 24, 1982 (47 FR 53116) which announced that Ciba-Geigy Corp., P.O. Box 11422, Greensboro, NC 27409, had submitted pesticide petition 2F2764 to the Agency proposing to amend 40 CFR 180.408 by establishing a tolerance for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl)alanine methyl ester each expressed as metalaxyl, in or on the raw agricultural commodities soybeans at 0.5 ppm; soybean forage and fodder at 7.0 ppm; wheat grain at 0.2 ppm; and wheat forage and straw at 2.0 ppm.

Ciba-Geigy has amended the petition by deleting the proposed tolerances for soybeans, soybean forage and fodder; and by adding wheat fodder at 2.0 ppm. The proposed analytical method for determining residues is gas chromatography with an alkali flame ionization detector.

2. **PP 3F2827.** Ciba-Geigy Corp. EPA issued a notice published in the Federal Register of March 18, 1983 (48 FR 11156) which announced that Ciba-Geigy Corp. had submitted pesticide petition 3F2827 to the Agency proposing to amend 40 CFR 180.408 by establishing tolerances for the residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-*N*-(methoxyacetyl)alanine methyl ester] and its metabolites containing the 2,6-

dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl) alanine methyl ester each expressed as metalaxyl, in or on the raw agricultural commodities brassica (cole) leafy vegetables, fruiting vegetables (cucurbits), leafy vegetables (except brassica), leaves of root and tuber vegetables root and tuber vegetables, and sunflower at 0.1 ppm.

Ciba-Geigy Corp. has amended the petition by changing the identify and tolerance of fruiting vegetables (cucurbits) at 0.1 ppm, to cucurbit vegetables at 1.0 ppm. The proposed analytical method for determining residues is radioactive counting and gas chromatography.

(Sec. 408(d)(1), 68 Stat. 512 [7 U.S.C. 136]; 409(b)(5), 72 Stat. 1788 [21 U.S.C. 348])

Dated: June 27, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-16873 Filed 7-5-83; 8:45 am]

BILLING CODE 5560-50-M

[AMS-FRL-2393-7]

Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Federal Certification Test Results for 1983 Model Year

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Section 206(e) of the Clean Air Act, as amended August 1977, directs the Administrator of the Environmental Protection Agency to announce in the *Federal Register* and make available to the public, the results of certification tests conducted on new motor vehicles and new motor vehicle engines to determine conformity with Federal standards for the control of air pollution caused by motor vehicles. The Federal Certification Test Results for the 1983 model year are now available. Copies of the test results may be obtained by writing:

U.S. Environmental Protection Agency,
Office of Mobile Sources, Certification
Division, 2565 Plymouth Road, Ann
Arbor, Michigan 48105

FOR FURTHER INFORMATION CONTACT:
Ms. Janice Wilson at ((313) 668-4266).

Dated: June 22, 1983.

Charles L. Elkins,

Acting Assistant Administrator for Air, Noise, and Radiation.

[FR Doc. 83-16860 Filed 7-5-83; 8:45 am]

BILLING CODE 5560-50-M

[PP 3G2816/T422; PH-FRL#2393-1]

Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for residues of the insecticide/nematocide ethoprop in or on the raw agricultural commodity grapes. This temporary tolerance was requested by Rhone-Poulenc Inc.

DATE: This temporary tolerance expires December 31, 1984.

FOR FURTHER INFORMATION CONTACT: William Miller, Product Manager (PM) 16, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 211, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-2600).

SUPPLEMENTARY INFORMATION: Rhone-Poulenc Inc., P.O. Box 125, Monmouth Junction, NJ 08852, has requested, in pesticide petition PP 3G2816, the establishment of a temporary tolerance for residues of the insecticide/nematocide ethoprop, *O*-ethyl *S,S*-dipropyl phosphorodithioate in or on the raw agricultural commodity grapes at 0.02 part per million (ppm).

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 359-EUP-64 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95-398, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

Rhone-Poulenc Inc. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1984. Residues not in excess of this

amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience of scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the *Federal Register* of May 4, 1981 (46 FR 24950).

(Sec. 408 (j), 68 Stat. 516 (21 U.S.C. 346a(j)))

Dated: June 27, 1983.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-16874 Filed 7-5-83; 8:45 am]

BILLING CODE 5560-50-M

[AHS-FRL 2393-8]

Fuels and Fuel Additives; Waiver Application

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice

SUMMARY: On May 17, 1983, Mr. Scott N. Stone, on behalf of the American Methyl Corporation (American Methyl), submitted an application for a waiver of the section 211(f) prohibition on certain fuels and fuel additives set forth in the Clean Air Act (Act). This application is for a waiver for a fuel additive known as METHYL-10. METHYL-10 consists of methanol and co-solvent alcohols combined with 460 milligrams (mg) of American Methyl 1A-7 (a proprietary component) per liter of METHYL-10. METHYL-10 is to be blended with unleaded gasoline such that the final fuel composition has an oxygen content of no more than 5.0% by weight. The Administrator of EPA has until November 14, 1983 (180 days from the

date of receipt of the application) to grant or deny this application.

DATE: Comments should be submitted on or before August 22, 1983.

ADDRESS: Copies of the non-confidential information relative to this application are available for inspection in public docket EN-83-03 at the Central Docket Section (LE-131) of the EPA, Gallery I—West Tower, 401 M Street SW., Washington, D.C. 20460, (202) 382-7548, between the hours of 8:00 a.m. and 4:00 p.m. Any comments from interested parties should be addressed to this docket with a copy forwarded to Richard G. Kozlowski, Director, Field Operations and Support Division (EN-397), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. 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), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202) 382-2635.

SUPPLEMENTARY INFORMATION: Section 211(f)(1) of the Act makes it unlawful, effective March 31, 1977, for any manufacturer of a fuel or fuel additive to first introduce into commerce, or to increase the concentration in use of, any fuel or fuel additive for use in light-duty motor vehicles manufactured after model year 1974 which is not substantially similar to any fuel or fuel additive utilized in the certification of any model year 1975, or subsequent model year, vehicle or engine under section 206 of the Act.

EPA's definition of "substantially similar," published at 46 FR 38528 (July 28, 1981), allows the blending of certain oxygenated components in unleaded gasoline at up to 2.0% oxygen by weight in the finished fuel. American Methyl is requesting that an additive known as METHYL-10 be blended with unleaded gasoline which does not already contain alcohol such that the final fuel composition has an oxygen content of no more than 5.0% by weight. METHYL-10 consists of methanol and co-solvent alcohols combined with 460 mg of American Methyl 1A-7 (a proprietary component) per liter of METHYL-10. The co-solvent alcohols will be predominantly C-4 alcohols, with smaller percentages of C-2 through C-7 alcohols, and perhaps traces of other alcohols. Nine percent methanol by volume adds approximately five percent oxygen by weight to a fuel. Additional requirements for the final blend of METHYL-10 and unleaded gasoline are in the waiver application.

Section 211(f)(4) of the Act provides that upon application by any fuel or fuel additive manufactured the Administrator of EPA may waive the prohibitions of section 211(f)(1) if the Administrator determines that the applicant has established that such fuel or fuel additive will not cause or contribute to a failure of any emission control device or system (over the useful life of any vehicle in which such device or system is used) to achieve compliance by the vehicle with the emissions standards to which it has been certified pursuant to section 206 of the Act. If the Administrator does not act to grant or deny a waiver within 180 days of receipt of the application, the waiver shall be treated as granted. Because the last day of this period falls on a Sunday, November 13, 1983, the due date for the decision is the next working day, Monday, November 14, 1983.

Because of the proprietary nature of METHYL-10 and because of EPA's desire to render a determination on the maximum amount of data, American Methyl will provide a reasonable amount of METHYL-10 for test purposes provided the prospective tester executes a confidentiality agreement with American Methyl.

For more information on obtaining test fuel contact: Mr. Scott N. Stone, Attorney for American Methyl, Patton, Boggs & Blow, 2550 M Street NW., Washington, D.C. 20007 (202) 457-6335.

Dated: June 22, 1983.

Charles L. Elkins,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 83-18081 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2787/T420; PH-FRC 2392-7]

Iprodione; Establishment of Temporary Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established a temporary tolerance for the combined residues of the fungicide iprodione, its isomer and its metabolite in or on the raw agricultural commodity grapes. This temporary tolerance was requested by Rhone-Poulenc, Inc.

DATE: This temporary tolerance expires December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 229, CM#2, 1921

Jefferson Davis Highway, Arlington, VA 22202 (703-557-1900).

SUPPLEMENTARY INFORMATION: Rhone-Poulenc, Inc., Agrochemical Division, P.O. Box 125, Monmouth Junction, NJ 08852, has requested, in pesticide petition PP 3G2787 the establishment of a temporary tolerance for the combined residues of the fungicide iprodione, 3-(3,5-dichlorophenyl)-N-(1-methylethyl)-2,4-dioxo-1-imidazolidine-carboxamide, its isomer, 3-(1-methylethyl)-N-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide, and its metabolite, 3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboxamide in or on the raw agricultural commodity grapes at 60 parts per million (ppm) as a result of preharvest applications.

This temporary tolerance will permit the marketing of the above raw agricultural commodity when treated in accordance with the provisions of experimental use permit 359-EUP-61 which is being issued under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that establishment of the temporary tolerance will protect the public health. Therefore, the temporary tolerance has been established on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permit.

2. Rhone-Poulenc, Inc., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

This tolerance expires December 31, 1984. Residues not in excess of this amount remaining in or on the raw agricultural commodity after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerance. This tolerance may be revoked if the experimental use permit is revoked or if any experience or scientific data with this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1184, 5 U.S.C. 610-612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 4089j), 68 Stat. 516 (21 U.S.C. 34a(j))

Dated: June 27, 1983.

Douglas D. Camp,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-18076 Filed 7-5-83; 8:45 am]

BILLING CODE 5560-50-M

[OPP-50597; PH-FRL 2393-3]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT:

The product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

275-EUP-26. Extension. Abbott Laboratories, 14th and Sheridan Rd., North Chicago, IL 60064. This experimental use permit allows the use of the remaining supply of 5.0×10^{13} Condia (CFU) of the biological insecticide *Nomuraea rileyi* on all raw agricultural commodities to evaluate the control of the lepidopterous caterpillar. A total of 500 acres are involved; the program is authorized in the States of Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, Ohio, Pennsylvania, South Carolina, and

Texas. The experimental use permit is effective from June 15, 1983 to June 15, 1984. A temporary exemption from the requirement of a tolerance for residues of the active ingredient in or on all raw agricultural commodities has been established. (Timothy Gardner, PM 17, Rm. 209, CM#2 (703-557-2690))

241-EUP-99. Renewal. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 3,000 pounds of the insecticide ($\pm$) cyano(3-phenoxphenyl)-methyl(+) -4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate on apples to evaluate the control of various insects. A total of 6,000 acres are involved; the program is authorized only in the States of California, Maryland, Michigan, New Jersey, New York, North Carolina, Ohio, Oregon, Pennsylvania, Virginia, Washington, and West Virginia. The permit was previously effective from April 1, 1982 to April 1, 1983. The permit was previously effective from April 1, 1982 to April 1, 1983. The permit is now effective from April 11, 1983 to April 11, 1984. A temporary tolerance for residues of the active ingredient in or on apples has been established. (Timothy Gardner, PM 17, Rm. 209, CM#2 (703-557-2690))

279-EUP-86. Extension. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 5,370.9 pounds of the insecticide cypermethrin on various crops to evaluate the control of various insects. A total of 4,266 acres are involved; the program is authorized in all 50 States except Alabama, Alaska, Hawaii, North Dakota, Rhode Island, and Wyoming. The experimental use permit is effective from June 5, 1983 to June 5, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Timothy Gardner, PM 17, Rm. 209, CM#2 (703-557-2690))

279-EUP-95. Issuance. FMC Corporation, 2000 Market St., Philadelphia, PA 19103. This experimental use permit allows the use of 1,617 pounds of the insecticide carbosulfan on field corn to evaluate the control of various insects and nematodes. A total of 539 acres are involved; the program is authorized in the States of Arizona, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, West Virginia, Wisconsin, and

Wyoming. The experimental use permit is effective from May 20, 1983 to May 20, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Jay Ellenberger, PM 12, Rm. 202, CM#1 (703-557-2386))

11273-EUP-35. Issuance. Sandoz, Inc., 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 15 pounds of the biological insecticide *Bacillus thuringiensis*, Berliner on forests to evaluate the control of gypsy moths and spruce budworms. A total of 273 acres are involved; the program is authorized only in the State of Pennsylvania. The experimental use permit is effective from May 27, 1983 to May 27, 1984. (Timothy Gardner, PM 17, Rm. 209, CM#2, (703-557-2690))

11273-EUP-36. Issuance. Sandoz, Inc., 480 Camino Del Rio South, Suite 204, San Diego, CA 92108. This experimental use permit allows the use of 41 pounds of the biological insecticide *Bacillus thuringiensis*, Berliner on forests to evaluate the control of gypsy moths and spruce budworms. A total of 806 acres are involved; the program is authorized only in the State of Maine and Pennsylvania. The experimental use permit is effective from May 27, 1983 to May 27, 1984. This permit and the one above are issued with the limitation that none of the treated material or formulation will enter the food chain. The permits will use the same active ingredient but different formulations. (Timothy Gardner, PM 17, Rm. 209, CM#2, (703-557-2690))

20954-EUP-24. Issuance. Zeecon Corporation, 975 California Ave., Palo Alto, CA 94304. This experimental use permit allows the use of 50 pounds of the synthetic pyrethroid (α RS,2R)-fluvalinate [(RS)- α -cyano-3-phenoxzybenzyl (R)-2-[2-chloro-4-(trifluoromethyl) anilino]-3-methylbutanoate] on fruits, nuts, and vegetables to evaluate the control of various insects. A total of 115 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Florida, Georgia, Idaho, Louisiana, Michigan, Mississippi, Nevada, New Mexico, Oklahoma, Oregon, Ohio, Texas, Utah, Washington, and Wisconsin. The experimental use permit is effective from May 6, 1983 to May 6, 1984. This permit is issued with the limitation that all crops are destroyed or used for research purposes only. (Timothy Gardner, PM 17, Rm. 209, CM#2, (703-557-2690))

Persons wishing to review these experimental use permits are referred to the designated product managers.

Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, 92 Stat. 819, as amended (7 U.S.C. 136))

Dated: June 27, 1983.

Douglas D. Camp, Jr.
Director, Registration Division, Office of
Pesticide Programs.

[FR Doc. 83-18078 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

[ORD-FRL 2391-4]

Synthetic Fuel Pollution Control Technical Manuals; Availability

The Environmental Protection Agency (EPA) announces the publication of six process specific Synthetic Fuel Pollution Control Technical Manuals. For the past several years the EPA Office of Research and Development has been characterizing the waste streams from various synfuel processes to determine the applicability of pollution control techniques to U.S. synthetic fuel plants. One result of these studies is this series of manuals that address controls for waste streams from specific synfuel technologies. The purpose of the manuals is to provide process, discharge, and pollution control data for use by government permit writers, process developers, environmentalists and other interested parties.

To understand how waste streams and controls are influenced by various feedstocks and processes, the manuals cover a range of alternative fuel sources, including coal gasification and coal liquefaction by direct and indirect processing and extraction of oil from shale. A single appendix volume has also been prepared to provide detailed application, performance and cost data on approximately 50 air, water and solid waste pollution control technologies. The specific manuals are:

Pollution Control Technical Manual: TOSCO II Oil Shale Retorting with Underground Mining (EPA-600/8-83-003, NTIS Order No. PB83-200212)

Pollution Control Technical Manual: Modified In-Situ Oil Shale Retorting Combined with Lurgi Surface Restoring (EPA-600/8-83-004, NTIS Order No. PB83-200121)

Pollution Control Technical Manual: Lurgi Oil Shale Restoring with Open Pit Mining (EPA-600/8-83-005, NTIS Order No. PB83-200204)

Pollution Control Technical Manual for Lurgi Based Indirect Coal Liquefaction and SNG

(EPA-600/8-83-006, NTIS Order No. PB83-214478)

Pollution Control Technical Manual for Exxon Donor Solvent Direct Coal Liquefaction (EPA-600/8-83-007, NTIS Order No. PB83-214466)

Pollution Control Technical Manual for Koppers Totzek Based Indirect Coal Liquefaction (EPA-600/8-83-008, NTIS Order No. PB83-214502)

Control Technology Appendix for Pollution Control Technical Manuals (EPA-600/8-83-009, NTIS Order No. PB83-214734)

Each manual is organized similarly. Initially, the process technology is described including material flow estimates, then an inventory of waste stream compositions are presented. From these characterized waste streams, several control technology examples are described for each medium (air, water or solid waste) in order to illustrate typical control applications. Estimates of control system cost and performance are presented, together with descriptions of discharge streams, secondary waste streams, and energy requirements. A summary of the limitations in the data base used to develop the manuals is also presented.

The control technology examples used in the manuals are for illustrative purposes only and are not intended to convey an EPA endorsement or recommendation. The selection of control technologies for application to specific plants is the exclusive function of designers and permit writers who have the flexibility to evaluate and concur on the most effective approaches. Throughout the manuals the emphasis is on control technology versatility and applications.

Users of the manuals should be aware that the manuals contain *no legally binding requirements or guidance*, and that nothing contained in the manuals relieves a synthetic fuel facility from compliance with existing or future environmental regulations or permit requirements.

There are a limited number of single copies of the manuals available for distribution. If interested in receiving copies of the manuals, please submit a written request to the EPA Office of Research and Development Publications Center, 26 West Saint Clair Street, Cincinnati, Ohio 45268. After the limited EPA supply of manuals is exhausted, they will be available for sale from the Department of Commerce, National Technical Information Service (NTIS), 5825 Port Royal Road, Springfield, Virginia 22161.

For further information contact: Gregory G. Ondich, U.S. Environmental Protection Agency, Office of Research and Development, (RD-681), 401 M

Street, SW., Washington, D.C. 20460 (202) 382-2827.

Erich Bretthauer,

Acting Deputy Assistant Administrator for Research and Development.

[FR Doc. 83-17752 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP 42024C; PH-FRL 2392-3]

Texas; Intent To Approve Revised State Plan for Certification of Pesticide Applicators

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to approve State Plan.

SUMMARY: The State of Texas has submitted to EPA a revised plan for the certification of commercial and private applicators of restricted use pesticides. Notice of approval of the original certification plan appeared in the *Federal Register* of November 10, 1977 (42 FR 58566). This original certification plan will remain in effect pending approval of the revised certification plan. Notice is hereby given of the intent of the Regional Administrator, EPA Region VI, to approve the revised Texas certification plan. A summary of the revised Texas plan appears below. Interested persons are invited to comment.

DATE: Comments should be submitted on or before August 5, 1983.

ADDRESSES: Address comments, identified by the control number OPP 42024C, to: Norman E. Dyer, Environmental Protection Agency, Interfirst Two Building, 1201 Elm St., Dallas, TX 75270.

Copies of the plan are available for review at the following locations:

1. Library, Environmental Protection Agency, Interfirst Two Building, 1201 Elm St., Dallas, TX 75270.
2. Texas Department of Agriculture, Agricultural and Environmental Sciences Division, Stephen F. Austin State Office Building, Rm. 1042, 17th and Congress Ave., Austin, TX 78711.

FOR FURTHER INFORMATION CONTACT: Norman E. Dyer (214-767-2734).

SUPPLEMENTARY INFORMATION: The revised Texas certification plan was developed and submitted to EPA for approval to reflect the changing responsibilities enumerated in the newly enacted Texas pesticide laws and regulations. Specifically, the Texas Department of Agriculture is now responsible for certification of commercial applicators in Animal Health and Aquatic categories.

Certification in these two commercial applicator categories was formerly the respective responsibility of the Animal Health Commission and Department of Human Resources. In addition, the plan was rewritten in some sections for increased clarity with special attention paid to the definition of categories and the standards of competency.

Summary of Plan

The Texas certification plan has provision for the certification of private and commercial applicators. The Texas commercial applicator categories generally correspond to those established by EPA at 40 CFR 171.3 with all EPA categories addressed. The major difference between EPA-established categories and Texas categories is that Texas has established additional subcategories under the individual categories. The standards of competency for the categories and subcategories are identical to or closely parallel to the EPA-established standards of competency.

Authority for certification of applicators is divided among three agencies. The Department of Health certifies commercial applicators in Public Health Pest Control. The Structural Pest Control Board certifies commercial applicators in Structural Pest Control. The Department of Agriculture certifies the private applicators and remaining categories of commercial applicators.

Copies of the plan are available at the addresses given above. EPA solicits comments on the plan.

Dated: June 13, 1983.

Frances E. Phillips,
Acting Regional Administrator, Region VI.

[FR Doc. 83-17885 Filed 7-5-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Telecommunications Industry Advisory Group Income and Other Accounts Subcommittee

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group's (TIAG) Income and Other Accounts Subcommittee scheduled for Wednesday and Thursday, July 20 and 21, 1983. The meeting will begin on July 20 at 9:30 a.m. in the offices of GTE Service Corporation, Suite 900, 1120 Connecticut Avenue, N.W., Washington, D.C., and will be open to the public. The agenda is as follows:

- I. General Administrative Matters
- II. Discussion of Assignments
- III. Other Business
- IV. Presentation or Oral Statements
- V. Adjournment

With prior approval of Subcommittee Chairman Glenn L. Griffin, oral statements, while not favored or encouraged, may be allowed at the meeting if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr. Griffin (214/659-3484) at least five days prior to the meeting date.

William J. Tricarico,
Secretary, Federal Communications Commission.

[FR Doc. 83-18083 Filed 7-5-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1369]

Flores Shipping Co. (Guillermo A. Flores, d.b.a.); Order of Revocation

On June 10, 1983, Leo Plotkin, attorney for the Estate of Guillermo A. Flores advised us of the death of Guillermo A. Flores, sole proprietor of Flores Shipping Company (Guillermo A. Flores, d.b.a.) and submitted his license for voluntary revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 1369 issued to Flores Shipping Company (Guillermo A. Flores, d.b.a.) be revoked effective June 10, 1983.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Mr. Flores' estate.

Albert J. Klingel, Jr.,
Director, Bureau of Certification and Licensing.

[FR Doc. 83-18067 Filed 7-5-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2622]

Tropical Customs Brokers, Inc.; Order of Revocation

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in

force unless a valid bond is in effect and on file with the Commission. Rule 510.15(d) of Federal Maritime Commission General Order 4 further provides that a license shall be automatically revoked for failure of a licensee to maintain a valid bond on file.

The bond issued in favor of Tropical Customs Brokers, Inc., P.O. Box 523034 G.M.C., 2151A N.W. 72nd Avenue, Miami, FL 33122 was cancelled effective June 26, 1983.

By letter dated May 27, 1983, Tropical Customs Brokers, Inc. was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 2622 would be automatically revoked unless a valid surety bond was filed with the Commission.

Tropical Customs Brokers, Inc. has failed to furnish a valid bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(f) dated November 12, 1981;

Notice is hereby given, that Independent Ocean Freight Forwarder License No. 2622 be and is hereby revoked effective June 26, 1983.

It is ordered, that Independent Ocean Freight Forwarder License No. 2622 issued to Tropical Customs Brokers, Inc. be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Tropical Customs Brokers, Inc.

Albert J. Klingel, Jr.,
Director, Bureau of Certification and Licensing

[FR Doc. 83-18098 Filed 7-5-83; 8:45 am]

BILLING CODE 6730-01-M

[Independent Ocean Freight Forwarder License No. 2601]

Universal Express North America, Inc.; Order of Revocation

On June 13, 1983, Universal Express North America, Inc., 16515 Hedgcroft, Suite 306, Houston, TX 77060 requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 2601.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 1 (Revised), section 10.01(e) dated November 12, 1981;

It is ordered, that Independent Ocean Freight Forwarder License No. 2601 issued to Universal Express North America, Inc., be revoked effective June 13, 1983, without prejudice to reapplication for a license in the future.

It is further ordered, that a copy of this Order be published in the Federal Register and served upon Universal Express North America, Inc.

Albert J. Klingel, Jr.,

Director, Bureau of Certification and Licensing.

[FR Doc. 83-18069 Filed 7-5-83; 8:45 am]

BILLING CODE 6730-01-M

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-2647-3.

Title: City of Long Beach and Namolco, Inc. Lease and License Amendment Agreement.

Parties: City of Long Beach (City) and Namolco, Inc.

Synopsis: Agreement No. T-2647-3 amends the basic agreement which provides for the lease of a tank farm by the City to Namolco, Inc. at Long Beach. The amendment will increase the lease area by 5,500 square feet and adjust the rental accordingly. The amendment will become effective the first day of the month following approval by the Commission.

Filing party: William E. Emick, Deputy City Attorney, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Agreement No. T-3600-1.

Title: City of Long Beach and California United Terminals Preferential Assignment Agreement Amendment.

Parties: City of Long Beach (City) and California United Terminals (CUT).

Synopsis: Agreement No. T-3600-1 amends the basic agreement which provides for a Preferential Assignment Agreement between the City and CUT for premises at Pier C, Long Beach. The amendment will more nearly equate the compensation paid by CUT for the usage of the assigned premises with that paid by comparable terminals in the Port of Long Beach. The amendment will also even out the compensation payments throughout the lease year rather than requiring the major portion to be paid at the first of each year. The amendment will become effective upon Commission approval and will run for a period of one year.

Filing party: Richard L. Landes, Deputy City Attorney, City of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801.

Agreement No. T-4131.

Title: Port of Oakland and Char Ching Shipping (U.S.A. Ltd. Limited Terminal Use Agreement).

Parties: Port of Oakland (Oakland) and Char Ching Shipping (U.S.A.) Ltd. (Char Ching).

Synopsis: Agreement No. T-4131 provides that Char Ching will have the nonexclusive right to certain assigned premises at Port's Outer Harbor Terminal, Berth 6, for the berthing, loading, discharging and related operations of Char Ching's vessels in its transpacific service. The term of the agreement commences upon the first of the month following Commission approval and concludes on August 31, 1986.

Filing party: John E. Nolan, Assistant Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94604.

Agreement No. 93-30.

Title: North Europe-U.S. Pacific Freight Conference.

Parties: Blue Star Line, Ltd., Compagnie Generale Maritime, Hapag-Lloyd AG, Intercontinental Transport (ICT) B.V., A/S Det Ostasiatiske Kompagni (The East Asiatic Co. Ltd.), Johnson Line AB.

Synopsis: Amendment No. 93-30 will permit the Conference to offer through rates, under inland-U.S. Bills of Lading to its shipper customers in the eleven Western States, via the same port gateways presently served by the Conference member lines.

Filing agent: David C. Nolan, Esquire, Graham & James, One Maritime Plaza, Suite 300, San Francisco, California 94111.

Agreement No. 9836-13.

Title: Malaysia-Pacific Rate Agreement.

Parties: American President Lines, Ltd., Barber-Blue Sea Line, East Asiatic Company Limited, A. P. Moller-Maersk Line, Sea-Land Service, Inc.

Synopsis: Amendment No. 9836-13 would change the formula by which the fees and expenses of the neutral body are assessed among the membership and the formula by which collected neutral body fines and arbitration awards are distributed among the membership.

Filing agent: Robert B. Yoshitomi, Esquire, Lillick McHose & Charles, Two Embarcadero Center, San Francisco, California 94111.

Agreement No. 10168-4.

Title: Puerto Rico/U.S. Virgin Islands-European Trade Cooperative Working Agreement.

Parties: Thos. & Jas. Harrison Ltd., Compagnie Generale Maritime, Hapag Lloyd Aktiengesellschaft, Nedlloyd B. V.

Synopsis: Agreement No. 10168-4 modifies the basic agreement to expand the scope to include ports or points on the East Coast of Costa Rica and to change the identification of one of the parties from Koninklijke Nederlandsche Stoomboot Maatschappij B. V. to Nedlloyd B. V.

Filing agent: Paul G. Kirchner, Esquire, Kurrus & Dyer, 1055 Thomas Jefferson Street NW., Washington, D.C. 20007.

Agreement No. 10270-4.

Title: Gulf-European Freight Association.

Parties: Gulf Europe Express, Hapag-Lloyd A/G, Lykes Bros. Steamship Co., Inc., Sea-Land Service, Inc.

Synopsis: The amendment would modify Agreement No. 10270 by deleting the term "intermodal rates" from the list of matters required to be decided by unanimity appearing at Article 7.3.

Filing agent: Howard A. Levy, Esquire, Suite 727, 17 Battery Place, New York, New York 10004.

By order of the Federal Maritime Commission.

Dated: June 30, 1983.

Francis C. Hurney,
Secretary.

[FR Doc. 83-18152 Filed 7-5-83; 8:45 am]

BILLING CODE 6730-01-M

Filing and Approval of Agreement

The Federal Maritime Commission hereby gives notice that on June 9, 1983, the following agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, as amended by section 4 of the Maritime Labor Agreements Act of 1980, Pub. L. 96-325.

94 Stat. 1021, and was deemed approved that date, to the extent it constitutes an assessment agreement as described in the fifth paragraph of section 15, Shipping Act 1916.

Agreement No. LM-82-2.

Title: West Gulf Maritime Association Assessment Agreement.

Synopsis: Basic Agreement No. LM-82 is a Resolution of the West Gulf Maritime Association establishing the Guaranteed Annual Income Program and Fringe Benefits Contract Administration Assessment. The amendment LM-82-2 provides for an increase in the amount of the assessments set forth in the original Resolution.

Filing party: Royston, Rayzor, Vickery & Williams, 2200 Texas Commerce Tower, Houston, Texas 77002.

By Order of the Federal Maritime Commission.

Dated: June 30, 1983.

Francis C. Hurney,

Secretary.

[FR Doc. 83-18153 Filed 7-5-83; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Nondiscrimination in Federally Assisted Programs (Discrimination on the Basis of Race, Color, National origin and Sex)

AGENCY: General Services
Administration.

ACTION: Notice of revised information
collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration plans to request the Office of Management and Budget to review and approve the revision of an information collection request for the continued collection of data.

DATE: Comments on this information request must be submitted on or before July 27, 1983.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and John Gilmore, GSA Clearance Officer, GSA (ORAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Thomas E. Henderson, (202) 566-1368.

SUPPLEMENTARY INFORMATION: The nondiscrimination data will be used to schedule civil rights compliance activities, conduct investigations, compliance reviews, and evaluations. A copy of the information collection proposal may be obtained from the

Directives and Reports Management Branch (ORAI), Room 3015, GS Building, Washington, DC 20405, telephone (202-566-1164).

Dated: June 28, 1983.

Clarence A. Lee, Jr.,

Director of Administrative Services.

[FR Doc. 83-18119 Filed 7-5-83; 8:45 am]

BILLING CODE 6820-34-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

Privacy Act of 1974; Report of New System

AGENCY: Health Care Financing
Administration (HCFA), HHS.

ACTION: Notice of New System of
Records.

SUMMARY: In accordance with the requirements of the Privacy Act of 1974 we are proposing to establish a new system of records, Recovery of Medicare Payments on Worker's Compensation Claims, HHS/HCFA/BPO No. 09-70-0523.

We have provided background information about the proposed system in the "SUPPLEMENTARY INFORMATION" section below. HCFA invites public comments by August 5, 1983, with respect to routine uses of the system.

DATES: HCFA filed a new system report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on June 29, 1983. The new system of records, including routine uses, will be effective (60 days from the date submitted to OMB) unless HCFA receives comments which would convince us to make a contrary determination.

ADDRESS: The public should address comments to Shirley Mulhall, Privacy Officer, Office of Management and Budget, Health Care Financing Administration, Room G-C-3, ELR, 6325 Security Boulevard, Baltimore, Maryland 21207. Comments received will be available for inspection at this location.

FOR FURTHER INFORMATION CONTACT: Paul Beller, Division of Operations, Office of Program Administration, Room 367, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone 301-597-0462.

SUPPLEMENTARY INFORMATION: HCFA proposes to initiate a new system of records containing data collected under the authority of Section 1862(b) of the Social Security Act.

This section excludes from coverage any expenses incurred for items or services "to the extent that payment has been made, or can reasonably be expected to be made (as determined in accordance with regulations), with respect to such item or service under a workmen's compensation law." We plan to contract for a project to recover Medicare payments that should have been paid under workers' compensation laws.

There are individuals who are eligible both of Medicare and for benefits under State and Federal workers' compensation laws. These laws, administered by State and other governmental Workers' Compensation Agencies (WCA's) require employers to pay claims for employees' medical services resulting from employment-related injury or disease. (Although some employers are self-insured, most obtain coverage through insurance carriers.) Section 1862 of the Social Security Act prohibits Medicare payment when payment may be made under workers' compensation laws. We believe that a substantial number of claims that are payable under workers' compensation programs have been erroneously submitted and paid for by Medicare. Although existing procedures have been established for several years for Medicare carriers/intermediaries to identify these claims, maximum results have not been achieved. For this reason, we are planning to procure a 1-year contract to accelerate identification of such claims and recovery of payments. The contractor will work with Workers' Compensation Agencies and with Medicare intermediaries/carriers in identifying these claims.

The information about beneficiaries' Medicare claims will be obtained from the Medicare carrier and/or intermediary that paid for the medical services. Only that information that is necessary for identification and filing of WC claims will be made available to the contractor. Disclosure from this system is only with the written consent of the subject individuals or in accordance with the published routine use and other provisions of the Privacy Act. The contractor will be required to give written assurances that the confidentiality of all records will be maintained in accordance with Privacy Act safeguards.

The WCA's will obtain necessary beneficiary medical and other information from the Medicare carrier/intermediary or contractor in order to develop and adjudicate claims for WC that have been paid by Medicare. Only

that information that is necessary for the adjudication of claims will be made available to the Workers' Compensation Agencies. The WCA's will maintain the confidentiality of all records which become available to them in the course of their work in accordance with Privacy Act safeguards.

The results of this project will enable HCFA to recover nationwide Medicare payments on workers' compensation claims in the most cost-effective manner possible. Existing guidelines for Medicare carriers and intermediaries will also be improved to enable them to more effectively identify potential WC claims.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosures for purposes that are compatible with the purpose for which we collected the information. The proposed routine uses in the new system meet the compatibility criteria since the information is collected for administering the Medicare program for which we are responsible. We anticipate that disclosures under the routine uses will not result in any clearly unwarranted adverse effects on personal privacy.

Dated: June 29, 1983.

Carolyn K. Davis,

Administrator, Health Care Financing Administration.

09-70-0523

SYSTEM NAME:

Recovery of Medicare Payments on Workers' Compensation Claims HHS/HCFA/BPO

SECURITY CLASSIFICATION:

None

SYSTEM LOCATION:

The location cannot be given at this time since the contract has not been awarded. The contractor site will be available by writing to the System Manager at the address below.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Medicare beneficiaries who may be entitled to workers' compensation (WC) benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

Medical records, bills, claims and any other relevant information used by the Medicare carrier or intermediary to process the claim/bill for Medicare benefits.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1862(b) of the Social Security Act (42 U.S.C. 1395(y)).

PURPOSE OF THE SYSTEM:

To recover Medicare payments that should have been paid under WC programs.

ROUTINE USES OF RECORDS IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. The contractor will use this information to assess the potential that the Medicare claim may have for WC benefits.

2. Disclosure may be made to State and other governmental WC Agencies for processing and evaluating claims/bills for WC benefits.

3. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry which the congressional office makes at the request of that individual.

4. In the event of litigation, where the defendant is: (a) The Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM STORAGE

Paper and magnetic tape.

RETRIEVABILITY

Records are retrieved by name and social security number.

SAFEGUARDS

The contractor will maintain all records in secure storage areas accessible only to authorized employees and will notify all employees having access to records of criminal sanctions for unauthorized disclosure of information on individuals. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by the DHHS ADP Systems

Manual, Part 6, ADP Systems Security, e.g., use of passwords.

RETENTION AND DISPOSAL

The contractor will retain all necessary information obtained from the Medicare carrier or intermediary during the life of the contract (1 year). The contractor will then return all of this information to the Medicare carrier/intermediary.

SYSTEM MANAGER(S) AND ADDRESS

Director, Bureau of Program Operations, Health Care Financing Administration, 6325 Security Boulevard, Baltimore, Maryland 21207.

NOTIFICATION PROCEDURES

To determine if a record exists, write to the System Manager at the address indicated above, specify name, address and Health Insurance number.

RECORD ACCESS PROCEDURES

Same as notification procedure. Requesters should also reasonably specify the record contents being sought.

CONTESTING RECORD PROCEDURES

Contact the system manager named above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES

Sources of information contained in this record system include beneficiary claims, bills, medical records and information required to process Medicare claims/bills.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT

None.

[FR Doc. 83-17867 Filed 7-5-83; 8:45 am]

BILLING CODE 4120-03-M

Privacy Act of 1974; Matching Program; Federal Medicare Records/Workers' Compensation Agencies' Records

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of a Matching Program—Federal Medicare Records and Workers' Compensation Agencies' Records.

SUMMARY: We are issuing public notice of our intent to conduct matches of certain Federal Medicare records maintained by Medicare carriers and intermediaries with records maintained by State and other governmental Workers' Compensation Agencies.

A matching report is set forth below.

DATES: The proposed matches will begin 30 to 60 days after the effective date of the contract which is expected to be awarded by the Health Care Financing Administration during June 1983.

ADDRESS: The public should address comments to Shirley Mulhall, HCFA Privacy Officer, Office of Management and Budget, Room G-C-3, ELR Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

FOR FURTHER INFORMATION CONTACT: Paul Beller, Project Officer, Division of Operations, Office of Program Operations, Health Care Financing Administration, Department of Health and Human Services, Room 367, Meadows East Building, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone (301) 597-0462.

SUPPLEMENTARY INFORMATION: There are individuals who are eligible for Medicare and for benefits under State and Federal workers' compensation laws. These laws, administered by State and other governmental Workers' Compensation Agencies (WCA's), require employers to pay claims for employees' medical services resulting from employment-related injury or disease. (Although some employers are self-insured, most obtain coverage through insurance carriers.) Section 1862 of the Social Security Act prohibits Medicare payment when payment may be made under workers' compensation laws. We believe that a substantial number of claims that are payable under workers' compensation programs have been erroneously submitted and paid for by Medicare. Although existing procedures have been established for several years for Medicare carriers/intermediaries to identify these claims, maximum results have not been achieved. For this reason, we are planning to procure a 1-year contract to accelerate identification of such claims and recovery of payments. The contractor will work with Worker's Compensation Agencies and with Medicare intermediaries/carriers in identifying these claims. The information about beneficiaries' Medicare claims will be obtained from the Medicare carrier and/or intermediary that paid for the medical services. Only that information that is necessary for identification and filing of workers' compensation claims will be made available to any contractor. Disclosure from this system is only with the written consent of the subject individual or in accordance with the published routine uses and other provisions of the Privacy Act. The contractor will be required to give written assurances that the

confidentiality of all records will be maintained in accordance with Privacy Act safeguards.

The Workers' Compensation Agencies will obtain necessary beneficiary medical and other information from the Medicare intermediary/carrier or contractor in order to develop and adjudicate workers' compensation claims that have been paid by Medicare. Only that information that is necessary for the adjudication of claims will be made available to the Workers' Compensation Agencies. The Workers' Compensation agencies will be required to give written assurances for maintaining the confidentiality of all records which become available to them in the course of the work in accordance with Privacy Act safeguards.

Set forth below is the information required by paragraph 5.f(1) of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget, 47 FR 21656 (May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Dated: June 29, 1983.

Carolyn K. Davis,
Administrator.

Report of Computer Matching Program—Federal Medicare Records/Workers' Compensation Agencies' Records

a. *Authority.* Section 1862(b) of the Social Security Act.

b. *Program Description.* There are individuals who are eligible both for Medicare and for benefits under State and Federal workers' compensation laws. These laws, administered by State and other governmental Workers' Compensation Agencies (WCA's), require employers to pay claims for employees' medical services resulting from employment-related injury or disease. (Although some employers are self-insured, most obtain coverage through insurance carriers.) Section 1862 of the Social Security Act prohibits Medicare payment when payment may be made under workers' compensation laws. We believe that a substantial number of claims that are payable under workers' compensation programs have been erroneously submitted and paid for by Medicare. Although existing procedures have been established for several years for Medicare carriers/intermediaries to identify these claims, maximum results have not been achieved. For this reason, we are planning to procure a 1-year contract to accelerate identification of such claims

and recovery of payments. The contractor will work with Medicare intermediaries/carriers and with Workers' Compensation Agencies in identifying these claims. The results of this project and other similar projects will be used to assess the cost effectiveness of using contractors to recover such erroneous Medicare payments. The project will also provide some insight into the types of Medicare benefits that would be most effectively recovered, i.e., inpatient hospital surgical, physicians' services, etc.

For several years, Workers' Compensation Agencies have cooperated with Medicare carriers/intermediaries under our existing procedures although to a lesser degree and with manual systems. For that reason, and because of WC laws and enforcement thereof by WCA's we do not anticipate a lack of cooperation from Workers' Compensation Agencies and insurance carriers in this effort.

The contractor will match: (1) Lists of beneficiaries who have filed workers' compensation claims and may be eligible for Medicare; and (2) claims information for beneficiaries who received Medicare benefits. The contractor will seek payment from workers' compensation carriers where the evidence from the match establishes that Medicare has paid for medical services that should have been paid under workers' compensation programs. The payment of such workers' compensation benefits will be made to the Health Care Financing Administration. The contractor will report all of its recoveries and claims activities in its required reports to the Health Care Financing Administration.

c. *Personal Records to be Matched.* The contractor will match information from records of claims filed with the Workers' Compensation Agencies with HCFA's Carrier and Intermediary Medicare Claims Records (systems 09-70-0501 and 09-70-0503, 47 FR 4517-45722 (October 13, 1982)).

d. *Period of the Match.* Matching will begin within 30 to 60 days after the effective date of the 1-year contract which is expected to be awarded by the Health Care Financing Administration during June 1983. It will end when the contract is completed.

e. *Safeguards.* Records used in this match will be maintained under strict security. Access to the computer files and printed information is restricted to only those persons associated with the matching program on a "need-to-know" basis. The records will be kept in locked file cabinets and under the control of the contractor. We will return all of the

computer source tapes to the respective sources within 60 days of the match. We will also degauss all computer work tapes at completion of the matching program. We protect all computer tapes by the use of the passwords to prohibit unauthorized access. All computer files are safeguarded in accordance with the provisions of the DHHS ADP Systems Manual, Part 6, "ADP Systems Security." The terms of the contract will preclude the contractor from using, disclosing, copying, or retaining records associated with the matching program for the contractor's own use. The contract will also require that contractor personnel involved in the matching program will be made explicitly aware of their obligations under the Privacy Act, Federal guidelines for computer matching programs, and DHHS rules and special safeguards related to each match performed.

f. Retention and Disposition of Records. Only those records produced in the match which are needed for possible recovery actions will be maintained by the contractor. All records will be returned to the Workers' Compensation Agencies and the Medicare carrier or intermediary after the contractor has obtained the necessary information from them and has completed its recovery activities.

[FR Doc. 83-17896 Filed 7-5-83; 8:45 am]

BILLING CODE 4120-03-M

Privacy Act of 1974; Notice of New Routine Uses

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notification of New Routine Uses.

SUMMARY: In accordance with 5 U.S.C. 552a(e)(11), we are proposing to add new routine uses applicable to the following notices of Systems of Records:

- (1) 09-70-0501, Carrier Medicare Claims Records, HHS/HCFA/BPO
- (2) 09-70-0503, Intermediary Medicare Claims Records, HHS/HCFA/BPO

We have provided background information about the routine uses in the "Supplementary Information" section below. We invite public comments on this proposal.

DATE: The routine uses will become effective, as proposed, without further notice August 5, 1983, unless we receive comments on or before that date which convince us to make a contrary determination.

ADDRESS: Interested parties who wish to comment on this proposal should address their comments to Shirley Mulhall, HCFA Privacy Officer, Health

Care Financing Administration, G-C-3 East Low Rise, 6325 Security Boulevard, Baltimore, Maryland 21207. We will make comments received available for inspection at this location.

FOR FURTHER INFORMATION CONTACT:

Mr. William Hickman, Director, Division of Operations, Office of Program Administration, Bureau of Program Operations, Health Care Financing Administration, Room 367 Meadows East, 6325 Security Boulevard, Baltimore, Maryland 21207, telephone (301) 597-9101.

SUPPLEMENTARY INFORMATION: System Notice 09-70-0501, Carrier Medicare Claims Records, contains records on claims for Supplementary Medical Insurance Benefits including itemized bills to support payment to beneficiaries and to physicians and other suppliers of medical services.

System 09-70-0503, Intermediary Medicare Claims Records, contains records on claims for Medicare benefits submitted by providers for reimbursement on a reasonable cost basis including hospital, skilled nursing facility and home health agency bills.

There are individuals who are eligible for both Medicare and for benefits under State and Federal workers' compensation laws. These laws, administered by State and other governmental Workers' Compensation Agencies (WCA's), require employers to pay claims for employees' medical services resulting from employment-related injury or disease. (Although some employers are self-insured, most obtain coverage through insurance carriers.) Section 1862 of the Social Security Act prohibits Medicare payment when payment may be made under workers' compensation laws. We believe that a substantial number of claims that are payable under workers' compensation programs have been erroneously submitted and paid for by Medicare. Although existing procedures have been established for several years for Medicare carriers/intermediaries to identify these claims, maximum results have not been achieved. For this reason, we are planning to procure a 1-year contract to accelerate identification of such claims and recovery of payments. The contractor will work with Medicare intermediaries/carriers and with Workers' Compensation Agencies in identifying these claims.

The information about beneficiaries' Medicare claims will be obtained from the Medicare carrier and/or intermediary that paid for the medical services. Only that information that is necessary for identification and filing of workers' compensation claims will be

made available to the contractor. Disclosure from these systems is only with the written consent of the subject individual or in accordance with the published routine uses and other provisions of the Privacy Act. The contractor will be required to give written assurances that the confidentiality of all records will be maintained in accordance with Privacy Act safeguards. For computerized records, the contractor will initiate automated data processing (ADP) system security procedures required by the DHHS ADP Systems Manual, Part 6, ADP Systems Security, e.g., use of passwords.

The Workers' Compensation Agencies will obtain necessary medical and other information from the Medicare carrier/intermediary or contractor in order to develop and adjudicate claims for workers' compensation that have been paid by Medicare. Only that information that is necessary for the adjudication of claims will be made available to the Workers' Compensation Agencies. The Workers' Compensation Agencies will be required to give written assurances that they will maintain confidentiality of all records which become available to them in the course of their work with the contractor in accordance with Privacy Act safeguards. Notice of the new system of records that will result from the project on the recovery of Medicare payments is being published in the **Federal Register**.

Disclosure may be made to:

A contractor working with Medicare intermediaries/carriers to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

The Privacy Act permits us to disclose information without the consent of the individual for "routine uses"—that is, disclosures for purposes that are compatible with the purpose for which we collected the information. The proposed routine uses meet the compatibility criteria since the information in both of the above-mentioned systems is collected for administering the Medicare program for which we are responsible. We anticipate that disclosures under the routine uses will not result in any clearly unwarranted adverse effects on personal privacy.

Dated: June 29, 1983.

Carolyn K. Davis,

Administrator, Health Care Financing
Administration.

09-70-0501

SYSTEM NAME:

Carrier Medicare Claims Records.
HHS, HCFA, BPO.

SECURITY CLASSIFICATIONS:

None.

SYSTEM LOCATION:

Carriers under contract to the Health
Care Financing Administration and the
Social Security Administration (see
Appendix A, Section 4.)

Federal Records Centers.

Bureau of Quality Control, HCFA.
Office of Systems Analysis, 8325
Security Boulevard, Baltimore,
Maryland 21207

HHS Parklawn Computer Center, 5600
Fishers Lane, Rockville, Maryland 20857.

**CATEGORIES OF INDIVIDUALS COVERED BY THE
SYSTEM:**

Beneficiaries who have submitted
claims for Supplementary Medical
Insurance Benefits (Medicare Part B).

CATEGORIES OF RECORDS IN THE SYSTEM:

Request for Payment; Provider Billing
for Patient services by Physician;
Prepayment Plan for Group Medicare
Practices dealing through a Carrier,
Health Insurance Claim Form, Request
for Medical Payment, Patient's Request
for Medicare Payment, Request for
Medicare Payment—Ambulance,
Explanation of Benefits, Summary
Payment Voucher, Request for Claim
Number Verification; Payment Record
Transmittal; Statement of Person
Regarding Medicare Payment for
Medical Services Furnished Deceased
Patient; Report of Prior Period of
Entitlement; itemized bills and other
similar documents from beneficiaries
required to support payments to
beneficiaries and to physicians and
other suppliers of part B Medicare
services.

**AUTHORITY FOR MAINTENANCE OF THE
SYSTEM:**

Sections 1842 and 1874 of title XVIII of
the Social Security Act (42 U.S.C. 1395u
and 1395kk).

PURPOSE:

To properly pay medical insurance
benefits to or on behalf of entitled
beneficiaries.

**ROUTINE USES OF RECORDS MAINTAINED IN
THE SYSTEM, INCLUDING CATEGORIES OF
USERS AND THE PURPOSES OF SUCH USES:**

Disclosure may be made to: (1)
Claimants, their authorized
representatives or representatives
payees to the extent necessary to pursue
claims made under Title XVIII of the
Social Security Act (Medicare).

(2) Third-party contacts (without the
consent of the individuals to whom the
information pertains) in situations
where the party to be contacted has, or
is expected to have information relating
to the individual's capability to manage
his or her affairs or to his or her
eligibility for or entitlement to benefits
under the Medicare program when:

(a) The individual is unable to provide
the information being sought (an
individual is considered to be unable to
provide certain types of information
when any of the following conditions
exist: individual is incapable or of
questionable mental capability, cannot
read or write, cannot afford the cost of
obtaining the information, a language
barrier exists, or the custodian of the
information will not, as a matter of
policy, provide it to the individual), or

(b) The data are needed to establish
the validity of evidence or to verify the
accuracy of information presented by
the individual, and it concerns one or
more of the following: the individual's
eligibility to benefits under the Medicare
program; the amount of reimbursement;
any case in which the evidence is being
reviewed as a result of suspected abuse
or fraud, concern for program integrity,
or for quality appraisal, or evaluation
and measurement of system activities.

(3) Third-party contacts where
necessary to establish or verify
information provided by representative
payees or payee applicants.

(4) The Treasury Department for
investigating alleged theft, forgery, or
unlawful negotiation of Medicare
reimbursement checks.

(5) The U.S. Postal Service for
investigating alleged forgery or theft of
Medicare checks.

(6) The Department of Justice for
investigating and prosecuting violations
of the Social Security Act to which
criminal penalties attach, or other
criminal statutes as they pertain to the
Social Security Act programs, for
representing the Secretary, and for
investigating issues of fraud by agency
officers or employees, or violation of
civil rights.

(7) The Railroad Retirement Board for
administering provisions of the Railroad
Retirement and Social Security Acts
relating to railroad employment.

(8) Professional Standards Review
Organizations in connection with their

review of claims, or in connection with
studies or other review activities,
conducted pursuant to Part B of Title XI
of the Social Security Act.

(9) State Licensing Boards for review
of unethical practices or nonprofessional
conduct.

(10) Providers and suppliers of
services (and their authorized billing
agents) directly or dealing through fiscal
intermediaries or carriers, for
administration of provisions of title
XVIII.

(11) An individual or organization for
a research, evaluation, or
epidemiological project related to the
prevention of disease or disability, or
the restoration or maintenance of health
if HCFA:

a. Determines that the use or
disclosure does not violate legal
limitations under which the record was
provided, collected, or obtained;

b. Determines that the purpose for
which the disclosure is to be made:

(1) Cannot be reasonably
accomplished unless the record is
provided in individually identifiable
form.

(2) Is of sufficient importance to
warrant the effect and/or risk on the
privacy of the individual that additional
exposure of the record might bring, and

(3) There is reasonable probability that
the objective for the use would be
accomplished;

(c) Requires the information recipient
to:

(1) Establish reasonable
administrative, technical, and physical
safeguards to prevent unauthorized use
or disclosure of the record, and

(2) Remove or destroy the information
that allows the individual to be
identified at the earliest time at which
removal or destruction can be
accomplished consistent with the
purpose of the project, unless the
recipient presents an adequate
justification of a research or health
nature for retaining such information,
and

(3) Make no further use or disclosure
of the record except:

(a) In emergency circumstances
affecting the health or safety of any
individual,

(b) For use in another research
project, under these same conditions,
and with written authorization of HCFA,

(c) For disclosure to a properly
identified person for the purpose of an
audit related to the research project, if
information that would enable research
subjects to be identified is removed or
destroyed at the earliest opportunity
consistent with the purpose of the audit,
or

(d) When required by law;
d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by these provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determinations of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicare eligibility considerations. Disclosures of physicians' customary charge data are made to State audit agencies in order to ascertain the correctness of Title XIX charges and payments.

(15) In the event of litigation where the defendant is (a) the Department, any component of Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the purpose for which the records were collected.

(16) Peer review groups, consisting of members of State, County, or local medical societies or medical care foundations (physicians), appointed by the medical society or foundation at the request of the carrier to assist in the resolution of questions of medical necessity, utilization of particular procedures or practices, or overutilization of services with respect to Medicare claims submitted to the carrier.

(17) Physicians and other supplies of services who are attempting to validate individual items on which the amounts included in the annual Physician/Supplier Payment List or similar publications are based.

(18) Senior citizen volunteers working in intermediaries' and carriers' offices to assist Medicare beneficiaries in response to beneficiaries' requests for assistance.

(19) A contractor working with Medicare carriers/intermediaries to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

(20) State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records maintained on paper, tape, disc, and punchcards.

RETRIEVABILITY:

System is indexed by health insurance claim number. The record is prepared by the beneficiary and is used by carriers to determine amount of Part B benefits. The bills are retained by the carriers. Copies of selected parts of the records will be used by the Office of Systems Analysis and data will be retrieved in Rockville from Baltimore via dial-up telecommunications lines.

SAFEGUARDS:

Unauthorized personnel are denied access to the records area. Disclosure is limited. Physical safeguards related to the transmission and reception of data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6.

RETENTION AND DISPOSAL:

Records are closed at the end of the calendar year in which paid, held two additional years, transferred to Federal Records Center and destroyed after another 2 years.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Director Bureau of Program Operations, 6325 Security Boulevard, Baltimore, Md. 21207

NOTIFICATION PROCEDURE:

Inquires and requests for system records should be addressed to the most convenient social security office, the appropriate carrier, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance claim number and the name as shown on social security records. An individual who

requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the records contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES:

The data contained in these records is furnished by the individual. In most cases, the identifying information is provided to the physician by the individual. The physician then adds the medical information and submits the bill to the carrier for payment.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

09-70-0503

SYSTEM NAME:

Intermediary Medicare Claims Records, HHS, HCFA, BPO.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Intermediaries under contract to the Health Care Financing Administration and the Social Security Administration (See Appendix A, Section 3.)

Federal Records Centers
Bureau of Quality Control, HCFA, Office of Systems Analysis, 6325 Security Boulevard, Baltimore, Maryland, HHS Parklawn Computer Center, 5600 Fishers Lane, Rockville, Maryland 20857.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Beneficiaries on whose behalf providers have submitted claims for reimbursement on a reasonable cost basis under Medicare Parts A and B.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inpatient Hospital and Skilled Nursing Facility Admission and Billing; Provider Billing for Medical and Other Health Services; Inpatient Admission and

Billings—Christian Science Sanatorium: Home Health Agency Report and Billing, and other documents used to support payments to beneficiaries and providers of services. These forms contain the beneficiary's name, sex, health insurance claim number, address, date of birth, medical record number, prior stay information, provider name and address, physician's name, date of admission and discharge, other health insurance, diagnoses, surgical procedures, and a statement of services rendered.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 1816 and 1874 of Title XVIII of the Social Security Act (42 U.S.C. 1395h and 1395kk).

PURPOSE(S):

To process and pay Medicare benefits to or on behalf of eligible individuals.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure may be made to:

(1) Claimants, their authorized representatives or representative payees to the extent necessary to pursue claims made under title XVIII of the Social Security Act (Medicare).

(2) Third-party contacts without the consent of the individual to whom the information pertains in situations where the party to be contacted has, or is expected to have information relating to the individual's capability to manage his or her affairs or to his or her eligibility for or entitlement to benefits under the Medicare program when:

(a) The individual is unable to provide the information being sought (an individual is considered to be unable to provide certain types of information when any of the following conditions exist: individual is incapable or of questionable mental capability, cannot read or write, cannot afford the cost of obtaining the information, a language barrier exists, or the custodian of the information will not, as a matter of policy, provide it to the individual) or

(b) The data are needed to establish the validity of evidence or to verify the accuracy of information presented by the individual, and it concerns one or more of the following: the individual's eligibility to benefits under the Medicare program; the amount of reimbursement; any case in which the evidence is being reviewed as a result of suspected abuse or fraud, concern for program integrity, or for quality appraisal, or evaluation and measurement of systems activities.

(3) Third-party contacts where necessary to establish or verify

information provided by representative payees or payee applicants.

(4) The Treasury Department for investigating alleged theft, forgery, or unlawful negotiation of Medicare reimbursement checks.

(5) The U.S. Postal Service for investigating alleged forgery or theft of Medicare checks.

(6) The Department of Justice for investigating and prosecuting violations of the Social Security Act to which criminal penalties attach, or other criminal statutes as they pertain to Social Security Act programs, for representing the Secretary, and for investigating issues of fraud by agency officers or employees, or violation of civil rights.

(7) The Railroad Retirement Board for administering provisions of the Railroad Retirement and Social Security Acts relating to railroad employment.

(8) Professional Standards Review Organizations in connection with their review of claims, or in connection with studies or other review activities, conducted pursuant to Part B of Title XI of the Social Security Act.

(9) State Licensing Boards for review of unethical practices or nonprofessional conduct.

(10) Providers and suppliers of services (and their authorized billing agents) directly or dealing through fiscal intermediaries or carriers, for administration of provisions of title XVIII.

(11) An individual or organization for a research, evaluation, or epidemiological project related to the prevention of disease or disability, or the restoration or maintenance of health if HCFA:

a. Determines that the use or disclosure does not violate legal limitations under which the record was provided, collected, or obtained;

b. Determines that the purpose for which the disclosure is to be made:

(1) Cannot be reasonably accomplished unless the record is provided in individually identifiable form.

(2) Is of sufficient importance to warrant the effect and/or risk on the privacy of the individual that additional exposure of the record might bring, and

(3) There is reasonable probability that the objective for the use would be accomplished;

c. Requires the information recipient to:

(1) Establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and

(2) Remove or destroy the information that allows the individual to be

identified at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the project, unless the recipient presents an adequate justification of a research or health nature for retaining such information, and

(3) Make no further use or disclosure of the record except:

(a) In emergency circumstances affecting the health or safety of any individual,

(b) For use in another research project, under these same conditions, and with written authorization of HCFA.

(c) For disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or

(d) When required by law;

d. Secures a written statement attesting to the information recipient's understanding of and willingness to abide by the provisions.

(12) State welfare departments pursuant to agreements with the Department of Health and Human Services for administration of State supplementation payments for determination of eligibility for Medicaid, for enrollment of welfare recipients for medical insurance under Section 1843 of the Social Security Act, for quality control studies, for determining eligibility of recipients of assistance under titles IV and XIX of the Social Security Act, and for the complete administration of the Medicaid program.

(13) A congressional office from the record of an individual in response to an inquiry from the congressional office at the request of that individual.

(14) State audit agencies in connection with the audit of Medicaid eligibility considerations.

(15) In the event of litigation where the defendant is (a) the Department, any components of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to present an effective defense, provided such disclosure is compatible with the

purposes for which the records were collected.

(16) Senior citizen volunteers working in the intermediaries' and carriers' offices to assist Medicare beneficiaries' in response to beneficiaries requests for assistance.

(17) A contractor working with Medicare carriers/intermediaries to identify and recover erroneous Medicare payments for which workers' compensation programs are liable.

(18) State and other governmental Workers' Compensation Agencies working with the Health Care Financing Administration to assure that workers' compensation payments are made where Medicare has erroneously paid and workers' compensation programs are liable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM.

STORAGE:

Records maintained on paper forms, magnetic tape and microfilm.

RETRIEVABILITY:

The system is indexed by health insurance claim number. The record is prepared by the hospital or other provider with identifying information received from the beneficiary to establish eligibility for Medicare and document and support payments to providers by the intermediaries. The bill data are forwarded to the Health Care Financing Administration, Bureau of Support Services, Baltimore, Md., where they are used to update the central office records. Copies of selected parts of the records will be used by the Office of Systems Analysis; data will be retrieved in Rockville from Baltimore via dial-up telecommunications lines.

SAFEGUARDS:

Disclosure of records is limited. The file area is closed to unauthorized personnel. Physical safeguards related to the transmission and reception of the data between Rockville and Baltimore are those requirements established by the DHHS ADP Systems Manual, Part 6.

RETENTION AND DISPOSAL:

Records are closed out at the end of the calendar year in which paid, held 2 more years, transferred to the Federal Records Center and destroyed after another 6 years.

SYSTEM MANAGER(S) AND ADDRESS:

Health Care Financing Administration, Director, Bureau of Program Operations, 6325 Security Boulevard, Baltimore, Md. 21207.

NOTIFICATION PROCEDURE:

Inquiries and requests for systems records should be addressed to the social security office nearest the requester's residence, the appropriate intermediary, the HCFA Regional Office, or to the system manager named above. The individual should furnish his or her health insurance number and name as shown on social security records. An individual who requests notification of or access to a medical record shall, at the time the request is made, designate in writing a responsible representative who will be willing to review the record and inform the subject individual of its contents at the representative's discretion.

RECORD ACCESS PROCEDURES:

Same as notification procedures. Requesters should also reasonably specify the records contents being sought.

CONTESTING RECORD PROCEDURES:

Contact the official at the address specified under notification procedures above, and reasonably identify the record and specify the information to be contested. State the corrective action sought and the reasons for the correction with supporting justification.

RECORD SOURCE CATEGORIES:

The identifying information contained in these records is obtained by the provider from the individual; the medical information is entered by the provider of medical services.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Appendix A. Health Insurance Claims

Medicare records are maintained at the HCFA Central Office (see section 1 below for the address). Health Insurance records of the Medicare program can also be accessed through a representative of the HCFA Regional Office (see section 2 below for addresses). Medicare claims records are also maintained by private insurance organizations who share in administering provisions of the health insurance program. These private insurance organizations, referred to as carriers and intermediaries, are under contract to the Health Care Financing Administration and the Social Security Administration to perform specific tasks in the Medicare program. See section 3 below for addresses for intermediaries and section 4 addresses for carriers.

1. Central Office Addresses:

Bureau of Program Operations, HCFA, 6325 Security Boulevard, Baltimore, Maryland 21207. Office Hours: 8:15-4:45.

Bureau of Support Services, HCFA, Office of Direct Reimbursement, Room 1705, Equitable Building 6325 Security Boulevard,

Baltimore, Maryland 21207. Office Hours: 8:15-4:45.

2. HCFA Regional Office Addresses:

BOSTON REGION—Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont

John F. Kennedy Federal Building, Room 1211; Boston, Massachusetts 02203. Office Hours: 8:30-5:00

NEW YORK REGION—New Jersey, New York, Puerto Rico, Virgin Islands
28 Federal Plaza—Room 715, New York, New York 10007. Office Hours: 8:30-5:00

PHILADELPHIA REGION—Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia
P.O. Box 8460, Philadelphia, Pennsylvania 19101. Office Hours: 8:30-5:00

ATLANTA REGION—Alabama, North Carolina, South Carolina, Florida, Georgia, Kentucky, Mississippi, Tennessee
101 Marietta Street, Suite 702, Atlanta, Georgia 30223. Office Hours 8:00-4:30

CHICAGO REGION—Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin
Suite A-824, Chicago, Illinois 60604. Office Hours: 8:15-4:45

DALLAS REGION—Arkansas, Louisiana, New Mexico, Oklahoma, Texas
1200 Main Tower Building, Dallas, Texas. Office Hours: 8:00-4:30

KANSAS CITY REGION—Iowa, Kansas, Missouri, Nebraska
New Federal Office Building, 601 East 12th Street—Room 436, Kansas City, Missouri 64106. Office Hours: 8:00-4:45

DENVER REGION—Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming
Federal Office Building, 1961 Stout St—Room 1185, Denver, Colorado 80294. Office Hours: 8:00-4:30

SAN FRANCISCO REGION—American Samoa, Arizona, California, Guam, Hawaii, Nevada
Federal Office Building, 10 Van Ness Avenue, 20th Floor, San Francisco, California 94102. Office Hours: 8:00-4:30

SEATTLE REGION—Alaska, Idaho, Oregon, Washington
1321 Second Avenue—Room 615, Mail Stop 211, Seattle, Washington 98101. Office Hours: 8:00-4:30

3. Intermediary Addresses (Hospital Insurance):

Medicare Coordinator, Blue Cross/Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35296

Medicare Coordinator, Blue Cross of Arizona, Inc., P.O. Box 13466, Phoenix, Arizona 85002

Medicare Coordinator, Arkansas Blue Cross/Blue Shield, Inc., 601 Gaines Street, Little Rock, Arkansas 72203

Medicare Coordinator, Blue Cross of Southern California, P.O. Box 70000, Van Nuys, California 91470

Medicare Coordinator, Blue Cross of Northern California, 1950 Franklin Street, Oakland, California 94609

- Medicare Coordinator, Kasier Foundation Health Plan, Inc., 1956 Webster Street, Room 310A Oakland, California 94612
- Medicare Coordinator, Rocky Mountain Hospital and Medical Service, 700 Broadway, Denver, Colorado 80203
- Medicare Administrator, Aetna Life & Casualty, 151, Farmington Avenue, Hartford, Connecticut 06158
- Medicare Coordinator, Blue Cross/Blue Shield Connecticut, 370 Bassett Rd., North Haven, Connecticut 06473
- Medicare Administrator, Travelers Ins. Co., One Tower Square, Hartford, Connecticut 06115
- Triage, Inc., 719 Middle Street, Bristol, Connecticut 06019
- Medicare Coordinator, Blue Cross/Blue Shield of Delaware, Inc., 201 West 14th Street, Wilmington, Delaware 19899
- Medicare Coordinator, Group Hospitalization, Inc., 550 12th Street, S.W., Washington, D.C. 20024
- Medicare Coordinator, Blue Cross of Florida, Inc., P.O. Box 1798, Jacksonville, Florida 32201
- Medicare Coordinator, Blue Cross of Georgia/Columbus, P.O. Box 7368, Columbus, Georgia 31908
- Medicare Coordinator, Blue Cross of Georgia/Atlanta, P.O. Box 4445, Atlanta, Georgia 30302
- Medicare Coordinator, Hawaii Medical Service Association, P.O. Box 880, Honolulu, Hawaii 96808
- Medicare Coordinator, Blue Cross of Idaho, Inc., P.O. Box 7480, Boise, Idaho 83707
- Medicare Coordinator, Health Care Service Corp., 233 North Michigan Avenue, Chicago, Illinois 60601
- Medicare Coordinator, Mutual Hospital Insurance, Inc., 120 West Market Street, Indianapolis, Indiana 46204
- Medicare Coordinator, Blue Cross of Iowa, Ruan Building, 636 Grant Avenue, Station 28, Des Moines, Iowa 50307
- Medicare Coordinator, Blue Cross of Western Iowa and S. Dakota, Third and Pierce Street, Sioux City, Iowa 51102
- Medicare Administrator, Kansas Hospital Service Association, Inc., P.O. Box 239, Topeka, Kansas 66601
- Medicare Coordinator, Blue Cross and Blue Shield of Kentucky, Inc., 9901 Linn Station Road, Louisville, Kentucky 40223
- Medicare Coordinator, Louisiana Health Service and Indemnity Company, 2718A Wooddale Blvd, Baton Rouge, Louisiana 70805
- Medicare Coordinator, Associated Hospital Service of Maine, 110 Free Street, Portland, Maine 04101
- Medicare Coordinator, Maryland Blue Cross, Inc., 700 East Joppa Road, Baltimore, Maryland 21204
- Medicare Coordinator Part A, Blue Cross of Mass., Inc., 100 Summer Street, Boston, Massachusetts 02108
- Medicare Coordinator, Blue Cross of Michigan, 600 Lafayette East, Detroit, Michigan 48226
- Medicare Coordinator, Blue Cross of Minnesota, 3535 Blue Cross Road, St. Paul, Minnesota 55705
- Medicare Coordinator, Blue Cross of Miss., P.O. Box 1043, Jackson, Mississippi 39205
- Medicare Coordinator, Blue Cross Hospital Service of Missouri, 4444 Forest Park Boulevard, St. Louis, Missouri 63108
- Medicare Coordinator, Blue Cross of Montana, P.O. Box 5017, Great Falls, Montana 59403
- Medicare Coordinator, Mutual of Omaha Ins. Co., Box 456 Downtown Station, Omaha, Nebraska 68101
- Medicare Coordinator, Blue Cross of Nebraska P.O. Box 3248, Main Post Office Station, Omaha, Nebraska 68103
- Medicare Coordinator, New Hampshire Vermont Health Service, 2 Pillsbury Street, Concord, New Hampshire 03306
- Medicare Coordinator, Hospital Service Plan of New Jersey, 33 Washington Street, Newark, New Jersey 07102
- Medicare Coordinator, Prudential Ins. Co. of America, Drawer 471, 1 Millville, New Jersey 08332
- Medicare Coordinator, New Mexico Blue Cross Inc., 12800 Indian School Rd., N.E., Albuquerque, New Mexico 87112
- Medicare Coordinator, B/C-B/S of New York, 622 Third Avenue, New York, New York 10017
- Medicare Coordinator, North Carolina B/C-B/S, P.O. Box 2291 Durham, North Carolina 27702
- Medicare Coordinator, Blue Cross of North Dakota, 4510 13th Avenue, S.W., Fargo, North Dakota 58121
- Medicare Coordinator, B/C of N.W. Ohio, P.O. Box 943, Toledo, Ohio 43601
- Medicare Coordinator, B/C of N.E. Ohio, 2066 East Ninth Street, Cleveland, Ohio 44115
- Medicare Coordinator, Hospital Care Corporation, 1351 William Howard Taft Road, Cincinnati, Ohio 45206
- Medical Coordinator, Nationwide Mutual Insurance Co., P.O. Box 1625, Columbus Ohio 43216
- Medicare Coordinator, B/C of Central Ohio, P.O. Box 16526, Columbus, Ohio 43216
- Medicare Coordinator, Blue Cross of Oklahoma, 1215 South Boulder, Tulsa, Oklahoma 74119
- Medicare Coordinator, Northwest Hospital Service, P.O. Box 1271, Portland, Oregon 97201
- Medicare Coordinator, Blue Cross of Greater Philadelphia, 1333 Chestnut Street, Philadelphia, Pennsylvania 19107
- Medicare Coordinator, Blue Cross of Western Pennsylvania, One Smithfield Street, Pittsburgh, Pennsylvania 15222
- Medicare Coordinator, B/C of N.E. Pennsylvania, 70 North Main Street, Wilkes-Barre, Pennsylvania 18711
- Medicare Coordinator, Hospital Service Plan of Lehigh Valley, 1221 Hamilton Street, Allentown, Pennsylvania 18102
- Medicare Coordinator, Capital Blue Cross, 100 Pine Street, Harrisburg, Pennsylvania 17101
- Cooperativa de Seguros de Vida de Puerto Rico, G.P.O. Box 3428, San Juan, Puerto Rico 00936
- Blue Cross of Rhode Island, 444 Westminster Mall, Providence, Rhode Island 02901
- Medicare Coordinator, Blue Cross of S.C., Columbia, South Carolina 29219
- Medicare Coordinator, Blue Cross of Tennessee, Blue Cross Bldg., Chattanooga, Tennessee 37402
- Medicare Coordinator, Group Hospital Service, Inc., P.O. Box 22148, Dallas, Texas 75222
- Medicare Coordinator, B/C of Utah, P.O. Box 30270, Medicare A, Salt Lake City, Utah 84130
- Medicare Coordinator, B/C of S.W. Virginia, P.O. Box 13047, 3959 Electric Rd., Roanoke, Virginia 24045
- Medicare Coordinator, Blue Cross of Virginia, P.O. Box 27401, Richmond, Virginia 23261
- Medicare Coordinator, B/C of Washington/Alaska, Inc., 15700 Dayton Avenue, North, P.O. Box 327, Seattle, Washington 98111
- Medicare Coordinator, Parkersburg Hosp. Serv., Inc., P.O. Box 1948, Parkersburg, West Virginia 26101
- Medicare Coordinator, Blue Cross Hospital Service Inc., P.O. Box 1353, City Center West Charleston, West Virginia 25325
- Medicare Coordinator, Blue Cross of Northern West Virginia Inc., 20th and Chapline Streets, Wheeling, West Virginia 26003
- Medicare Coordinator, Blue Cross/Blue Shield United of Wisconsin, Milwaukee, Wisconsin 53201
- Medicare Coordinator, Blue Cross/Blue Shield of Wyoming, P.O. Box 2266, Cheyenne, Wyoming 8200
- Health Care Financing Administration, Bureau of Program Operations, Group Health Plans, Operations Staff, 6325 Security Boulevard, Baltimore, Maryland 21207
- Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611
4. Carrier Addresses (Supplementary Medical Insurance)
- Medicare Coordinator, Blue Cross Blue Shield of Alabama, 450 Riverchase Parkway East, Birmingham, Alabama 35298
- Vice President for Medicare and Medical Services, Arkansas Blue Cross/Blue Shield, 601 Gaines Street, Little Rock, Arkansas 72203
- Medicare Coordinator, California Blue Shield, P.O. Box 7968, Rincon Annex, San Francisco, California 94120
- Medicare Coordinator, Transamerica Occidental Life Insurance Company, P.O. Box 54905 Terminal Annex, Los Angeles, California 90054
- Kaiser Foundation Health Plan, 1956 Webster Stree, Rm 310-A, Oakland, California 94612
- Assistant Vice President, Blue Shield of Colorado, 700 Broadway, Denver, Colorado 80273

Medicare Administrator, Travelers Ins. Co.,
One Tower Square, Hartford, Connecticut
06115

Medicare Administrator, Aetna Life &
Casualty, 151 Farmington Avenue,
Hartford, Connecticut 06156

Medicare Coordinator, Connecticut General
Life Insurance Company, Hartford,
Connecticut 06152

Medicare Coordinator, Blue Cross/Blue
Shield of Delaware, 201 West 14th Street,
Wilmington, Delaware 19899

Medicare Coordinator, Blue Cross of Florida,
Inc., P.O. Box 1798, Jacksonville, Florida
32231

Group Health, Inc., 1320 South Dixie
Highway, Coral Gables, Florida 33146

Medicare Administrator, Prudential
Insurance Company of America, P.O. Box
95466, 57 Executive Park Station, Atlanta,
Georgia 30347

Medicare Claim Administrator, Hawaii
Medical Service Association, 100 Bishop
Street, P.O. Box 860, Honolulu, Hawaii
96808

Health Care Service Corporation, 233 North
Michigan Avenue, Chicago, Illinois 60601

Assistant Vice President Medicare Dept.,
Mutual Medical Insurance, Inc., 120 West
Market Street, Indianapolis, Indiana 46204
Assistant Executive Director, Blue Shield of
Iowa, Ruan Building, 636 Grand Avenue,
Des Moines, Iowa 50307

Medicare Assistant, Blue Shield of Kansas
Inc., P.O. Box 239, Topeka, Kansas 66601

Manager, Medicare Liaison, Pan American
Life Insurance Co., P.O. Box 60182, New
Orleans, Louisiana 70130

Medicare Coordinator, Maryland Blue Shield,
Inc., 700 E. Joppa Road, Baltimore,
Maryland 21204

Medicare Coordinator Part B, Massachusetts
Blue Shield, 100 Summer Street, Boston,
Massachusetts 02106

Asst. Vice Pres. Govern. Aff. Dept., Blue
Cross and Blue Shield of Michigan, 600
Lafayette East, Detroit, Michigan 48226

Blue Cross/Blue Shield of Minn., 3535 Blue
Cross Road, St. Paul, Minnesota 55765

Vice President Government Programs, Blue
Shield of Kansas City, P.O. Box 169,
Kansas City, Missouri 64141

Director, Medicare Administration, General
American Life Ins. Corp., 13045 Tesson
Ferry Road, St. Louis County, Missouri

Montana Physicians Service, P.O. Box 4310,
Helena, Montana 59601

Assistant Vice President, Medicare
Administration, Mutual of Omaha
Insurance Co., Box 456, Downtown Station,
Omaha, Nebraska 68101

Medicare Coordinator, New Hampshire
Vermont Phys. Serv., 2 Pillsbury St.,
Concord, New Hampshire 03306

Medicare Coordinator, Prudential Insurance
Co. of America, P.O. Box 471, Millville,
New Jersey 08332

Director of Medicare Part B, Blue Shield of

Western New York, Inc., 298 Main Street,
Buffalo, New York 14202

Medicare Coordinator, Group Health
Insurance, Inc., 328 West 42nd Street, New
York, New York 10036

Medicare Coordinator, Genesee Valley
Medical Care, Inc., 42 Chestnut Street,
Rochester, New York 14604

Medicare Coordinator, Blue Cross/Blue
Shield of Greater N.Y., 622 Third Avenue,
New York, New York 10017

Medicare Coordinator, The Equitable Life
Assurance Society, 1285 Avenue of the
Americas, New York, New York 10019

Medicare Coordinator, Blue Shield of North
Dakota, 4510 13th Avenue, S.W., Fargo,
North Dakota 58121

Medicare System & Proc. Div., Nationwide
Mutual Insurance Company, P.O. Box 1625,
Columbus, Ohio 43216

Department of Human Services, 101
Sequoyah Boulevard, Oklahoma City,
Oklahoma 73105

Medicare Coordinator, Pennsylvania Blue
Shield, P.O. Box 65, Camp Hill,
Pennsylvania 17011

Chief, Internal Operations, Seguros de
Servicio de Salud de Puerto Rico, Inc.,
G.P.O. Box 3628, San Juan, Puerto Rico
00936

Medicare Coordinator, Blue Shield of Rhode
Island, 444 Westminster Mall, Providence,
Rhode Island 02901

Medicare Coordinator, Blue Cross/Blue
Shield of S.C., Columbia, South Carolina
29219

EDS Federal Corporation, 7171 Forest Lane,
Dallas, Texas 75230

Offices Services, Group Medical & Surgical
Service, P.O. Box 22147, Dallas, Texas
75222

Manager, Part B, Blue Shield of Utah, P.O.
Box 30270, Salt Lake City, Utah 84125

Assistant Administrator, Washington
Physicians Service, 4th and Battery
Building—2401 4th Avenue, 6th Floor,
Seattle, Washington 98121

Director, Medicare Claims Dept., Wisconsin
Physicians Service, P.O. Box 9277,
Madison, Wisconsin 53715

Health Care Financing Administration,
Bureau of Program Operations, Group
Health Plans Operations Staff, 6325
Security Blvd., Baltimore, Maryland 21207

Director of Retirement Claims, U.S. Railroad
Retirement Board, 844 Rush Street,
Chicago, Illinois 60611

[FR Doc. 83-17919 Filed 7-5-83; 8:45 am]

BILLING CODE 4120-03-M

Office of the Assistant Secretary for Health

National Committee on Vital and Health Statistics, Uniform Minimum Health Data Sets Subcommittee;

Pursuant to the Federal Advisory Act (Pub. L. 92-643), notice is hereby given that the Subcommittee on Uniform Minimum Health Data Sets of the

National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k)(2) of the Public Health Service Act, as amended, (42 U.S.C. 242(k)), will convene on Wednesday, July 27, 1983, at 1:00 p.m. and Thursday, July 28, at 9:00 a.m. of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

The Subcommittee will review the ^{none} experience of various users with the Uniform Hospital Discharge Data Set, explore any problems reported by users, and make recommendations regarding the items and their definitions.

Further information regarding this meeting of the Subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting William F. Stewart, National Committee on Vital and Health Statistics, Room 2-28 Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone 301-436-7122.

Dated: June 27, 1983.

Robert A. Israel,

Deputy Director, National Center for Health Statistics.

[FR Doc. 83-18086 Filed 7-5-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Phoenix 075438, etc.]

Arizona; Order Providing for Opening of Public Lands; Correction

June 23, 1983.

In FR Doc. 81-26383, appearing at page 45204 in the issue of Thursday, September 10, 1981, the first column, the third and fourth lines from the bottom of the page under Serial No. AR 03249 which reads "T. 10 S., R. 28 E., sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$ " should read:

T. 10 S., R. 28 E.,

Sec. 28, W $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$.

In the second column, numbered paragraph 2, the fifth line should be corrected to include Serial No. "Phx. 080535".

Mario L. Lopez,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-18030 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18412]

Public Lands Exchange; Mohave County, Arizona**AGENCY:** Bureau of Land Management (BLM), Interior.**ACTION:** Notice of Realty Action—Exchange, Public Lands in Mohave County, Arizona.

SUMMARY: The following described lands have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 16 W.,

Sec. 4: Lots 1-4, S $\frac{1}{2}$ N $\frac{1}{2}$, and S $\frac{1}{2}$;

Sec. 8: All;

Sec. 10: NW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ and S $\frac{1}{2}$;Sec. 12: W $\frac{1}{2}$ SW $\frac{1}{4}$.

Comprising 1949.76 acres, more or less.

In exchange for these lands, the United States will acquire the following described lands from Nicholas D. Wusich of the Lazy YU Ranch, Kingman, Arizona:

Gila and Salt River Meridian, Arizona

T. 20 N., R. 16 W.,

Sec. 7: Lots 1-4, E $\frac{1}{2}$ W $\frac{1}{2}$, and E $\frac{1}{2}$;

Sec. 13: All;

T. 20 N., R. 17 W.,

Sec. 1: S $\frac{1}{2}$;

Sec. 13: All;

Sec. 17: W $\frac{1}{2}$ SE $\frac{1}{4}$.

Comprising 2310.96 acres, more or less.

The exchange involves only the surface estate of the private offered lands while the Public selected lands include the locatable mineral estate. In addition, the Federal locatable mineral estate in the NE $\frac{1}{4}$ NE $\frac{1}{4}$ Section 10, T. 20 N., R. 16 W., G&SRM, will be transferred with the above described Public lands.

The purpose of the exchange is to acquire the non-Federal lands which contain critical wildlife habitat and exhibit recreation potential within the northwest range of the Hualapai Mountains. The exchange is consistent with the Bureau's planning system and the public interest will be well served.

The value of the lands and interests to be exchanged is approximately equal. Upon the completion of a final appraisal, acreages may be adjusted or a cash payment made, where the value of the public estates exceed that of the private, to equalize the value difference. Where a money payment is required to equalize values, the payment shall not exceed 25 percent of the value of the public interests being conveyed.

Lands to be transferred from the United States will be subject to the

following reservations, terms and conditions:

1. A right-of-way for ditches and canals constructed by the authority of the United States, pursuant to the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

2. A reservation of all oil and gas to the United States with the right to prospect for, mine and remove such deposits.

3. Subject to all valid existing rights and those applications on record as of the date of this notice.

Private lands to be acquired by the United States will be subject to the following reservations, terms and conditions:

1. All minerals in the subject are reserved to Santa Fe Pacific Railroad Company as set forth in Book 70 of Deeds, Pg. 370, Mohave County, Arizona.

2. As easement and such rights incident thereto for pipeline purposes as granted to Transwestern Pipeline Company, as recorded in Docket 42, Pg. 82, Mohave County, Arizona.

3. An easement and such rights incident thereto for pipeline purposes as granted to El Paso Natural Gas Company, as recorded in Docket 1, Pg. 194, Mohave County, Arizona.

4. An easement and such rights incident thereto for pipeline purposes as granted to Four Corners Pipeline Company, as recorded in Docket 19, Pgs. 315, 317, 348, and 479, Mohave County, Arizona.

5. A right-of-way and such rights incident thereto for railroad purposes as held by Santa Fe Pacific Railroad Company, as set forth in Book 70 of Deeds, Pg. 371, Mohave County, Arizona.

Publication of this Notice will segregate the subject lands from all appropriations under the public land laws, including the mining laws, but not the mineral leasing laws. This segregation will terminate upon the issuance of a patent or two years from the date of this Notice, or upon publication of a Notice of Termination.

Detailed information concerning this exchange can be obtained from the Kingman Resource Area Office, 2475 Beverly Avenue, Kingman, Arizona 86401. For a period of Forty-five (45) days from the date of this Notice, interested parties may submit comments to the District Manager, Phoenix District Office, 2929 West Clarendon Avenue, Phoenix, Arizona 85017. Any adverse comments will be evaluated by the District Manager who may vacate or modify this Realty Action, and issue a final determination. In the absence of any action by the District Manager, this

Realty Action will become the final determination of the Department of the Interior.

Dated: June 24, 1983.

W. K. Barker,

District Manager.

[FR Doc. 83-18032 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-50379-11]

Alaska Native Claims Selection

In accordance with departmental regulation 43 Code of Federal Regulations (CFR) 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613 (1976)) (ANCSA) and Sec. 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2531) (ANILCA), will be issued to Chugach Native, Inc. for 2.5 acres. The lands involved are within: U.S. Survey No. 2241, situated at Cordova, Territory of Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the CORDOVA TIMES upon issuance of the decision. For information on how to obtain copies, contact Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 CFR, Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (980), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have

been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until August 5, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Research and Development, Pouch 7-005, Anchorage Alaska 99510

The Eyak Corporation, P.O. Box 340, Cordova, Alaska 99574

Chugach Native, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-18100 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

[AZA011000001]

Arizona; Realty Action; Modified Competitive Sale of Public Land in Mohave County

The Bureau of Land Management will offer the following described lands for sale at public auction on September 1, 1983, 10:00 a.m. in the Washington County Commission Chambers, 197 East Tabernacle, St. George, Utah. Through the development of land use plans, it has been determined that the sale of the tract is consistent with section 203(a) of the Federal Land Policy and Management Act of 1976. The lands are presently and potentially valuable for livestock grazing.

Gila and Salt River Base & Meridian, Arizona, Mohave County

T. 40 N., R. 18 W.,
Sec. 33, SW 1/4 SE 1/4.

The parcel contains 40 acres.
Appraised value: \$15,000

The land will not be sold for less than the appraised value.

Upon publication of this Notice in the *Federal Register* as provided in 43 CFR 2440.4, the land described above will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period of not to exceed two years, or until the lands are sold, whichever occurs first. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the *Federal Register* prior to the expiration of the two-year period.

Sealed bids may be submitted in an envelope clearly marked Land Sale Bid prior to 4:30 p.m. on August 31, 1983. If the land is not sold on September 1, 1983 it will be re-offered for sale by competitive bidding at 10:00 a.m., September 22, 1983 in the above listed Washington County Commission chambers.

Land not sold on September 22, 1983 will be re-offered for sale over the counter on a first come, first serve basis at the Arizona Strip District Office, 196 East Tabernacle, St. George, Utah, September 29, 1983.

The lands will be subject to the following reservations when patented:

1. The patent will be subject to a right-of-way for an electric transmission line which has been granted to Littlefield Electric Coop, Inc., by permit AR 036027.
2. Valid existing rights.
3. A preference right to meet the highest bid is given to the adjacent landowner, Arvada Farms, Inc.

Acquisition of the subject tract would enhance economic development of the lands owned by Arvada Farms, Inc.

4. A right-of-way for ditches or canals constructed by the United States under the authority of the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).
5. All minerals will be reserved to the United States.

There are no known locatable mineral values in the land. If the successful bidder wishes, he/she may apply to purchase the reserved mineral estate, except oil and gas, under the provision of section 209(b) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1718).

There is no legal access to the subject tract. Access would have to be obtained from the adjacent landowner.

Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from G. William Lamb, District Manager, 196 East Tabernacle, St. George, Utah 84770, or by calling (801) 673-3545.

For a period of 45 days from the date of this notice, interested parties may

submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: June 24, 1983.

G. William Lamb,
District Manager, Arizona Strip District

[FR Doc. 83-18182 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

[AZA012000001]

Arizona; Realty Action, Competitive Sale of Public Land in Mohave County

The lands described below have been examined and through the development of the Antelope Management Framework Plan were found proper for disposal. They will be offered for sale under the provisions of Sec. 203(a) of the Federal Land Policy and Management Act (90 Stat. 2750; 43 U.S.C. 1713).

Gila and Salt River Meridian, Arizona

Mohave County

T. 40 N. R. 5 W.
sec. 31, E1/2SE1/4.

The area contains 80 acres. Appraised value: \$8,000.

This parcel will not be sold for less than the appraised fair market value indicated.

The lands will be offered at public auction on September 1, 1983 beginning at 10:00 a.m. at the Washington County Commission Chambers, 197 East Tabernacle Street, St. George, Utah. If they do not sell on September 1, the sale will be continued on September 22, 1983 at the same time and place.

If this parcel remains unsold after the September 22, 1983 date, it will be available over-the-counter at the Arizona Strip District Office, 196 East Tabernacle, St. George, Utah 84770 without further competition. Sealed bids will be accepted if received at the Arizona Strip District Office prior to 4:30 p.m. on August 31, 1983.

Purchasers must be citizens of the United States, 18 years of age or older. Additional information concerning the land, terms and conditions of the sale, and bidding instructions may be obtained from G. William Lamb, District Manager, 196 East Tabernacle, St. George, Utah 84770 or by calling (801) 673-3545.

Upon publication of this Notice in the *Federal Register* as provided in 43 CFR

2440.4, the land described above will be segregated from appropriation under the mining laws but excepting the mineral leasing laws for a period not to exceed two years, or until the lands are sold, whichever occurs first. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination notice in the *Federal Register* prior to the expiration of the two-year period.

The land will be sold subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the United States under the authority of the Act of August 30, 1890 (26 Stat. 391, 43 U.S.C. 945).

2. All minerals will be reserved to the United States with the right to explore, prospect for mine and remove under applicable law and regulations as the Secretary may prescribe.

3. Valid existing rights.

4. Subject to Oil and Gas Lease A 10981 to Brooks Exploration, Inc., effective 09-01-78.

The parcel is not leased for grazing.

There are no known locatable mineral values in the land. If the successful bidder wishes, he/she may apply to purchase the reserved mineral interests, except oil and gas, under the provision of section 209(b) of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2757; 43 U.S.C. 1719).

For a period of 45 days from the date of this notice, interested parties may submit comments regarding the proposed action. Any adverse comments will be evaluated by the District Manager who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of the Interior.

Dated: June 24, 1983.

G. William Lamb,

District Manager, Arizona Strip District.

[FR Doc. 83-18183 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

Nevada; Realty Action, Sale of Public Land in Lander County, Nevada

June 23, 1983.

The following described lands have been identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the fair market value:

Mount Diablo Meridian, Nevada

T. 32 N., R. 46 E.

Sec. 22, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 27, N $\frac{1}{2}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$.

The parcel, containing 35 acres and valued at \$4,800.00, will be offered for sale by public auction on September 2, 1983, in the conference room at the Bureau of Land Management District Office, North Second and Scott Streets, Battle Mountain, Nevada. Registration of bidders will begin at 9:30 a.m. and the sale will start at 10:00 a.m.

The parcel is isolated from other public land and is difficult to manage for grazing. The best use for the land is in private ownership. Disposal of isolated tracts of public land is consistent with the Bureau's planning system.

The patent when issued will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All mineral deposits in the land so patented, and to it, or persons authorized by it, the right to prospect, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.¹

And will be subject to:

1. Those rights for highway purposes which have been granted to the Nevada Highway Department, its successors or assigns, by Permit Nos. CC-021888 and Nev-057445, under the Act of November 9, 1921, 42 Stat. 212-216, 23 U.S.C. Sec. 18.

2. An easement 30 feet in width for the Battle Mountain to Dunphy frontage road.

3. An easement 30 feet in width for public use of the access road in sec. 27 between the frontage road and the corner of secs. 21, 22, 27 and 28.

4. A right-of-way for the Southern Pacific Railroad and a telephone line within said railroad right-of-way.

5. Those rights granted by oil and gas lease, N-27476, made under Section 29 of the Act of February 25, 1920, 41 Stat. 437, and the Act of March 4, 1933, 47 Stat. 1570. This patent is issued subject to the right of the prior permittee or lessee to use so much of the surface of said land as is required for oil and gas exploration and development operations, without compensation to the patentee for damages resulting from proper oil and gas operations, for the duration of oil and gas lease, N-27476, and any authorized extension of that lease. Upon termination or

¹ The purchaser may request conveyance of the Federally owned mineral interest (with the exception of oil, gas and geothermal resources) under Section 209 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2757, 43 U.S.C. 1719.

relinquishment of said oil and gas lease, this reservation shall terminate.

Detailed information concerning the sale, including the planning documents, environmental assessment/land report and appraisal report, is available for review at the Bureau of Land Management District Office, North Second and Scott Streets, Battle Mountain, Nevada 89820. No bid will be accepted for less than the appraised price and bids must include all the land in the parcel. Federal law requires that bidders be U.S. citizens or in the case of corporations, subject to the laws of any state or the United States.

Bids must be made by a principal or his agent, by sealed bid mailed or delivered to the Bureau of Land Management Battle Mountain District Office, or by oral bidding at the sale. Bids delivered or sent by mail will be considered only if received at the Bureau of Land Management District Office, North Second and Scott Streets, P.O. Box 194, Battle Mountain, Nevada 89820 prior to 4:30 p.m. on September 1, 1983. A bid must be in a sealed envelope accompanied by a certified check, postal money order, bank draft or cashier's check, made payable to the Bureau of Land Management, for not less than one-fifth of the amount of the bid. The envelope must be marked in the lower left-hand corner as follows: "Bid for Sale to be Held September 2, 1983". The highest sealed bid, greater than or equal to the appraised fair market value, will determine the base of the oral bidding conducted the day of the sale. If two or more envelopes are received containing valid bids for the same amount, the determination of which is to be considered the successful high bid will be by drawing.

The highest qualifying sealed bid will be publicly declared on the day of the sale and oral bids will be invited. After oral bids, if any, are received, the highest qualifying bid will be declared by the authorized officer. Immediately following the close of the sale, the person declared to have entered the highest qualifying oral bid shall submit payment by cash, personal check, bank draft, money order, or any combination for not less than one-fifth of the amount of the bid.

The successful bidder shall submit the remainder of the full bid price within 30 days of receipt of the purchaser declared notice. At this time, he will have the opportunity to request purchase of the mineral estate (with the exception of oil, gas, and geothermal resources, which will be reserved to the United States) for a \$50.00 filing fee. Failure to submit the full bid price

within 30 days shall result in cancellation of the sale of the parcel and the deposit shall be forfeited and disposed of as other receipts of sale. The bid will be either returned, accepted, or rejected in writing within 30 days of the sale date.

If the parcel is not sold on the day of the sale, it will be offered for sale. This will continue until the parcel is sold or until the appraisal is no longer valid. The place of sale is the Bureau of Land Management District Office, North Second and Scott Streets, Battle Mountain, Nevada.

For a period of 45 days from the date of this notice, interested parties may submit comments to the BLM Nevada Director, 300 Booth Street, Reno, Nevada 89520. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director this realty action will become the final determination of the Department of the Interior.

Charles E. Hancock,

Acting Deputy State Director, Operations.

[FR Doc. 83-18-126 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-84-M

Escondido Project Area; Realty Action for Public Lands in San Diego County, California Correction

In FR Doc. 83-12739, beginning on page 21387, in the issue of Thursday, May 12, 1983, on page 21388, in the first column, in the ninth line from the top, "NE¼, NE¼," should read "NE¼NE¼."

BILLING CODE 1505-01-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

Applicant: New York Zoological Society, Bronx, NY—PRT 2-9965

The applicant requests a permit to export five captive-born Siamese crocodiles (*Crocodylus siamensis*) to Madras Crocodile Bank Trust, Madras, India, for enhancement of propagation. Applicant: John Napodano, Lincoln, NE—PRT 2-10619

The applicant requests a permit to purchase in interstate or foreign commerce and import two male and one

female captive-born Puerto Rican boas (*Epicrates inornatus*) from Herpetofauna Inc., Ft. Myers, FL, or Reptile Breeding Foundation, Picton, Canada, for enhancement of propagation.

Applicant: Ralph D. Kirkpatrick, Ball State University, Muncie, IN—PRT 2-10442

The applicant requests a permit to take (survey by mistnetting) the Indiana bat (*Myotis sodalis*) gray bat (*Myotis grisescens*) and Virginia big-eared bat (*Plecotus townsendii virginianus*) in Indiana, Kentucky and Illinois for scientific research or enhancement of survival.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: June 30, 1983.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 83-18129 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Conoco Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS-G 1498, Block 96, West Delta Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway

Bldg., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-18122 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, U.S. Department of the Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Kerr-McGee Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0828, Block 214, Ship Shoal Area, offshore Louisiana.

The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, open weekdays 9 a.m. to 3:30 p.m., 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 837-4720, Ext. 226.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations.

Dated: June 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico
OCS Region.

[FR Doc. 83-18123 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official at 202-395-7340.

Title: Antiquities Permit Applications

Bureau Form Number: 10-71

Frequency: On Occasion

Description of Respondents: Individuals,
Businesses, Federal Agencies, and
Non-Profit Institutions

Annual Responses: 350

Annual Burden Hours: 350

Bureau clearance officer: Russell K.

Olsen, 523-5133

June 15, 1983.

Russell K. Olsen,

Information Collection Clearance Officer.

[FR Doc. 83-16086 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-70-M

Bureau Forms Submitted for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comment and suggestions on the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget reviewing official, at 202-395-7340.

Title: Historic Preservation Certification

Application Bureau Form Number: 10-
188, 10-188a

Frequency: On Occasion

Description of Respondents: Individuals,
State or local governments and
businesses

Annual Responses: 3000

Annual Burden Hours: 7500

Bureau clearance officer: Russell K.

Olsen, 523-5133

Russell K. Olsen,

Information Collection Clearance Officer.

June 24, 1983.

[FR Doc. 83-18117 Filed 7-5-83; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT CORPORATION AGENCY

Agency for International Development

Commission on Security and Economic Assistance

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the locations of the fifth and sixth meetings of the Commission on Security and Economic Assistance. This notification provides further information to that which appeared in the Federal Register on June 1, 1983, Vol. 48, No. 106, page 24471.

The fifth Commission meeting on September 12, 1983, will be held from 1:30 p.m. to 5:00 p.m. in Room B-338-40, Rayburn House Office Building, Independence and South Capitol Street SW., Washington, D.C. 20515.

The sixth Commission meeting on October 3, 1983, will be held from 1:30 p.m. to 5:00 p.m. in Wadsworth Room, Level B-1, Center for Strategic and International Studies, 1800 K Street, NW., Washington, D.C. 20006.

Mr. John K. Wilhelm is the designated A.I.D. representative. Statements may be filed with him, or further information received by writing to him care of the Agency for International Development, PPC/C, Room 1004 NS, Washington, D.C. 20523, or telephone him at 202/632-7800.

Dated: June 23, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on
Security and Economic Assistance.

[FR Doc. 83-18142 Filed 7-5-83; 8:45 am]

BILLING CODE 5116-01-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Decision Notice; Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10928, 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 Part 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 Four at (202) 275-7669.

Volume OP4-FC-407

MC-FC-81365. By decision of June 28, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Dowell, Parker, and Joyce, approved the transfer to FAY TRANSPORTATION CO., INC., of Peabody, MA, of Certificate No. MC-96986 Sub-Nos. 3, 5, and 6, issued December 24, 1974, April 1, 1976, and April 2, 1979, respectively, to FELDMAN'S EXPRESS, INC., (JOSEPH BRAUNSTEIN, TRUSTEE IN BANKRUPTCY), of Boston, MA, authorizing the transportation over irregular routes of (1) general commodities with exceptions, between Boston, MA, on the one hand, and, on the other, points in MA, (2) over regular routes of (a) steel, paper, furniture,

liquor, candy, groceries, and fruit and produce, between Boston, MA and Providence, RI, serving named intermediate points and off-route points in MA within 15 miles of Boston, MA and those in MA and RI within 10 miles of Providence, RI, (b) *fruit and produce*, from named points in MA to Moosup, CT, (c) *general commodities* (with exceptions), between (1) Boston, MA and Providence, RI, serving all intermediate points and off-route points within 10 miles of Boston, MA and within 10 miles of Providence, RI, subject to restrictions, (2) Boston, MA and Lowell, MA, serving all intermediate points (3) Boston, MA and Beverly, MA, serving all intermediate points, (4) Boston, MA and Worcester, MA, serving all intermediate points within 10 miles of Worcester, MA and within 10 miles of Boston, MA, (5) Boston, MA and New Bedford, MA, serving all intermediate points (d) *groceries, canned goods, cotton warp, lubricating oils and greases, and cotton yarn*, between Boston, MA and New Bedford, MA (e) *textile products, machinery, wool, burlap bags, yarn, groceries, soaps, dyes, chemicals, and machine and lubricating oil and greases*, between Boston, MA and Harrisville, RI, serving all intermediate points and off-route points within 5 miles of Harrisville, RI and within 10 miles of Boston, MA, (f) *canned goods and groceries*, between Smithtown, NH and Lowell, MA, serving all intermediate points and Fitchburg, MA, serving all intermediate points, (3) over irregular routes of (a) *wool grease*, from Providence, Woonsocket, and Harrisville, RI, to Lawrence, MA, (b) *textile machinery*, from Hopedale, MA, to Harrisville and Washington, RI, and from Harrisville and Mapleville, RI, to Graniteville and Andover, MA, (c) *corrugated paper boxes*, from Boston, MA to Nashua and Lincoln, NH, and points in RI, (d) *groceries*, from Boston, MA to points in RI, (e) *turbines*, between Lynn, MA and Harrisville, RI, and (f) *corrugated paper boxes, and corrugated strawboard*, from Watertown, MA to points in RI. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. (617) 742-3530.

[FR Doc. 83-18066 Filed 7-5-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers. The

following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the *Federal Register* on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the *Federal Register* December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the *Federal Register* on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience

and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a motor common carrier of passengers are duly noted.

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP-2-293

Decided: June 28, 1983.

By the Commission, Review Board Members Fortier, Carleton, and Parker.

MC 153442 (Sub-8), filed June 16, 1983. Applicant: E & H TRUCKING, INC., P.O. Box 3638, Kelty's Station, Lufkin, TX 75901. Representative: Timothy Mashburn, P.O. Box 2207, Austin, TX 78768-2207, (512) 476-6391. Transporting

food and related products, between points in the U.S. (except AK and HI).

MC 158002 (Sub-7), filed June 13, 1983. Applicant: SAHARA EXPRESS, a Division of SAHARA PACKING COMPANY, P.O. Box 156, Brawley, CA 92227. Representative: Earl N. Miles, 3704 Candlewood Dr., Bakersfield, CA 93306, (805) 872-1102. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with John Elmore and Louis R. Hausmann, d.b.a. Branix, of Brawley, CA.

MC 158133 (Sub-2), filed June 13, 1983. Applicant: CONTRACT TRANSPORTATION SERVICE, INC., 1711 South 2nd St., Piscataway, NJ 08904. Representative: Robert B. Pepper, 168 Woodbridge Ave., Highland Park, NJ 08904, (201) 572-5551. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between New York, NY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 158632 (Sub-1), filed June 13, 1983. Applicant: ANC EXPRESS, INC., Highway 20 West, Ackley, IA 50601. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601, 312-332-5106. Transporting *such commodities*, as are dealt in or used by manufacturers and distributors of containers, between points in the U.S., under continuing contract(s) with National Can Corporation, of Chicago, IL.

MC 161162 (Sub-1), filed June 17, 1983. Applicant: SEITZ TRANSPORTATION, INC., Lake Rd. and Packers Ave., St. Joseph, MO 64504. Representative: E. Wayne Farmer, 2700 City Center Square, P.O. BOX 26010, Kansas City, MO 64196, 816-474-6420. Transporting (1) *food and related products*, (2) *such commodities* as are dealt in and used by grocery stores and warehouses, (3) *paper and paper products*, and (4) *printed matter*, between points in MN, WI, NE, IA, IL, IN, CO, KS, MO, KY, OK, AR, TN, TX, LA, and MS.

MC 163842 (Sub-1), filed June 9, 1983. Applicant: LARRY LEITER TRUCKING, INC., 2264 Villa St., Rio Rico, AZ 85821. Representative: David Robinson, 2228 W. Northern Ave., Ste. B-201, Phoenix, AZ 85021, (602) 864-0999. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in WA, OR, CA, NV, UT, AZ, CO, NM, TX, and OK.

MC 164952 (Sub-2), filed June 17, 1983. Applicant: CANALSIDE CORPORATION, 205 Central Ave., Cincinnati, OH 45202. Representative: Michael Spurlock, 275 East State St., Columbus, OH 43215, 614-228-8575. Transporting *food and related products, paper products, clay, concrete, glass, or stone products, and such commodities* as are dealt in by food business houses, between points in MI, on the one hand, and, on the other, points in OH and KY.

MC 166732, filed June 16, 1983. Applicant: MURPHY'S TRUCKING, P.O. Box 12, Coker Creek, TN 37314. Representative: Kenneth Murphy (same address as applicant), (615) 261-2496. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of paper and paper products, between points in McMinn County, TN, and those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 166762, filed June 20, 1983. Applicant: BERNIE STUARD, d.b.a. STUARD TRUCKING COMPANY, Rt. 3, Box 424 B, San Angelo, TX 76904. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408, 806-783-9555. Transporting *such commodities* as are dealt in and used by meat packing houses, between points in the U.S. (except AK and HI), under continuing contract(s) with Evans Meat Company of Texas, Inc., of San Angelo, TX.

MC 166772, filed June 21, 1983. Applicant: SOLAR SYSTEM SERVICES, INC., 114 5th Ave., New York, NY 10011. Representative: Jack R. Turney, 2001 Massachusetts Ave. NW., Washington, DC 20036, 202-387-1021. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except HI).

Condition: Issuance of this authority is subject to approval of the Petition for Exemption in MC-F-15329.

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume No. 403

Decided: June 28, 1983.

By the Commission, Review Board, Members: Williams, Parker, and Joyce.

MC 167656, filed June 20, 1983. Applicant: TRUCK SYSTEMS, INC., Box 428, 7550 FM Rd. 1346, Converse, TX 78109. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332-4718. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 168596, filed June 16, 1983. Applicant: INDEPENDENT PRODUCERS MARKETING CORP., 701 Antler Rd., P.O. Box 1968, Casper, WY 82602. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 1124, El Reno, OK 73036, (405) 262-1322. Transporting *Mercer commodities*, between points in AR, AZ, CO, ID, KS, KY, LA, MO, MT, NE, NM, ND, NV, OK, OR, SD, TN, TX, UT, WA, and WY.

MC 168757, filed June 17, 1983. Applicant: CROSSROADS TRANSPORTATION, INC., P.O. Box 1017, Tulsa, OK 74101. Representative: David H. Baker, 600 Maryland Ave., SW., Washington, DC 20024, (202) 484-9090. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with G.T.S. Brokerage, Inc., of San Jose, CA.

Volume No. OP4-406

MC 110027 (Sub-1), filed June 13, 1983. Applicant: AMLIN CARTAGE, LIMITED, 3360 Walker Road, Windsor, Ontario, Canada N8W 3S1. Representative: Richard Divnich, 3360 Walker Road, Windsor, Ontario, Canada N8W 3R1. In a decision, by the Commission, Division 1, acting as an Appellate Division, decided June 13, 1983; and finds that performance by applicant: To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives), between points in Michigan, will serve a useful public purpose responsive to a public demand or need. Applicant is fit, willing and able properly to perform the granted service and to conform to statutory and administrative requirement.

Volume No. OP4-404

Decided: June 29, 1983.

By the Commission, Review Board, Members: Fortier, Carleton and Parker.

MC 42146 (Sub-36), filed June 20, 1983. Applicant: A. G. BOONE COMPANY, 1812 W. Morehead St., P.O. Box 668126, Charlotte, NC 28266. Representative: Floyd C. Hartsell (same address as applicant), (704) 376-7533. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Family Dollar Stores, of Charlotte, NC.

MC 42487 (Sub-1078), filed June 21, 1983. Applicant: CONSOLIDATED

FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208, (503) 226-4692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Ovaltine Products, Inc., of Villa Park, IL.

MC 105917 (Sub-17), filed June 17, 1983. Applicant: LESOINE SERVICES, INC., 1870 West Maine St., Stroudsburg, PA 18360. Representative: Christian V. Graf, 407 N Front St., Harrisburg, PA 17101, (717) 236-9318. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Monroe, Luzerne, and Northampton Counties, PA, on the one hand, and, on the other points in TX, and those the U.S. in and east of WI, IL, KY, TN, MS, and LA.

MC 150066 (Sub-6), filed June 17, 1983. Applicant: MULTI-STATES TRANSPORT, INC., P.O. Box M244, Gary, IN 46401. Representative: Maxwell A. Howell, 2554 Massachusetts Ave., NW., Washington, DC 20008, (202) 483-8633. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Multi-States Consolidators Inc., of Gary, IN.

MC 152337 (Sub-8), filed June 23, 1983. Applicant: CENTRAL STATES TRUCKING CO., 5101 S. Lawndale Ave., P.O. Box 450, Summit, IL 60501. Representative: Edward G. Bazelon, 135 S. LaSalle St., Suite 2106, Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Central States Broker Services Co., of Summit, IL.

MC 158037 (Sub-1), filed June 22, 1983. Applicant: ALMAC OF ARIZONA, INC., 2831 West Indian School Rd., Phoenix, AZ 85017. Representative: Thomas F. Harper, 650 North 2nd Ave., Phoenix, AZ 85003, (602) 257-5800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 164238 (Sub-1), filed June 21, 1983. Applicant: BELLEVILLE-NUTLEY MOVING & STORAGE CO., 35 Ewing Avenue, North Arlington, NJ 07032. Representative: Bruce Mitchell, 620 Fourth St., Lyndhurst, NJ 07071, (201) 687-1300. Transporting *household goods* between points in NJ, on the one hand,

and, on the other, points in KY, ME, NH, TN, VT, VA, WV, MI, AK, AR, AZ, CA, CO, ID, IA, KS, MN, MO, MT, NE, NV, NM, ND, OK, OR, SD, UT, WA, WI, and WY.

MC 164587 (Sub-1), filed June 22, 1983. Applicant: CIRCLE W TRANSPORTATION, INC., 290 Leger Rd., North Huntingdon, PA 15642. Representative: John A. Vuono, 2310 Grant Bldg., Pittsburgh, PA 15219, (412) 471-1800. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Distribution Services of America, Inc., of Foxboro, MA.

MC 168006, filed June 21, 1983. Applicant: ABELN EXPRESS CO., INC., 3322 Marbury Drive, St. Louis, MO 63129. Representative: Jack L. Schiller, 111-56 76th Drive, Forest Hills, NY 11375, (212) 263-2078. Transporting *syrup*, between St. Louis, MO and Lebanon, IL.

MC 168146, filed June 20, 1983. Applicant: EXHIBIT SERVICES, INC., 610 E. Main St., Lancaster, TX 75146. Representative: Robert A. Forman, 6606 LBj Freeway, Suite 5135, Dallas, TX 75240, (214) 934-0963. Transporting *trade show exhibits*, between points in the U.S. (except AK and HI).

MC 168696 (Sub-1), filed June 21, 1983. Applicant: CEDAR LAKE TRANSPORTATION, INC., 2 E. 106th St., P.O. Box 40857, Indianapolis, IN 46240. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006, (202) 828-5015. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with James River Corporation, of Richmond, VA; Inland Steel Container Co., of Alsip, IL; Ralston Purina Company, of St. Louis, MO, and Owens-Illinois, Inc., of Toledo, OH.

[FR Doc. 83-18063 Filed 7-5-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carrier Temporary Authority Applications

The following are notices of filing of applications for temporary authority under Section 10928 of the Interstate Commerce Act and in accordance with the provisions of 49 CFR 1131.3. These rules provide that an original and two (2) copies of protest to an application may be filed with the Regional Office named in the *Federal Register*

publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the *Federal Register*. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinences of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the ICC Regional Office to which protests are to be transmitted.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

Motor Carriers of Property

Volume No. F-273

The following applications were filed in Region I:

Send protests to: Interstate Commerce Commission, Regional Authority Center, 150 Causeway Street, Room 501, Boston, MA 02114.

MC 126021 (Sub-1-1TA), filed June 17, 1983. Applicant: STANLEY BARSTOW, d.b.a. BARSTOW TRANSPORTATION, 101 Mechanics Street, Danielson, CT 06239. Representative: Palmer S. McGee, Jr., One Constitution Plaza, Hartford, CT 06103. *Common carrier*: regular route: *Passengers* between Auburn, MA and Pratt & Whitney Division, United Technologies Corporation, East Hartford, CT; from Auburn, MA, over MA Hwy 12 to Oxford, MA, then over MA Hwy 12 to Webster, MA, then over MA Hwy 12 to Dudley, MA, then over MA Hwy 12 to jct with MA Hwy 131; then over MA Hwy 131 to Quinebaug, MA; then over MA Hwy 131 to Southbridge, then over MA Hwy 131 to jct MA Hwy 169, then over MA Hwy 169 and Southbridge Town streets to jct MA Hwy 131, then over MA Hwy 131 to Sturbridge, MA, then over MA Hwy 131 to jct Interstate Hwy 86, then over

Interstate Hwy 86 to CT State line, then over Interstate Hwy 86 to jct CT Hwy 171, then over CT Hwy 171 to jct CT Hwy 190, then over CT Hwy 190 to jct CT Hwy 32, then over CT Hwy 32 to jct Interstate Hwy 86, they over Interstate Hwy 86 to Exit 100, then over Interstate Hwy 86 to Exit 99, then over Interstate Hwy 86 to East Hartford, CT, then over city streets to Pratt & Whitney Aircraft Division, and return. Support: There are 5 statements of support attached to this application which may be examined at the I.C.C. Regional Office in Boston, MA.

MC 167201 (Sub-1-2TA), filed June 20, 1983. Applicant: BIG RED LTL TRUCKING, INC., Hwy 46, P.O. Box 157, Great Meadows, NJ 07838. Representative: Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, NJ 08904. *Food or kindred products* between Commercial Zones of New York, NY and Philadelphia, PA, on the one hand, and, on the other, points in CT, DC, MA, NJ and NY. Supporting shipper(s): Wallabout Meat Packing Co., 120 North 6th Street, Brooklyn, NY 11211; Atlantic Pork & Provisions, 1014 Stanley Avenue, Brooklyn, NY 11208; Arnolds Meat Food Prod., Inc., 274 Heyward Street, Brooklyn, NY 11206.

MC 149030 (Sub-1-5TA), filed June 21, 1983. Applicant: COUSINS LEASING CORPORATION, One Arnold Drive, Huntington, NY 11743. Representative: George Carl Pezold, Esq., Augello, Pezold & Hirschmann, P.C., 120 Main Street, Huntington, NY 11743. *Contract carrier: irregular routes: (1) Glass bottles, and commodities as are dealt in by manufacturers and distributors of same, between all points in the U.S. under continuing contract(s) with Midland Glass Company, Inc., of Cliffwood, NJ; and (2) General commodities (except Class A and B explosives) between all points in the U.S. under continuing contract(s) with American Backhaulers Corporation of Chicago, IL. Supporting shipper(s): Midland Glass Co., Inc., P.O. Box 557, Cliffwood, NJ 07721; American Backhaulers Corporation, 407 South Dearborn, Suite 985, Chicago, IL 60605.*

MC 168760 (Sub-1-1TA), filed June 20, 1983. Applicant: C AND C ELLIOTT, INC., 5 Main Street, Topsfield, MA 01983. Representative: Clifton P. Elliott, 15 Arrowhead Road, Topsfield, MA 01983. *Petroleum product (gasoline and diesel fuel) from Boston, MA to points in NH and VT. Supporting shipper: Gulf Refining & Marketing Company, 123 Eastern Ave., Chelsea, MA 02150.*

MC 156822 (Sub-1-1TA), filed June 23, 1983. Applicant: LESLIE H. FARRIN, Route 113, North Fryeburg, ME 04058. Representative: Leslie H. Farrin (same

as applicant). *Contract carrier: irregular routes: Metal and metal products, from Fryeburg, ME to Reading and Deerpark, PA, Bridgeport and Meriden, CT, Elmore, OH, and Kohomo, IN, under continuing contract(s) with Eagle Precision Metals Corp. of Fryeburg, ME. Supporting shipper: Eagle precision Metals Corp., 82 Portland Street, Fryeburg, ME 04037.*

MC 150451 (Sub-1-7TA), filed June 23, 1983. Applicant: G. & L. TRANSPORT, INC., Route 9, Troy, ME 04987. Representative: Barry Weintraub, Suite 510, 8133 Leesburg Pike, Vienna, VA 22180. *General commodities (except Class A and B explosives, household goods, and commodities in bulk) between ME on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper(s): There are six statements attached to this application which may be examined at the I.C.C. Regional Office, Boston, MA.*

MC 168165 (Sub-1-1TA), filed June 23, 1983. Applicant: LAKES REGION TRANSIT CO., INC., RFD #7, Box 9, Laconia, NH 03246. Representative: Frederick M. Shurbert, Sr. (same as applicant). *Passengers and their baggage in charter operations from points in NH to points in CT, MA, ME, NJ, NY, PA, RI and VT and return. Support: Penny Pitou Travel, 55 Canal Street, Laconia, NH 03246.*

MC 141758 (Sub-1-5 TA), filed June 23, 1983. Applicant: LYDALL EXPRESS, INC., 615 Parker Street, Manchester, CT 06040. Representative: Robert J. Dunbar (same as applicant). *Contract carrier: irregular routes: Copper products, Wire and Cable, Flexible Steel Conduit, Wrought Steel Pipe, Strip Steel, Nylon and Reels between points in CT, MA, NH, RI, MO, on the one hand, and on the other TN and MO, under continuing contract(s) with Triangle Industries, Inc., of New Brunswick, NJ. Supporting shipper: Triangle Industries Inc., P.O. Box 711, New Brunswick, NJ.*

MC 168859 (Sub-1-1 TA), filed June 23, 1983. Applicant: A. C. MORRIS, INC., 3712 Caverow Avenue, Pennsauken, NJ 08110. Representative: James H. Sweeney, 468 Kentucky Avenue, Williamstown, NJ 08094. *Primary and fabricated metal products between points in NJ and PA on the one hand, and, on the other, points in CT, DE, IL, MD, MA, NJ, NY, NC, PA, RI, VA, WV, and DC. Supporting shipper: Dereve & Company, 1518 Walnut Street, Philadelphia, PA 19102.*

MC 168467 (Sub-1-1 TA), filed June 23, 1983. Applicant: PHILLIPS TRANSPORTATION, INC., 1137 Route 22 East, Mountainside, NJ 07092. Representative: Donald B. Levine, 180

North LaSalle Street, Chicago, IL 60601. *Contract carrier: irregular routes: General commodities (except Classes A and B explosives and household goods) between points in the U.S. (except AK and HI) under continuing contract(s) with Perth Enterprises, Inc., of Greensboro, NC. Supporting shipper: Perth Enterprises, Inc., P.O. box 7040, Greensboro NC 27417.*

THE FOLLOWING APPLICATIONS WERE FILED IN REGION 2. SEND PROTESTS TO: ICC, Fed. Res. Bank Bldg., 101 North 7th St. Rm. 620, Philadelphia, PA 19106.

MC 150511 (Sub-2-16 TA), filed June 13, 1983. Applicant: BETTERN HOME DELIVERIES, INC., 3700 Part East Dr., Cleveland, OH 44122. Representative: Carla T. Novak, 1101 31ST St., Downers Grove, IL 60515. *Contract Irregular: Such commodities as are dealt in or used by retail department stores, between points in MN, on the one hand, and, on the other points in WI, under continuing contract(s) with Target Stores of Minneapolis, MN for 270 days. Supporting shipper: Target Stores, 777 Nicollet Mall, P.O. Box 1392, Minneapolis, MN 55440-3192.*

MC 168175 (Sub-II-1TA), filed June 13, 1983. Applicant: BROADWAY TRUCKING CO., 1649 Broadway, Hanover, PA 17331. Representative: Daniel M. Frey, 31 York St., Hanover, PA 17331. *Contract, irregular: general commodities (except Classes A & B explosives, Household goods as defined by the Commission and commodities in bulk) between Baltimore, MD and Hanover, PA, for 270 days. Under continuing contract(s) with Moller Steamship Company, Inc. Supporting shipper: Moller Steamship Company, Inc., One Work Trade Center, Suite 3527, New York, NY 10048.*

MC 150392 (Sub-II-2TA), filed June 14, 1983. Applicant: FRAN TRAN, INC., 2121 Noblestown, Rd., Pittsburgh, PA 15205. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219. *Contract, irregular: General commodities (except classes A and B explosives, household goods and commodities in bulk) between St. Louis and Herculaneum, MO and Pittsburgh, Allentown and Josephtown, PA, on the one hand, and, on the other, points in the United States under a continuing contract(s) with Hub City Terminals, Inc., St. Louis of St. Louis, MO. An underlying ETA seeks 120 days authority. Supporting shipper: Hub City Terminals, Inc., St. Louis, 11756 Borman Rd., St. Louis, MO 63146.*

MC 168601 (Sub-II-1TA), filed June 14, 1983. Applicant: Jericho Transport Co.,

Inc., 1011 Brook Ave., Secane, Pa. 19018. Representative: Joseph R. Pinto (same address as applicant). *General commodities (except classes A and B explosives, household goods, and commodities in bulk)* between points in the U.S. (except AK and HI) for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s) Boeing Vertol Co., P.O. Box 16858, Philadelphia, Pa. 19142.

MC 150488 (Sub-II-2TA), filed June 13, 1983. Applicant: JOHNNY NELSON LAYNE, Route 3, Box 179-A, Amherst, VA 24521. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Rubber and plastic products*, between Winchester, VA, on the one hand, and, on the other, Cleburne, TX, for 270 days under continuing contract with Rubbermaid Commercial Products, Inc. An underlying ETA seeks 120 days authority. Supporting Shipper: Rubbermaid Commercial Products, Inc., 3124 Valley Avenue, Winchester, VA 22601.

MC 165629 (Sub-2-2TA), filed June 13, 1983. Applicant: LYNCHBURG EXPRESS COMPANY, Wye Switches, P.O. Box 279, Duncansville, PA 16835. Representative: Carl E. Munson, 469 Fischer Building, P.O. Box 796, Dubuque, IA 52001. *Paper and paper products*, (1) From points in Licking County, OH, to points in Blair County, PA; and (2) From points in Blair County, PA, to points in Jefferson County, WV. An underlying ETA seeks 120 days authority. Supporting shipper: North American Envelope Corp., P.O. Box 39, Duncansville, PA 16839.

MC 135962 (Sub-II-1TA), filed June 15, 1983. Applicant: MAR-KAY CARTAGE, INC., 5275 Naiman Parkway, Solon, OH 44139. Representative: Earl N. Merwin, 85 E. Gay St., Columbus, OH 43215. *Contract Irregular: Such commodities as are dealt in or used by retail department stores*, between Randall Park, OH, on the one hand, and, on the other, points in OH, under a continuing contract(s) with IGC Management, Inc., of Pittsburgh, PA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper(s): IGC Management, Inc., 2310 Grant Building, Pittsburgh, PA 15219.

MC 149079 (Sub-II-1TA), filed June 13, 1983. Applicant: WILLIAM MILLICAN, d.b.a. MILLICAN TRANSFER, 2121 Main Street, Victoria, VA 23974. Representative: J. G. Dail, Jr., P.O. Box LL, McLean, VA 22101. *Food and related products*, between the facilities of Dauphin Distribution Service Co., in Cumberland County, PA, on the one hand, and, on the other, points in SC, MD, and those points in NC on and west

of a line beginning at U.S. Hwy 220 at the VA-NC State line and extending to junction U.S. Hwy 1 near Rockingham, NC, and then along U.S. Hwy 1 to the NC-SC State line. Supporting shipper: Dauphin Distribution Service Co., P.O. Box 427, Camp Hill, PA 17011.

MC 168390 (Sub-II-1TA), filed June 14, 1983. Applicant: NEW FRANKLIN TRUCKING COMPANY, Suite 204, 98 Vanadium Rd., Bridgeville, PA 15017. Representative: John C. Fudisco, 1333 New Hampshire Avenue, NW., Suite 960, Washington, DC 20036. *General commodities (except household goods and commodities in bulk)* between points in OH, on the one hand, and, on the other, points in the U.S. in and east of ND, SD, NE, CO, OK and TX. An underlying ETA seeks 120 days authority. Supporting shipper(s): The Franklin Furniture Co., Columbiana, OH; Stearns & Foster Co., Lockland, OH.

MC 107012 (Sub-II-314TA), filed June 13, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Contract irregular: household goods* between points in the US, under continuing contract(s) with NBI, Inc. of Boulder, CO for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: NBI, Inc., 3450 Mitchell Lane, Boulder, CO 80301.

MC 107012 (Sub-II-315TA), filed June 13, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Contract irregular: Household goods* between points in the US, under continuing contract(s) with Commercial Union Insurance Companies, of Boston, MA for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Commercial Union Insurance Companies, One Beacon St., Boston, MA 02108.

MC 107012 (Sub-II-316TA), filed June 13, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy. 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same as applicant). *Contract irregular: household goods* between points in the US, under continuing contract(s) with Babcock and Wilcox Company of Barberton, OH for 270 days. An underlying ETA seeks 120 days authority. Supporting shipper: Babcock and Wilcox Company, 20 Van Buren Ave., Barberton, OH 44203.

MC 107012 (Sub-II-317TA), filed June 13, 1983. Applicant: NORTH

AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801.

Representative: Margaret S. Vegeler (same as applicant). *Contract, irregular: General commodities (except classes A & B explosives and commodities in bulk)* between points in the US under continuing contract(s) with Wood & Hogan, Inc. of New York, NY. An underlying ETA seeks 120 days authority. Supporting shipper: Wood & Hogan, Inc., 305 East 63rd St., New York, NY 10021.

MC 168239 (Sub-II-1TA), filed June 13, 1983. Applicant: SEMINOLE INTERMODAL TRANSPORT, INC., 85 East Gay St., Columbus, OH 43215. Representative: Earl N. Merwin (same as applicant). *General commodities (except household goods and classes A and B explosives)* restricted to traffic having a prior or subsequent movement by rail or water, between points in OH on the one hand, and, on the other, points in KY and IN for 270 days. An underlying eta seeks 120 days authority. Supporting shipper(s) Sea-Land Service, Inc., P.O. 800, Iselin, NJ 08830.

MC 151401 (Sub-II-6TA), filed June 14, 1983. Applicant: TRI-SERVICE, INC., P.O. Box 1419, West Chester, PA 19380. Representative: Daniel B. Johnson, 4304 East-West Hwy., Bethesda, MD 20814. *Such commodities as are used or dealt in by manufacturers of metal and metal products* between points in the U.S. in and east of MN, IA, MO, AR and LA. An underlying ETA seeks 120 days authority. Supporting shipper: RAINAIRE PRODUCTS, INC., 6500 Madison Ave., Pennsauken, NJ 08109.

MC 168635 (Sub-II-1TA), filed June 14, 1983. Applicant: TRUX TRANSPORTATION, INC., 321 Castle Shannon Blvd., Pittsburgh, PA 15234. Representative: Thomas M. Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. *Contract, irregular: General commodities (except Classes A and B explosives, household goods and commodities in bulk)* between points in the U.S. (except AK & HI). Under continuing contract(s) with Coast to Coast Shippers' Association, Inc. Supporting shipper(s): Coast to Coast Shippers' Association, Inc., 101 Kappa Dr., RIDC Park, Harmar Twsp., Blawnox, PA 15238.

The following applications were filed in region 3. Send protests to: ICC, Regional Authority Center, Room 300, 1776 Peachtree Street, N.E., Atlanta, GA 30309.

MC 168758 (Sub-3-1TA), filed June 20, 1983. Applicant: SUNLYNN ENTERPRISES, INC., 510 McDonough

Blvd., S.E., Atlanta, GA 30315.
Representative: Philip L. Martin, 3537 Habersham at Northlake, P.O. Box 450107, Atlanta, GA 30345. *Common: Irregular: General commodities (except commodities in bulk, classes A and B explosives, and household goods) between points in the United States. Supporting shippers: There are 6 supporting shippers. Their statements may be examined at the office listed above.*

MC 164407 (Sub-3-2TA), filed June 20, 1983. Applicant: M/A-COM TRANSPORTATION, INC., P.O. Box 199, Catawba, NC 28609. Representative: Terrell C. Clark, P.O. Box 25, Stanleytown, VA 24168. *Electric Cable, from Dallas, TX to points in the U.S. except AK and HI, under continuing contract(s) with Integral Corporation, Dallas, TX. Supporting shipper: Integral Corporation, P.O. Box 11269, Dallas, TX 75223.*

MC 165399 (Sub-3-5TA), filed June 20, 1983. Applicant: L. S. TRUCKING, INC., 9003 Tara Boulevard, Jonesboro, GA 30236. Representative: Philip L. Martin, 3537 Habersham at Northlake, Post Office Box 450107, Atlanta, Georgia 30345. *Common: Irregular: General commodities (except commodities in bulk, classes A and B explosives, and household goods) between points in the United States. Supporting shippers: There are 5 supporting shippers. Their statements may be examined at the office listed above.*

MC 165399 (Sub-3-1TA), filed June 20, 1983. Applicant: THE TRANSPORT SOURCE, P.O. Box 7040, Greensboro, NC 27417-0040. Representative: Linda A. Carrano, 4414 Tucson Drive, Greensboro, NC 27406. *Contract, irregular—general commodities, excluding household goods, Class A & B explosives and commodities in bulk, between points in the US, (Except AK and HI), under continuing contact with Perth Enterprises Inc. of Greensboro, NC. Supporting shipper: Perth Enterprises, Inc., P.O. Box 7040, Greensboro, NC 27417.*

MC 161091 (Sub-3-2TA), filed June 21, 1983. Applicant: L & M LEASING, 606 Old Liberty Rd., Asheboro, NC 27203. Representative: Blythe Lee Rose (same address as applicant). *Contract: Irregular: Synthetic plastic pellets, materials, supplies and equipment used in the manufacturing, sale or distribution between Asheboro, NC, Chicago, Kankakee, Elk Grove Village, Calumet City, IL; St. Louis, St. Peters, MO; Cincinnati, Akron, OH; New Johnsonville, Nashville, Shelbyville, TN; Atlanta, Washington, College Park, Rome, Covington, GA; Garwood, Edison,*

Piscataway, NJ; Edgemoor, DE; Norcross, GA; Chesapeake, So. Boston, VA; Mauldin, Easley, Greenville, Spartanburg, SC; Opelika, Montgomery, Sylacauga, AL; Appleton, Portage, WI; Philadelphia, PA; Terre Haute, IN; Havre de Grace, MD; Pulaski, NY; Hollywood, Kissimmee, FL; Dallas, Houston, Orange, TX; Los Angeles, Riverside, City of Industry, CA. Supporting shipper: Color Chip Corporation, P.O. Box 717, Asheboro, NC 27203.

MC 168821 (Sub-3-1TA), filed June 22, 1983. Applicant: CAROLINA FEATHER COMPANY, 124 East Main Street, Marshville, NC 28103. Representative: Phillip Edward Sorrell (same address as applicant). *Textiles, from Monroe, NC to Los Angeles, CA, NJ. Supporting shipper: Eastway Mills, Inc., 2806-B Mason Street, Monroe, NC 28110.*

MC 168619 (Sub-3-1TA), filed June 22, 1983. Applicant: T. L. T. TRUCKING, INC., Rt. 1, Box 286, Woodburn, KY 42170. Representative: D. R. Beeler, P.O. Box 482, Franklin, TN 37064. (1) *animal and poultry feed ingredients* between the facilities of Southern States Cooperative, Inc. located at Park City, Owensboro, Taylorsville, Lebanon, Hopkinsville, Bowling Green, Williamsburg, Edmonton, Litchfield, and Glasgow, KY on the one hand, and, on the other, points in IL, OH, AR, and MS; (2) *stone, sand, gravel, and concrete products* in bulk between the facilities of Tri-County Materials located at Rockfield, Scottsville, Jonesville, and Franklin, KY on the one hand, and, on the other, points in GA, MI, IN, TN, and KY; and (3) *fertilizer* between points in KY on the one hand, and, on the other, points in IN, IL, TN, AL, and AR. Supporting shippers: Southern States Cooperative, Inc., P.O. Box 26234, Richmond, VA 23260; Tri-County Materials, P.O. Box 92, Rockfield, KY 42274; Smith Douglas of Kentucky, a Division of Miles Farms, P.O. Box 438, Russellville, KY 42276; Agrico Chemical Company, P.O. Box 308, Beaver Dam, KY 42320.

MC 168756 (Sub-3-11TDA), filed June 20, 1983. Applicant: D & M TRUCKING, Larry T. Morrison, Route One, Box 96-A, Skipperville, AL 36374. Representative: Janm W. Morrison, Route One, Box 96-A, Skipperville, AL 36374. Representative: Jan W. Morrison, Route One, Box 96-A, Skipperville, AL 36374. *Contract Carrier, Irregular Route* between various points in AL, GA, FL, TN, KY, MS, LA and TX. Supporting shippers: St. Regis Paper Co., Allied Operations, P.O. Box 240, Abbeville, AL 36310; Slawson Lumber Co., Inc., P.O. Box 25, Louisville, AL 36048; Southeast

Wood Treating Inc., P.O. Box 25, Louisville, AL 36048.

MC 682, (Sub-3-11TA), filed June 20, 1983. Applicant: BURNHAM SERVICE COMPANY, INC., 5000 Burnham Boulevard, Columbus, GA 31907. Representative: David Earl Tinker, 1000 Connecticut Avenue NW., Suite 1112, Washington, DC 20036-5391. *Contract, irregular household goods, furniture, and fixtures, between points in the US (except AK and HI), under continuing contract(s) with Norfolk Southern Corporation, a Virginia corporation with its principal office located at Norfolk, VA, and its subsidiaries. Supporting shipper: Norfolk Southern Corporation, 8 North Jefferson Street, Roanoke, VA 24042-0056.*

MC 147886 (Sub-3-13TA), filed June 20, 1983. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., 100 N. Main Bldg., Suite 909, Memphis, TN 38103. *Rubber products and related accessories* from Dyersburg, TN, to points in the U.S. (except AK and HI). Supporting shipper: Manville Service Corporation, 2222 Kensington Court, Oak Brook, IL 60521.

The following applications were filed in region 5. Send protest to: Consumer Assistance Center, Interstate Commerce Commission, 411 West 7th Street, Suite 500, Fort Worth, TX 76102.

MC 79658 (Sub-5-27TA), filed June 20, 1983. Applicant: ATLAS VAN LINES, INC., P.O. Box 509, Evansville, IN 47703. Representative: Michael L. Harvey (same). *Contract, Irregular: Exhibits and displays and the material and supplies used as a part of or within such exhibits and displays* between points in the U.S. (exclusive of AK and HI). Supporting shipper: David H. Gibson Company, Inc., Dallas, TX.

MC 121509 (Sub-5-3TA), filed June 23, 1983. Applicant: DAUFALDT TRANSPORT, INC., 618 Clay Street, Muscatine, IA 52761. Representative: WILLIAM L. FAIRBANK, 1300 United Central Bank Building, Des Moines, IA 50309. *Contract, Irregular: Grain products, between Muscatine, IA, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: Grain Processing Corporation, Muscatine, IA.*

MC 123876 (Sub-5-9TA), filed June 22, 1983. Applicant: PRATT TRANSPORTATION CO., INC., P.O. Box 1501, Omaha, NE 68101. Representative: Jack L. Schultz, P.O. Box 82028, Lincoln, NE 68501-2028. *Food and related products, chemicals, cement, petroleum products and fertilizers*

between points in NE, IA, CO, OK, KS, MO, IL, MN, WY, SD, IN and TX. Supporting shippers: 11.

MC 14449 (Sub-5-8TA), filed June 22, 1983. Applicant: A & A CONTRACT CARRIERS, d.b.a. A & A MOVING & STORAGE CO., P.O. Box 1592, Fort Worth, TX 76101. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. Contract, Irregular. *Electronic switching systems, telecommunications equipment, batteries, and related material, equipment and supplies*, between points in the U.S. (except AK & HI), under continuing contract(s) with Digital Switch Corporation, Richardson, TX.

MC 153763 (Sub-5-2TA), filed June 22, 1983. Applicant: GARY NIPPERT TRUCKING, INC., 114 Duffer, Mangum, OK 73554. Representative: James W. Hightower, 5801 Marvin D. Love Freeway, #301, Dallas, TX 75237. *Asphalt in bulk* from Harris County, TX to Dawes County, NE. Supporting shipper: ARMCO, Inc., Middletown, OH.

MC 157347 (Sub-5-1TA), filed June 22, 1983. Applicant: T & B TRANSPORT, INC., P.O. Box 1495, Monahans, TX 79756. Representative: Mike Cotten, P.O. Box 1148, Austin, TX 78767. *Drilling mud and completion fluids, in bulk, in tank vehicles*, from points in Ward County, TX, to points in NM. Supporting shipper: N.L. Baroid, Monahans, TX.

MC 167903 (Sub-5-1 TA), filed June 22, 1983. Applicant: D.N. MEACHAM, d.b.a., Meacham Mobile Home Movers, 6319 Santa Monica, Shreveport, LA 71119. Representative: M. Ward Bailey, 2416 Continental Life Bldg., Forth Worth, TX 76102. *Mobile homes* in towaway service from Shreveport, LA to all points in AR and TX. Supporting shipper(s): Bayou Manufactured Housing, Bossier City, LA; Red River Mobile Homes, Inc., Shreveport, LA; Harper's Holiday Homes, Bossier City, LA; Brewer Quality Homes, Inc., Bossier City, LA; Bossier Mobile Homes, Inc., Bossier City, LA.

MC 168434 (Sub-5-1TA), filed June 20, 1983. Applicant: SUADER INTERNATIONAL, INC., 11511 Katy Freeway, Suite 405, Houston, TX 77079. Representative: Raymond A. Sauder (same as above). Contract: Irregular. *Liquid Sulfur and other sulfur products in bulk*, between points in Lea and Eddie Counties, NM on the one hand, and, on the other, points in Crane, Upton, Pecos, Living, Cochran, Hockley, Dawson, Culberson, Ector, Andrews, Reeves, Gaines, Midland, Yoakum, Ward and Winkler Counties, TX. Under continuing contract with: Arco Petroleum Products Co., Los Angeles, CA; Duval Sales Corp., Div. P2L,

Houston, TX; Amoco Production Co., Artesia, NM.

MC 168541 (Sub-5-1TA), filed June 24, 1983. Applicant: EL TORO EXPRESS, 5517 McNutt, P.O. Box 12487, El Paso, TX 79913. Representative: Paul Mentzel (same as above). *All metal products, finished and unfinished, including pipe, rods, bars and plate—all building materials and supplies including steel products—machinery and supplies—fertilizer—ore—chemicals and cement thereof*, between points in TX, OK, KS, NM, CO, AZ, UT, CA, and NV on the one hand and points in the U.S. (except AK & HI) on the other hand. Supporting shippers: 7.

MC 168694 (Sub-5-2TA), filed June 24, 1983. Applicant: MIDWEST TRANSPORTATION SERVICES, INC., U.S. Hi-Way 59, South, Hancock, IA 51536. Representative: James F. Crosby, 7363 Pacific Street, Suite 210B, Omaha, NE 68114. *Hides*, from Oakland, IA (and points in its commercial zone) to points in CA, IL, KY, ME, MI, MO, GA, IN, NH, NJ, NY, NC, PA, TN, TX, WV, and WI. Supporting shipper: Land O' Lakes, Inc., Spencer Beef Division, Oakland, IA.

MC 168776 (Sub-5-1TA), filed June 21, 1983. Applicant: RANDY LOVE TRUCKING, INC., Rt. 1, Box 121, Viola, AR 72583. Representative: Jay C. Miner, P.O. Box 313, Harrison, AR 72601. *Lumber products, creosote posts, salt, and farm equipment and supplies*, between points in KS, MO, IA, NE and AR, on the one hand, and, on the other, points in the U.S. (except AK and HI). Supporting shipper: 13.

MC 168777 (Sub-5-1TA), filed June 21, 1983. Applicant: ACME TERMINAL WAREHOUSE & STORAGE, INC., P.O. Box 2408, Beaumont, TX 77704. Representative: Doyle G. Owens, P.O. Box 7735, Beaumont, TX 77706. *Containers, component parts and supplies used in the manufacture and distribution of containers*, between points in the Commercial Zone of Beaumont, TX on the one hand and on the other, Birmingham, AL, Montgomery, AL, Little Rock, AR, Texarkana, AR, West Memphis, AR, Atlanta, GA, Newnan, GA, Kansas City, KS, Baton Rouge, LA, Lafayette, LA, New Orleans, LA, Shreveport, LA, Jackson, MS, Hobbs, NM, Oklahoma City, OK, Ponca City, OK and Tulsa, OK. Supporting shipper: United States Steel Corporation, Pittsburgh, PA.

MC 168839 (Sub-5-1TA), filed June 23, 1983. Applicant: HENRY BARDIN, d.b.a. HENRY'S TRUCKING, P.O. Box 482, Tishomingo, OK 73460. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Store fixtures and restaurant equipment*,

between points in AL, AR, CO, IA, IL, KS, KY, LA, MO, MS, NE, NM, OK, TN, TX and WY; restricted to traffic moving for the account of Parish Refrigeration and Fixtures Company. Supporting shipper: Parish Refrigeration & Fixtures Company, Tishomingo, OK.

NC 168872 (Sub-5-1TA), filed June 24, 1983. Applicant: P & P TRUCKING, INC., 102 N. Kimberly, Tecumseh, OK 74873. Representative: William P. Parker, 4400 N. Lincoln, Suite 10, Oklahoma City, OK 73105. *Metal products and machinery, in shipments not to exceed 14,000 pounds per shipment*, between points in Oklahoma, Washington, and Pottawatomie Counties, OK on the one hand, and, on the other, points in the US (except AK and HI). Supporting shippers: Worthington Division, McGraw-Edison Company, Oklahoma City, OK; Standard Pumps, Inc., Dewey, OK; Barton Valve Company, Inc., Shawnee, OK; Petroleum Supply Company, Shawnee, OK.

MC 168347 (Sub-5-1TA), filed June 24, 1983. Applicant: NEW ORLEANS CONTAINER TERMINAL AND DRAYAGE, P.O. Box 26095, New Orleans, LA 70186. Representative: Harold E. Potts (same as above). *General commodities of foreign commerce in Steamship or Railroad containers/trailers*, within the Commercial Zone of the City of New Orleans, LA. Supporting shippers: Kerr Steamship Co., Inc., One Shell Square Bldg., New Orleans, LA. Venezuelan lines, c/o Hansen Tidemann, Inc., New Orleans, LA.

Agatha L. Mergenovich,
Secretary.

[PR Doc. 83-18062 Filed 7-5-83; 9:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30218]

Rail Carriers; Michigan-Wisconsin Transportation Co.; Temporary Exemption From 49 U.S.C. 10901

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission temporarily exempts the acquisition and operation by the Michigan-Wisconsin Transportation Company of the Lake Michigan rail car ferry service between Ludington, MI and Keweenaw, WI from prior approval under 49 U.S.C. 10901.

DATES: Exemption effective on July 1, 1983. Petitions to reopen must be filed by July 26, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. 30218 to:

- (1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423
- (2) Petitioner's Representative, Steven J. Kalish, 1750 Pennsylvania NW., Washington, D.C.

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, D.C. 20423 or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Decided: June 28, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison. Commissioner Andre was absent and did not participate.

Agatha L. Mergenovich,
Secretary.

[PR Doc. 83-18064 Filed 7-5-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. the Philadelphia Produce Credit and Collection Bureau; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. Section 16 (b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Eastern District of Pennsylvania in *United States v. The Philadelphia Produce Credit and Collection Bureau*, Civil Action No. 83-3053. The defendant in the case is The Philadelphia Produce Credit and Collection Bureau. The Complaint in this case alleges that the Bureau and co-conspirators agreed to fix credit terms employed in the sale of produce, in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

The proposed judgment enjoins the Bureau for a period of ten years from participating in: (1) Any agreement concerning the amount, duration, or any other term of credit extended to any customer, and (2) any agreement to withhold credit from any person. The proposed judgment also enjoins the Bureau from using any form or form letter that contains any reference to bills being due within a specified period or on any day of the week. The proposed judgment preserves the right of Bureau

members to offer credit terms and collect debts without using the Bureau.

The proposed judgment requires that notices detailing the rights and obligations of members and their customers be sent to persons affected by the Bureau's credit rules, and requires the Bureau to provide a copy of the proposed judgment to anyone who requests one and pays a reasonable copying fee. It further requires the Bureau for five years to report to the United States actions taken to ensure compliance with the proposed judgment, to provide the United States with a copy of any new rule or by-law promulgated by the Bureau, and to provide the Department of Justice access, upon reasonable notice, to the Bureau's records and personnel to determine its compliance with the judgment.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the *Federal Register* and filed with the Court. Comments should be directed to Alan L. Marx, Chief, General Litigation Section, Antitrust Division, Department of Justice, Washington, D.C. 20530 (telephone 202-724-6327).

Joseph H. Widmar,

Director of Operations.

In the matter of United States District Court, Eastern District of Pennsylvania; United States of America, Plaintiff, [Civil Action No. 83-3053, Filed: June 27, 1983] v. The Philadelphia Produce Credit and Collection Bureau, Defendant.

Final Judgment

Plaintiff, United States of America, having filed its Complaint herein on June 27, 1983, and defendant, by its attorney, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein and without this Final Judgment constituting any evidence against or an admission by any party with respect to any such issue;

Now, therefore, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein and upon consent of the parties hereto, it is hereby,

Ordered, adjudged, and decreed as follows:

I.

This Court has jurisdiction of the subject matter of this action and of each of the parties consenting hereto. The Complaint states a claim upon which relief may be granted under Section 1 of the Sherman Act, 15 U.S.C. 1.

II.

As used in this Final Judgment:

A. "Person" means any individual, partnership, firm, corporation, association, or other business or legal entity;

B. "Produce" means fresh fruits and vegetables;

C. "Member" means any member of the defendant pursuant to the terms specified in its by-laws;

D. "Distributor" means any person engaged, in whole or in part, in the business of distributing produce to restaurants, schools, hospitals, or other businesses that resell produce directly to the consumer; and

E. "The date of entry" means the date on which this Final Judgment is entered by this Court. Acts required to be done "on" an anniversary of the date of entry must be done on or about that date.

III.

This Final Judgment applies to the defendant and to its officers, directors, managers, agents, employees, subsidiaries, successors, and assigns, and to all other persons in active concert or participation with any of them who shall have received actual notice of this Final Judgment by personal service or otherwise.

IV.

The defendant shall require, as a condition of the sale or other disposition of all, or substantially all, of the assets used by it in the collection and distribution of credit information and payments to members by their customers, that the acquiring party agree to be bound by the provisions of this Final Judgment, and that such agreement be filed with the Court.

V.

The defendant is enjoined and restrained from directly or indirectly entering into, adhering to, enforcing, or maintaining any contract, understanding, rule, by-law, regulation, plan, or program with or affecting any member or distributor which:

(a) Fixes, maintains, or establishes the length of time which that member or distributor grants or allows customers before payment for produce sold becomes due;

(b) Prevents or interferes with the granting of credit to any person by any member or distributor;

(c) Prevents or interferes with the collecting of any amount due for a sale on credit by any member or distributor attempting such a collection without using the services of defendant; or

(d) Fixes, maintains, or establishes the amount or any term or condition of credit which any member or distributor

grants or offers to any person in connection with the sale of produce.

VI.

A. Nothing contained in this Final Judgment shall prevent the defendant from circulating to members: (1) Information concerning the payment history of any person, or (2) the fact that information concerning the credit worthiness of any person is unavailable.

B. Nothing contained in this Final Judgment shall prevent the defendant from: (1) Collecting payment of credit extended by any member if the member requests the defendant to collect such payment (a member's request that the defendant collect a debt may be expressed by the member sending a credit-bill or invoice to the defendant in the normal course of business), (2) conducting credit investigations on behalf of members for the purpose of obtaining credit information for circulation to members, or (3) conducting its business in any other reasonable, lawful, commercial fashion.

VII.

The defendant is enjoined from using any form or form letter which refers to bills being due: (a) Within 10 days of purchase, (b) within any other specified time from purchase, or (c) on a specified day of the week, except as provided in the notices that this Final Judgment requires the defendant to provide to its members and their customers.

VIII.

The defendant is hereby ordered:

A. To inform members, by providing them with a notice in the form of Exhibit A attached hereto, within thirty (30) days of the date of entry, and again six months after the date of entry, and on the anniversary of the date of entry for three (3) years: (a) Of the substance of the terms of the Final Judgment; (b) that each of them must individually establish terms and conditions of sale; (c) that each of them is free to extend credit to any person or firm whatsoever; and (d) that the billing and collection services of the defendant can be used in connection with credit extended to any person for any period of time;

B. To inform those customers of its members to whom the Bureau mails bills, by providing them with a notice in the form of Exhibit B attached hereto, within thirty (30) days of the date of entry, and again six months after the date of entry, and on the anniversary of the date of entry for three (3) years: (a) Of the substance of the terms of the Final Judgment; (b) that members are free to offer any terms and conditions of sale they choose; (c) that members are

free to offer credit to any person or firm they desire; and (d) that the billing and collection services of the defendant can be used in connection with credit extended to any person for any period of time;

C. Within thirty (30) days from the date of entry, and on the anniversary of the date of entry for a period of five (5) years, to notify each of its officers, managers, and employees who have contact with members or their customers, of the obligations imposed on each of them by this final judgment;

D. To have copies of this Final Judgment, including Exhibits A and B, available for public inspection in its offices, and to provide a copy to any person who requests one for a reasonable copying fee; and

E. Within sixty (60) days from the date of entry, and on the anniversary of the date of entry for a period of five (5) years, to inform plaintiff of actions taken to ensure compliance with this Final Judgment, and to provide plaintiff a copy of any rule or by-law enacted by the defendant within the preceding year.

IX.

For the purpose of determining or securing compliance with this Final Judgment, and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to the defendant made to its principal office, be permitted:

(1) Access during office hours of defendant to inspect and copy all books, ledgers, accounts correspondence, memoranda, and other records and documents in the possession or under the control of defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

(2) Subject to the reasonable convenience of defendant and without restraint or interference from it, to interview officers, employees, and agents of defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division made to defendant's principal office, defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment.

No information or documents obtained by the means provided in this Section IX shall be divulged by any

representative of the Department of Justice to any person other than a duly authorized representative of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party, or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by defendant to plaintiff, defendant represents and identifies in writing the material in any such information or documents for which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and the defendant marks each pertinent page of such material, "Subject to Claim of Protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then plaintiff shall give ten days notice to the defendant before divulging the material in any legal proceeding (other than a grand jury proceeding) to which the defendant is not a party.

X.

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of its provisions, for the enforcement of compliance with it or for the punishment of any violation of it.

XI.

This Final Judgment shall be in effect for the period of ten years following the date of entry.

XII.

Entry of this Final Judgment is in the public interest.

Norma Shapiro,
United States District Judge.

Exhibit A—Members of the Philadelphia Produce Credit and Collection Bureau

The United States Department of Justice, in June 27, 1983, filed a complaint in United States District Court in Philadelphia alleging that The Philadelphia Produce Credit and Collection Bureau (the "Bureau") had violated the Sherman Antitrust Act by engaging in a combination and agreement to fix and maintain credit terms employed in the sale of produce. The complaint alleged that in pursuit of their agreement, the Bureau and others, among other things, had:

(a) Agreed to fix the length of time for which Bureau members extend credit to customers;

(b) Agreed to withhold credit from customers who did not pay their bills within the terms the Bureau established; and

(c) Agreed to withhold credit from customers who did not establish credit through the Bureau.

The Bureau, without making any admission of wrongdoing or violation of any law, entered a consent decree with the government settling the lawsuit. The decree has now been entered by the Court. It requires that we publish this notice so that you understand the decree. A copy of the entire decree is attached, and copies of the decree will be available at the Bureau's office. Violations of the decree can be punished as civil or criminal contempt of court. The Bureau and any person who participated in any such violation could be prosecuted, so it is important that you understand and comply with the decree.

Under the decree, the Bureau cannot have any agreement like those described above with any member or other produce distributor. Accordingly, you are free to establish your own credit terms with your customers. You can extend credit to anyone you like, including "unapproved" accounts and "delinquents." Previous notices to the contrary that the Bureau sent you are no longer valid. You can extend credit for any period of time you desire. Also, the Bureau cannot agree with any member or distributor as to the amount of credit they should give their customers.

The Bureau will continue to collect payment for your bills and distribute information to you concerning the identity of persons who do not pay their bills on time and provide other credit information regarding your customers. You can use this information as you see fit. If you extend credit to persons on a list of delinquents, the Bureau will attempt to collect such bills for you and continue to provide its other normal services.

A notice similar to this one is being sent to your customers with their bills. The decree requires this also. Therefore, you may have customers attempt to negotiate different credit terms than you have had in the past. This does not concern the Bureau, except that we need to know your terms of sale so that we will know when debts become overdue. We need this information to continue supplying you with information on the credit worthiness of your customers and to collect overdue accounts.

The U.S.D.A. regulations regarding prompt payment continue to be in effect. If you and your customer do not discuss when payment of a credit bill is due, and you have no announced terms, then

payment is due in 10 days under current regulations. However, under the regulations, you can establish any other length of credit you desire, and payment within those terms constitutes the prompt payment required by the Perishable Agricultural Commodities Act of 1930 (commonly known as the "PACA").

Finally, in choosing what terms of sale you offer to your customers, you cannot reach any understanding or agreement with any other Bureau member or distributor regarding credit terms. Any such agreement or understanding would violate the Sherman Antitrust Act and could subject you to civil or even criminal prosecution. You may, of course, make any credit terms of sale with your customers as you see fit. You may require that payment of credit purchases be made in any period of time that is agreeable to you and your customer.

Exhibit B—Customers of Members of the Philadelphia Produce Credit and Collection Bureau

The United States Department of Justice, on June 27, 1983, filed a complaint in United States District Court in Philadelphia alleging that The Philadelphia Produce Credit and Collection Bureau (the "Bureau") had violated the Sherman Antitrust Act by engaging in a combination and agreement to fix and maintain credit terms employed in the sale of produce. The complaint alleged that in pursuit of their agreement, the Bureau and others, among other things, had:

(a) Agreed to fix the length of time for which Bureau members extend credit to customers;

(b) Agreed to withhold credit from customers who did not pay their bills within the terms the Bureau established; and

(c) Agreed to withhold credit from customers who did not establish credit through the Bureau.

The Bureau, without making any admission of wrongdoing or violation of any laws, entered a consent decree with the government settling the lawsuit. The decree has now been entered by the Court. It requires that we publish this notice so that you understand the decree. A copy of the entire decree is available at the Bureau's office.

Under the decree, the Bureau cannot have any agreement like those described above with any member or other produce distributor. Accordingly, our members are free to establish their own credit terms with you, their customers. Members can extend credit to anyone they like, including "unapproved" accounts and "delinquents." Members

can extend credit for any period of time they desire. Also, the Bureau cannot agree with any member as to the amount of credit it should give its customers.

The Bureau will continue to collect payment for members' bills and distribute information to members concerning the identity of persons who do not pay their bills on time, and provide other credit information regarding customers. Members can use this information as they see fit. If a member decides to extend credit to a person on a list delinquents, the Bureau will, if the member desires, attempt to collect that bill and will not interfere with the member's right to make such a sale.

The U.S.D.A. regulations regarding prompt payment continue to be in effect. If you and one of our members do not discuss when payment of a credit bill is due, and the member has no announced term, then payment is due in 10 days under current regulations. However, under the regulations, members can establish any other length of credit they desire, and payment within those terms constitutes the prompt payment required by the Perishable Agricultural Commodities Act of 1930 (commonly known as the "PACA").

Competitive Impact Statement

Pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b), the United States files this Competitive Impact Statement, relating to the proposed Final Judgment submitted for entry in this case.

I. Nature and Purpose of the Proceeding

On June 27, 1983, the United States filed a civil antitrust suit alleging that The Philadelphia Produce Credit and Collection Bureau (the "Bureau") participated in a conspiracy to fix credit terms in the sale of produce from 1896 until the date of filing of the complaint. The Bureau is a Pennsylvania corporation doing business in Philadelphia, Pennsylvania. It is an organization with 48 members, each of which is an independent wholesale produce firm doing business in the terminal market on Galloway Street in South Philadelphia.

The complaint alleges that the Bureau and co-conspirators agreed to fix credit terms employed in the sale of produce in violation of Section 1 of the Sherman Act (15 U.S.C. 1). The complaint asks the Court to: (1) Find that the defendant violated the Sherman Act; (2) enjoin the defendant from continuing or renewing the conspiracy; and (3) require that notices be sent to Bureau members and

their customers informing them of entry of the judgment.

On the same day the complaint was filed, the parties filed a proposed Final Judgment, Stipulation, and this Competitive Impact Statement. Under the Stipulation, the proposed Final Judgment may be entered after compliance with the Antitrust Procedures and Penalties Act. Entry of the proposed Final Judgment will terminate the action. The Court will retain jurisdiction to interpret, modify or enforce compliance with the provisions of the proposed Final Judgment.

II. Practices and Events Giving Rise to the Alleged Violation

Bureau members are independent produce distributors. The Bureau serves as the billing office of its members. It receives payment for goods sold on credit and collects debts not paid on time. The Bureau also distributes credit information and lists of delinquent customers to its members. The complaint alleges that the Bureau and co-conspirators restrained trade by entering an agreement to fix and maintain credit terms employed in the sale of produce.

The Bureau was formed in 1896. Until late in 1982, the Bureau's by-laws provided that all credit extended by members in the sale of produce was due on the Saturday following the sale. Bureau members complied with this agreement. The by-laws also provided that the names of customers who did not pay bills by the Wednesday following the week of sale would be circulated to all Bureau members. Members of the Bureau agreed not to sell on credit to any person reported as delinquent, and until 1972 this agreement was reflected in the Bureau's by-laws. As recently as November 1981, the Bureau fined a member \$250 for making a credit sale to a person on the Bureau's delinquent list. In addition, members of the Bureau agreed not to grant credit to customers who had not obtained credit approval from the Bureau. These two agreements are alleged to have been entered for the purpose of forming and effectuating the conspiracy to fix credit terms.

Throughout recent years the Bureau regularly informed members and their customers of these agreements. For example, in collecting payments for amounts due its members the Bureau weekly sent each customer its bills incurred in dealings with all Bureau members that week. Along with the bills the Bureau sent a form stating that all bills were due pursuant to the terms of the agreement challenged in this action. Similarly, the Bureau regularly reminded members not to sell to persons identified

on a list circulated to members or to unapproved accounts. It also informed members when those who broke the rules were disciplined.

In December 1981 the Bureau obtained a copy of an Antitrust Division business review letter in another matter which stated that agreements among competitors on credit terms are unlawful. The Bureau then wrote the Antitrust Division concerning Certain Bureau practices. In March 1982 the Division replied, stating that the practices described in the Bureau's letter appeared to violate the Sherman Act, and asking that specific steps be taken to remedy this situation. The Bureau did not respond to this letter in a satisfactory manner, but instead denied that it was engaged in the type of activity which would violate the Sherman Act.

In May 1982 the Antitrust Division open an investigation to determine whether or not the Bureau was violating or had violated the Sherman Act. The investigation revealed, as the complaint alleges, that the defendant and co-conspirators had agreed to fix and maintain credit terms employed in the sale of produce.

III. Explanation of the Proposed Final Judgment

The United States and the defendant have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the Antitrust Procedures and Penalties Act. The proposed Final Judgment does not constitute an admission by any party as to any issue of law or fact. Under the provisions of the Antitrust Procedures and Penalties Act, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed judgment is in the public interest.

The proposed Final Judgment contains two principal forms of relief. First, the defendant is enjoined from repeating the behavior that constituted the conspiracy. Second, the proposed judgment places an affirmative obligation on the defendant to provide notice of this action to persons affected by the Bureau's rules as they relate to credit.

A. Prohibited Conduct. Section V of the proposed judgment enjoins certain agreements with members or other distributors. Section V(a) enjoins all agreements on the time for which distributors extend credit. This was the heart of the alleged violation. Section V(b) bans agreements to withhold credit from any person. This prohibits the alleged ancillary agreements to withhold credit from delinquents and unapproved

accounts. Section V(c) preserves the right of members to collect credit without using the Bureau. This prevents the bureau from policing credit restrictions by requiring members to allow the Bureau to collect all credit that members extend. Finally, Section V(d) enjoins agreements regarding the amount or any other term of credit that distributors grant. This covers agreements on dollar limits, interest charges, or any other term of credit.

Section VII enjoins use of forms and form letters that contain any reference to bills being due within a specified number of days, or on any day of the week. As indicated above, the Bureau has employed several forms of this nature. This prohibition is meant to bring the impropriety of Bureau use of such forms to the attention of Bureau officials and to ensure that such forms will not be used in the future.

Section VI indicates that the proposed judgment does not interfere with the legitimate functions of the Bureau. It states that the Bureau can collect and circulate credit information, that it can collect bills, and that it can conduct its business in any other reasonable, lawful, commercial fashion.

B. Affirmative Obligations of the Defendant. Section IV requires the defendant, as a condition of the sale of all or substantially all of its assets used by it in collecting and distributing credit information and payments, to require the purchaser to agree to be bound by the Final Judgment and to file the agreement with the Court.

Section VIII requires that notices be sent to persons affected by the Bureau's credit rules. Section VIII A requires notices to members. Section VIII B requires notices to customers of members who receive bills through the Bureau. Both groups were recipients of Bureau information regarding credit restrictions in the past. The notices, attached as exhibits to the proposed judgment, spell out the rights and obligations of members, their customers, and the Bureau so that all know what is allowable behavior.

The notices refer to the Perishable Agricultural Commodities Act of 1930, 7 U.S.C. 499(a)-(s). That Act requires, *inter alia*, that dealers must pay promptly for fresh fruits and vegetables. 7 U.S.C. 499(b)(4). United States Department of Agriculture rules provide that prompt payment within the meaning of the Act is payment within any agreed-upon time period or, in the absence of agreement, payment within ten days. 7 CFR 46.2(aa). The proposed judgment does not interfere with this scheme.

Section VIII C requires that the Bureau, within 30 days of entry of the judgment and annually for five years, notify its officers, managers, and certain employees of the obligations imposed on each of them by the proposed judgment. Section VIII D requires the Bureau to provide a copy of the proposed judgment to anyone who requests one and pays a reasonable copying fee. Section VIII E requires the Bureau for five years to report to the United States actions taken to ensure compliance with the proposed judgment and to provide a copy of any new rule or by-law. Thus, the United States will receive reports which will allow it to police compliance with the notice provisions.

Finally, under Section IX of the proposed Final Judgment, the Justice Department will have access, upon reasonable notice, to the defendant's records and personnel to determine its compliance with the Final Judgment and may require the defendant to submit written reports with respect to any of the matters contained in the Final Judgment.

IV. Competitive Effect of the Proposed Final Judgment

The relief encompassed in the Final Judgment is aimed at preventing any recurrence of the activities described in the complaint, and at educating Bureau members and their customers concerning their right to negotiate terms of sale. Agreements on credit terms interfere with the normal operation of competitive forces in the marketplace and, accordingly, result in artificially determined price levels.

Entry of the Final Judgment will ensure that each member of defendant independently determines its terms and conditions of credit in the sale of produce. This assurance is primarily provided by Sections V and VII, which forbid all agreements relating to credit and prohibit the Bureau from using forms which suggest the existence of common credit terms among members. In addition, the notice requirements of Section VIII will ensure that both members and their customers will receive notices informing them that any Bureau member is free to offer whatever credit terms it chooses. This should stimulate bargaining over credit terms and allow the level of credit in the market to reach its competitive equilibrium. Indeed, the fact that the Bureau will no longer have the power to enforce the agreements on credit will immediately result in a more competitive marketplace, since in the past the Bureau regularly found it necessary to take steps aimed at ensuring compliance with those

agreements. After entry of the proposed judgment, members who independently determine their terms and conditions of sale will have no reason to fear retribution by the Bureau.

V. Remedies Available To Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages such person has suffered, as well as costs and reasonable attorneys fees. Entry of the proposed Final Judgment in the proceeding will neither impair nor assist the bringing of any such private antitrust action. Under Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the proposed judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendant.

VI. Procedures Available for Modification of the Proposed Final Judgment

The proposed Final Judgment is subject to a stipulation between the United States and the defendant providing that the United States may withdraw its consent to the proposed judgment at any time before it is entered by the Court. The Antitrust Procedures and Penalties Act conditions entry upon the Court's determination that the proposed judgment is in the public interest. Under Section X of the proposed Final Judgment, the Court would retain jurisdiction over this action in order, among other things, to permit either party to apply for any necessary or appropriate modification of the proposed judgment or construction of its provisions.

The Antitrust Procedures and Penalties Act provides a period of at least sixty days preceding the entry of the proposed Final Judgment within which any person may submit to the United States comments regarding the proposed Final Judgment. The United States will evaluate the comments and determine whether it should withdraw its consent. The comments and the response of the United States to the comments will be filed with the Court and published in the Federal Register in accordance with the Antitrust Procedures and Penalties Act.

Written comments should be submitted to: Alan L. Marx, Chief, General Litigation Section, Antitrust Division, U.S. Department of Justice, Washington, D.C. 20530.

VII. Alternatives to the Proposed Final Judgment

This proceeding does not involve any unusual or novel issues of fact or law which might make litigation a more desirable alternative than entry of the Final Judgment. All relief requested in the Complaint is included in the proposed Final Judgment.

The only alternative to a judgment such as that now proposed that the United States considered was seeking changes in Bureau practices without initiating court action. However, as discussed above in section II, the Bureau did not respond positively to the initial suggestions of the United States in this regard. The investigation which ensued convinced the United States that effective relief required entry of an enforceable court order such as that now proposed.

VIII. Determinative Documents

There are no materials or documents that the United States considered determinative in formulating this proposed Final Judgment. Accordingly, none are being filed along with this Competitive Impact Statement.

Dated: June 27, 1983.

Respectfully submitted,

Kenneth L. Jost, Michael P. Lindemann,
United States Department of Justice,
Antitrust Division, Washington, D.C.
20530, (202) 724-6468. Attorneys for the
United States.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

1. The parties consent that the Court may file and enter a Final Judgment in the form attached to this Stipulation, on the Court's own motion or on the motion of any party at any time after compliance with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)-(h), and without further notice to any party or other proceedings, if plaintiff has not withdrawn its consent, which it may do at any time before the entry of the judgment by serving notice of its withdrawal on defendant and filing that notice with the Court.

2. In the event plaintiff withdraws its consent or if the proposed Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

For the Plaintiff: Helmut F. Furth, Acting
Assistant Attorney General, Antitrust

Division. Joseph H. Widmar, Alan L. Marx, Kenneth L. Jost, Michael P. Lindemann, Attorneys for the United States. United States Department of Justice, Antitrust Division, Washington, D.C. 20530.

For the defendant: Stephen C. Josel, *Josel & Rosen, P.C., Suite 1030, 1315 Walnut Street, Philadelphia, PA 19107. Attorney for The Philadelphia Produce Credit and Collection Bureau.*

[FR Doc. 83-18031 Filed 7-5-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL SCIENCE FOUNDATION

Availability of Advisory Committee Reports of Closed Meetings—1982

The National Science Foundation has filed with the Library of Congress reports of those advisory committees which held any closed or partially closed meetings in 1982. The reports were filed in accordance with the Federal Advisory Committee Act, Pub. L. 92-463, and are available for public inspection and use at the Library of Congress, Room 632, Madison Building, First and Independence Avenue, S.E. Washington, D.C. and at the National Science Foundation Committee Management Office, Room 217-A, Washington, D.C. The names of the committees submitting reports are:

1. Advisory Committee for Behavioral and Neural Sciences.
2. Advisory Committee for Chemistry.
3. Advisory Committee for Environmental Biology.
4. Advisory Committee for Materials Research.
5. Advisory for Physics.
6. Advisory Panel for Physiology, Cellular and Molecular Biology.
7. Advisory Committee for Policy Research and Analysis and Science Resources Studies.
8. Advisory Panel for Social and Economic Science.
9. Alan T. Waterman Award Committee.
10. President's Committee on National Medal of Science.

Dated: June 30, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-18004 Filed 7-5-83; 8:45 am]

BILLING CODE 7555-01-M

Committee on Equal Opportunities in Science and Technology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee on Women in Science and Technology.

Place: Rm. 540, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Date: Thursday and Friday, July 21-22, 1983.

Time: Thursday, 9-5 p.m.; Friday, 9-3 p.m.

Type of Meeting: Open.

Contact person: Ms. Jane Stutsman, Executive Secretary of the Committee, National Science Foundation, Rm. 428, 1800 G Street NW., Washington, D.C. 20550 Telephone: 202/357-7835.

Purpose of committee: Responsible for all Committee matters relating to the participation in an opportunities for education, training, and research for women in science and technology, and the impact of science and technology on women.

Summary minutes: May be obtained from the contact person at the above stated address.

Agenda: The Subcommittee is asked to consider mechanisms to increase participation of women in Foundation programs and research projects; to provide advice to the Director for the modification of NSF policies and procedures relating to women appointments on advisory committees, as well as to suggest a modification of the internal distribution of funds to implement this program.

M. Rebecca Winkler,

Committee Management Coordinator.

June 30, 1983.

[FR Doc. 83-18005 Filed 7-5-83; 8:45 am]

BILLING CODE 7555-01-M

Availability of Advisory Committee Reports

The National Science Foundation has filed with the Library of Congress reports of the NSF Advisory Committee listed below.

The reports were filed as required by the Federal Advisory Committee Act and are available for public inspection and use at the Library of Congress, Room 632, Madison Building, First and Independence Avenue, SE., Washington, D.C., and at the Committee Management Office, Room 217-A, National Science Foundation, Washington, D.C.

The names of the committees and titles of the reports are:

1982 Reports

- NSB Commission on Precollege Education in Mathematics, Science and Technology
 - Today's Problems, in Tomorrow's Crisis—October 1982
- Advisory Committee on Equal Opportunities in Science and Technology

—Annual Report—October 1982
National Science Foundation Advisory Council

—Maximum Leverage from Limited Resources—TG 18—May 1982
—Science and Technology Policy Resources in the National Science Foundation—TG 19—May 1982
—Relationship of NSF Programs to DOD Activities—TG 20—May 1982

Advisory Committee for Information Science and Technology

—Research Opportunities in Information Science and Technology—December 1982

Advisory Panel for Environmental Biology

—Report of the Oversight Committee for the Ecosystem Studies Program—August 1982

Advisory Committee for Chemistry

—A Summary of Trends in Chemistry—September 1982

Advisory Committee for Materials Research

—Metallurgy Program External Peer Oversight Report—October 1982

—Condensed Matter Theory Program Oversight Report—December 1982

—Solid State Chemistry Program Oversight Report—December 1982

Advisory Committee for Mathematical and Computer Sciences

—1980-1981 Annual Report of the Subcommittee for Mathematical Sciences—March 1982

Oversight Reports of the Subcommittee for Mathematical Sciences October 1982

—Special Projects

—Classical Analysis

—Modern Analysis

—Topology and Foundations and Geometric Analysis

—Algebra and Number Theory

—Applied Mathematics

—Statistics and Probability

Advisory Committee for Physics

—Review of the National Science Foundation Nuclear Science Programs—October 1982

Advisory Panel for Physiology, Cellular and Molecular Biology

—Oversight Report on Cellular and Physiological Biosciences Section—September 1982

Advisory Committee for Policy Research and Analysis and Science Resources Studies

—External Peer Oversight—December 1982

Advisory Committee for Engineering

—Summary Report of the National Science Foundation Chemical and Process Engineering Division

—Advisory Subcommittee—June 1982

—Subcommittee Report of the Subcommittee on Civil and

- Environmental Engineering—
November 1981
Advisory Committee for Atmospheric
Sciences—November 1982
—Report of the Working Group
Reviewing Atmospheric Chemistry
—Report of the Climate Dynamics
Program
—Report of the Experimental
Meteorology and Weather
Modification Program
—Report of the Aeronomy Program.

Dated: June 30, 1983.

M. Rebecca Winkler,
Committee Management Coordinator.

[FR Doc. 83-18082 Filed 7-5-83; 8:45 am]

BILLING CODE 7555-01-M

UNITED STATES NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-348 and 50-364]

Alabama Power Company; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-2 and NPF-8, issued to Alabama Power Company (the licensee), for operation of the Joseph M. Farley Nuclear Plant Unit Nos. 1 and 2 (the facilities) located in Houston County, Alabama.

The amendments would clarify a Technical Specification action statement to allow operating flexibility and to define rod inoperability as being due to a rod control system problem. These revisions to the Technical Specifications would be made in response to the licensee's application for amendments dated March 4, 1983.

Before issuance of these proposed license amendments, 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 these amendments request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facilities in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of 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 considered not likely to involve a significant hazards consideration is example (f) which relates to a purely administrative change to Technical Specifications. The change being proposed to the Technical Specification is administrative in that it is a clarification to define "control rod inoperable" as due to a rod control system problem. Without this clarification, the licensee has in several cases been near the point of unnecessarily shutting down the reactor. The six hour shutdown requirement as well as the existing rod indication limits of the same Technical Specification would be unaffected by the proposed clarification. Therefore, the previously reviewed actions to require reactor shutdown for an inoperable control rod are unchanged.

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 August 5, 1983, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facilities operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set

forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendments 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 amendments request involve no significant hazards consideration, the Commission may issue the amendments and make them effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendments.

If the final determination is that the amendments involve a significant

hazards consideration, any hearing held would take place before the issuance of any amendments.

Normally, the Commission will not issue the amendments 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 facilities; the Commission may issue the license amendments before the expiration of the 30-day notice period, provided that its final determination is that the amendments involve 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 Steven A. Varga, Chief, Operating Reactors Branch No. 1, Division of Licensing: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to George F. Trowbridge, Esquire, 1800 M Street, 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 amendments which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Dated at Bethesda, Maryland, this 29th day of June 1983.

For the Nuclear Regulatory Commission,
Steven A. Varga,

Chief, Operating Reactors Branch No. 1,
Division of Licensing.

[FR Doc. 83-18101 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-324 and 50-325; License Nos. DPR-71 and DPR-62; EA-82-106]

Carolina Power & Light Co.; Brunswick Steam Electric Plant; Units 1 and 2; Order Imposing Civil Monetary Penalties

I

Carolina Power and Light Company, 411 Fayetteville Street, Raleigh, North Carolina 27602 (the "licensee") is the holder of License Nos. DPR-71 and DPR-62 (the "license") issued by the Nuclear Regulatory Commission (the "Commission"). The licenses authorize operation of the Brunswick Steam Electric Plants Units 1 and 2 near Southport in Brunswick County, North Carolina under certain specified conditions and are due to expire on February 6, 2010 for DPR-62 and February 7, 2010 for DPR-71.

II

An inspection of the licensee's activities under the license was conducted on July 12-14, 1982 and July 20-22, 1982 at the Brunswick Steam Electric Plant, Brunswick County, North Carolina. As a result of this inspection, it appears that the licensee has not conducted its activities in full compliance with the conditions of its license. A written Notice of Violation and Proposed Imposition of Civil Penalties was served upon the licensee by letter dated February 18, 1983. The Notice stated the nature of the violation, the provisions of the NRC requirements which the licensee had violated, and the amount of civil penalty imposed for each violation. A response dated May 2, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalties was received from the licensee.

III

Upon consideration of the answers received and the statements of fact, explanation, and arguments for remission or mitigation of the proposed civil penalties contained therein, as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed.

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, PL 96-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the amount of Six-Hundred Thousand Dollars within thirty 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, U.S. NRC, Washington, DC 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, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. A copy shall also be sent to the Executive Legal Director at the same address. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Upon failure of the licensee to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

VI

In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) Whether the licensee violated NRC requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties and;

(b) Whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland, this 28th day of June 1983.

For the Nuclear Regulatory Commission.
Richard C. DeYoung,
Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

The licensee's May 2, 1983 response to the Notice of Violation and Proposed Imposition of Civil Penalties for Carolina Power and Light Company's (CP&L) Brunswick Steam Electric Plant Units 1 and 2, dated February 18, 1983, requests mitigation of the amount of the civil penalties and provides the reasons why the licensee believes mitigation of penalties is appropriate. The licensee's arguments in support of mitigation are addressed below.

Licensee's Assertion: Penalties of this magnitude are not necessary to obtain management attention to the problems at Brunswick or to remove any incentive for continued operation and postponement of corrective action because CP&L has demonstrated that the problems have top management attention as is evident from the fact that Brunswick management decided to keep Brunswick Units 1 and 2 out of service during the summer of 1982 during the summer peak load and three days prior to the beginning of a rate request hearing.

Response: CP&L's shutdown of the Brunswick units was not entirely voluntary since CP&L determined that it could not complete all of the required surveillance tests within the time allotted by the technical specification limiting conditions for operation. Once shut down, restart without thoroughly examining all surveillance procedures to ensure compliance with technical specifications would not have been a responsible action. Furthermore, the penalties should be imposed to ensure that management attention remains focused on the problems at Brunswick until those problems are solved.

Licensee's Assertion: The penalties should be mitigated because CP&L already incurred a significant financial loss amounting to millions of dollars directly attributable to its self-evaluation and improvement efforts.

Response: Immediate shutdown when warranted, aggressive action to isolate and correct problems and preclude similar problems, and the commitment of management resources are expected responses to the identification of significant violations of regulatory requirements. Although the financial costs associated with such actions provide incentives to comply with NRC requirements, civil penalties provide additional incentives and serve to emphasize the importance that the NRC attaches to compliance with its requirements.

Licensee's Assertion: The civil penalties will have a deleterious effect on the industry as a whole because it could be interpreted as a signal that voluntary action and scrupulous self-appraisal and reporting is not rewarded or encouraged by the NRC.

Response: CP&L's actions were not voluntary. They were required to correct the significant problems identified at the Brunswick site. Furthermore, the licensee was warned several months earlier when other violations were identified that problems existed that required attention. Yet, the

licensee waited until these very significant violations were identified before initiating far-reaching corrective actions. Contrary to the licensee's assertion, mitigation of the proposed penalties under these circumstances would send the message to industry that a licensee will be rewarded even if it only recognizes the scope of its problems after significant violations are identified. This is not the message that the NRC wishes to convey.

[PR Doc. 83-18102 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-358]

Cincinnati Gas & Electric Co.; (William H. Zimmer Nuclear Power Station); Request for Action Under 10 CFR 2.206

Notice is hereby given that by its letter dated May 25, 1983, the Miami Valley Power Project (MVPP) requested that the Nuclear Regulatory Commission modify the Director's Decision (DD-83-2) under 10 CFR 2.206 issued by the Director of the Office of Inspection and Enforcement on February 10, 1983, and modify the Order to Show Cause and Order Immediately Suspending Construction (CLI-82-33) issued by the Commission to the Zimmer facility on November 12, 1982. MPP bases its request upon contradictions it alleges exist between NRC and Cincinnati Gas and Electric Company findings, alleged prejudice by the utility of the findings of the Zimmer independent management review currently being conducted, and the pending litigation between the corporate partners for the Zimmer project. MVPP's letter has been referred to the staff for consideration as a request for action pursuant to 10 CFR 2.206 of the Commission's regulations, and accordingly, appropriate action will be taken within a reasonable time. Copies of the request are available for inspection in the Commission's public document room, located at 1717 H Street, N.W., Washington, D.C. 20555, and in the local document room for the Zimmer facility, located at the Clermont County Library, Third and Broadway Streets, Batavia, Ohio. 45103.

Dated at Bethesda Maryland, this 27th day of June 1983.

For the Nuclear Regulatory Commission.
Richard C. DeYoung,
Director, Office of Inspection and Enforcement.

[PR Doc. 83-18103 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-456 & 50-457;
 Construction Permit Nos. CPPR-132; CPPR-133; EA 82-136]

Commonwealth Edison Co. (Braidwood Station Units 1 and 2); Order Imposing Civil Monetary Penalties

I

Commonwealth Edison Company (the "licensee") is the holder of Construction Permit No. CPPR-132 and No. CPPR-133 issued by the Nuclear Regulatory Commission (the "Commission"). These permits authorize the construction of Units 1 and 2 of the Braidwood Station. These permits were issued on December 31, 1975.

II

As a result of a routine inspection during the period April 19 through July 20, 1982 and a special inspection on September 8-10, 1982 by the Nuclear Regulatory Commission's Region III Office, the NRC staff determined that the licensee did not adequately document and implement a quality assurance program to ensure that the installation and installation inspection of mechanical safety-related equipment was carried out in accordance with the requirements of 10 CFR Part 50, Appendix B. The NRC served on the licensee a written Notice of Violation and Proposed Imposition of Civil Penalties by letter dated February 2, 1983. The Notice stated the nature of the violations, the provisions of the Nuclear Regulatory Commission's regulations that were violated, and the amount of the civil penalty proposed for each violation. The licensee responded to the Notice of violation and Proposed Imposition of Civil Penalties with a letter dated April 4, 1983.

III

Upon consideration of Commonwealth Edison Company's response and the statements of fact, explanation, and argument in denial or mitigation contained therein as set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties, as modified by the Appendix to this Order, should be imposed.

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. 98-295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of One Hundred 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 30 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 30 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.

VI

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 requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above, as modified by the Appendix to this order, and

(b) Whether on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 27 day of June 1983.

For the Nuclear Regulatory Commission
Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

Each item of noncompliance and associated civil penalty identified in the Notice of Violation (dated February 2, 1983), which was denied by the licensee, is restated below. The Office of Inspection and Enforcement's evaluation of the licensee's response is presented, followed by conclusions regarding the occurrence of the noncompliance and the proposed civil penalty.

I. Item A, Example 5

Statement of Violation

10 CFR 50, Appendix B, Criterion XVI requires in part, "Measures shall be established to assure that conditions adverse to quality, such as failures, malfunctions, deficiencies, deviations, defective material and equipment, and nonconformances are

promptly identified and corrected. In the case of significant conditions adverse to quality, the measures shall assure that the cause of the condition is determined and corrective action taken to preclude repetition."

The CECQ QAM QR No. 16.0, Paragraph 16.1 states in part, "A corrective action system will be used to assure that such items as failures, malfunctions, deficiencies, deviations, defective material and equipment and nonconformances which are adverse to quality and might affect the safe operation of a nuclear generating station are promptly identified and corrected." Paragraph 16.3 states in part, "Records will be regularly reviewed and analyzed by Quality Assurance and Engineering personnel . . . to determine whether corrective measures will preclude recurrence." The CECQ QAM QR No. 16.1 implements this requirement.

Contrary to the above, CECQ did not assure that a matter potentially adverse to quality was promptly identified and corrected at the Braidwood Station. CECQ identified a significant problem with bolting of the steam generator supports that occurred at the CECQ Byron Station. Timely or adequate corrective action was not taken by CECQ to prevent the same or a similar problem from occurring at Braidwood Units 1 and 2. Nonconformity Report No. 332 concerning this bolting problem was issued at Braidwood on December 2, 1981, yet effective corrective action was not taken until August 1982.

In addition, effective corrective action was not taken by CECQ relative to Phillips, Getschow Company's failure to implement and utilize installation procedures (identified during CECQ audits conducted June 30-July 9, 1980 and June 23-25, 1981), concerning installation and installation inspection of mechanical safety-related equipment. The same deficiencies were again identified during a surveillance conducted by Phillips, Getschow Company on February 19, 1982.

Summary of Licensee's Response

The licensee states: "[I]n Example 5 of Violation A NRC notes a previously identified steam generator bolting problem at Byron Station and asserts that the corrective action initiated to remedy it had not been taken into account at Braidwood. This is incorrect. It is true that during Byron's construction, difficulties in bolt installation were encountered; the proposed solution at Byron (and at other stations being built by other utilities) was to shorten the bolts. Later, when similar bolts were being installed at Braidwood, the lessons learned at Byron were applied and actions were taken to obtain shorter bolts. Thus the corrective action initiated at Byron was also initiated at Braidwood. Unfortunately, this remedy did not completely solve the bolting problems, and different corrective action was necessary. The further problems with the bolt installation at Braidwood were properly documented and the corrective action was timely."

NRC Evaluation

With regard to Example 5 of Violation A, the issue was that in spite of the problems at Byron, the licensee at Braidwood did not identify the real problem involved, that being

alignment of bolt holes or the bow of the bolts caused by the heat treatment process. Furthermore, effective corrective action was not taken by CECQ regarding Phillips, Getschow's failure to adequately heed the following Westinghouse documents: (1) Letter PJR/55 dated November 2, 1977—Subject: Steam Generator Bolts, (2) Nuclear Services Division (NSD) data letter 78-7 dated September 13, 1978—Subject: Heli-Coil Installation Procedure (3) NSD letter dated February 13, 1979, Subject: Procedure for setting of Major NSSS components, (4) Westinghouse Electric Corporation, Nuclear Services Division's letter dated January 11, 1978 to Sargent and Lundy Engineers of Chicago, Illinois. This January 11, 1978 letter addressed Byron and Braidwood stations component setting guidelines and provided two procedures: (1) "Setting of Major NSSS Components," Revision 1, dated August 30, 1974 and (2) "General Reactor Vessel Setting Procedure," Revision 2, dated August 30, 1974. Sargent and Lundy made a complete distribution to Commonwealth Edison Company through a letter to Mr. Westermeier on February 17, 1978 regarding the Westinghouse procedures. These documents give explicit instructions on required bolt, Heli-Coil and pre-installation inspections, installation checks, problems, and how to overcome these problems if encountered when installing NSSS equipment.

At other sites when these procedures were fully utilized, the contractor was able to install full length bolts and utilize the upper Heli-Coil locking threads. The licensee now has first-hand experience, at Braidwood Unit 2, to show that 9½ inch bolts can be installed when the alignment and bolting problems are addressed.

With regard to this example, escalated enforcement action was appropriate because of CECQ's failure to take the necessary actions to identify and correct equipment installation problems—e.g., failure to recognize the bolt alignment problem, failure to fully use available installation procedures from the Nuclear Steam System Manufacturer, and continued installation without the use of any approved plant procedures. In short, corrective actions were neither comprehensive nor timely.

Conclusion

The staff concludes that the licensee failed to comply with the requirements as stated in the Notice of Violation and the violation stands.

II. Item A, Example 7

Statement of Violation

10 CFR 50, Appendix B, Criterion XVIII requires in part, "A comprehensive system of planned and periodic audits shall be carried out to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. . . . Followup action, including re-audit of deficient areas, shall be taken where indicated."

The CECQ QAM QR No. 18.0 Paragraph 18.1 states in part, "Audits will be performed by Commonwealth Edison Company and/or its contractors, subcontractors and vendors

to verify the implementation and effectiveness of quality programs under their cognizance." The CECQ QAM QP No. 18-1 implements this requirement. Paragraph 5.1 of QP No. 18-1 states in part, "Audits of onsite contractors will be performed, as a minimum on an annual basis. . . . The selection of contractor onsite activities to be audited and the frequency of audits will be based on site Quality Assurance and CECQ Construction Surveillance Reports or findings from previous audit reports. . . . The frequency will be based on the nature and safety significance of the work being performed."

Contrary to the above, no audits were performed by CECQ prior to June 30-July 9, 1980 relative to mechanical equipment erection and inspection activities of Phillips, Getschow Company. This important activity involves the installation of most of the critical nuclear steam supply system and other mechanical safety-related equipment. Significant amounts of this equipment, including the identified in I.A.1. above, had either been finally or partially installed prior to this date.

Further, no significant followup audit was conducted by CECQ until June 23-25, 1981 to determine the effectiveness of the Phillips, Getschow Company's quality assurance program for these installations, or to verify that proper quality records were being generated and maintained as required, although a major finding during the June-July 1980 audit was that Phillips, Getschow Company had not implemented an approved procedure for installing equipment and inspecting that installation.

Summary of Licensee's Response

The licensee states: "[I]n Example 7 of Violation A, the NRC asserts that no audits were performed by CECQ prior to June 30-July 9, 1980 relative to mechanical equipment erection and inspection activities of Phillips, Getschow Company. Our records demonstrate that this is not true. The response contained in Attachment A to this letter summarizes the results of two CECQ audits of these activities which were performed in 1979. Construction at Braidwood was shut down from September 1979 to March 1980 for financial reasons. Since audits of mechanical equipment erection activities were conducted when work was in progress prior to June 30-July 9, 1980, this cannot reasonably be considered an example of noncompliance."

NRC Evaluation

With regard to Example 7 of Violation A, CECQ provided new information, not supplied to the inspectors during the inspection of the enforcement conferences, that two audits had been conducted prior to June-July 1980. The staff has subsequently reviewed these two audits.

The first audit reviewed was a CECQ General Office audit dated May 17, 18, 21, 1979. Observation 5 (Q#58) states:

"No evidence to indicate that PGCO has any OC involvement in the following areas:

1. Location and completeness of installation of piping supports and restraints.
2. Installation of concrete expansion anchors (CEA's).

3. Equipment setting.

Discussion CECQ QA and SCD must consult with PGCO in the third area, equipment setting, in order to determine the extent of QC involvement required in items such as location, foundation anchors and grouting."

The response to this audit was provided on June 21, 1979 and stated for Observation No. 5, Item 3 (Q#58):

"PGCO has in use a construction procedure for the completion of equipment erection records. The procedure contains very explicit checklists which is being used for the documentation of locations, grouting, anchor bolts, etc. At the time of this audit the above procedure was in use, however the auditor did not request to see any documented evidence of such."

The second followup to this audit was dated July 2, 1979 and contains the following paragraph:

"3. Phillips Getschow Company has in use a construction procedure for the completion of equipment erection. This procedure contains a very explicit checklist (Equipment Erection Record—Form PG-CP-8-1), with provisions for itemized and final Q.C. sign-offs, which documents locations, grouting, anchor bolts, etc. At the time of this audit the above procedure was in use as exemplified by the 'Equipment Erection Records' for the following:

1. Diesel Generator—1DG01KA-1A
2. Motor Driven Auxiliary Feedwater Pump—1AF01PA-1A
3. Diesel Driven Auxiliary Feedwater Pump—1AF01PB
4. Let-Down Heat Exchanger—1CV04AA-1A
5. Positive Displacement Charging Pump—1CV02P
6. Centrifugal Charging Pump—1CV01PA-1A

This portion of the audit was apparently conducted as a result of a verbal request due to the first audit. Observation 5 was closed out on August 31, 1979.

The second audit reviewed was a site QA Audit Report 20-79-37 conducted on June 21, 1979. This audit raised two questions relevant to this violation:

"Q#19—Do inspections and tests during the installation of mechanical equipment assure the use of current documents and the use of qualified personnel, procedures, materials, tools and equipment?"

"Q#20—Are in-progress inspection of the work and the work areas being done during equipment installation to verify conformance to design documents?"

The data checklist for Q19 reference PGCP-8 procedure, equipment erection record for Steam Generator Unit 1 (1RC01BA (1A)) and also references drawing WH1104J61T and Summary Sheet dated May, 15, 1979. The data checklist for Q20 notes "In-progress inspection of actual nozzle elevation and actual location sketch by G. Cox (PG) 5-15-79 for above unit." The note further states that "this has been the only equipment erection record done by P-G to date. A revision of PGCP-8 is in progress."

While the records show that two audits had been conducted prior to June 30-July 9, 1980 and thus shows an error in part of the

noncompliance statement for Example 7, the staff's concern relative to the effectiveness of the audit program at Braidwood is heightened rather than alleviated by the above two audits:

1. The audit done in May 1979 listed one of the basic problems, as the staff sees it, relative to the setting of mechanical equipment. Yet it was only listed as an observation, which is defined in the audit report as "an item for discussion but not considered to be a noncompliance or deficiency." Apparently the QA organization did not consider very serious the three items identified under observation 5 where quality control was not evident.

2. The procedure reference in the audit reports was not fully approved until October 1980, subsequent to both original audit and the two followup audits.

3. Two pieces of equipment listed in the second followup audit were not even at the site at the date of the audits. These are 1AF01PA-1A and 1AF01PB. Yet the audit report claims Equipment Erection Records were in use for these pieces of equipment.

4. Equipment Erection Records for these six pieces were not available in the files for the time frame of the audit. The records in the files are documented on a checklist form generated in 1980. From our discussions with the workers, it appears that a substantial number of the dates were generator after the fact from memory and/or personal notebooks.

Some dates are estimated, such as for 1AF01PA in which the date for foundation check and rough set was listed as 1981 without the month and day given.

Commonwealth officials state that many original records were destroyed after transferring data to revised check sheets. This practice has been discontinued. Commonwealth Edison officials also state that the auditor in the July 1979 audit may have made his finding based not on any inspection records but on Equipment Erection Record (EER) forms that were generated for the six pieces of equipment. These records are not now available.

The site audit performed in June 1979 presents additional problems. The data provided on the check sheet does not provide an indication that Questions #19 and #20 were adequately covered. In the notes for Question #20, the statement was that the only Equipment Erection Record completed to date by PG was for steam generator (1RC01BA-1A). Again, this was not made a finding even though much of the equipment had been rough placed at the date of the audit.

Conclusion

The staff's overall conclusion is that insufficient audits were performed during this activity, and for those audits which were performed, the corrective action was not effective in determining the scope of the problem existing prior to 1982. In fact, the additional information brings into question the methods and thoroughness of the audits performed.

The Notice of Violation incorrectly stated that no audits had been performed prior to

June 30, 1980. However, the two audits that were performed by CECO were not adequate to meet the requirements of 10 CFR Appendix B. The statement of noncompliance is modified to reflect that audits were performed prior to June 30, 1980, but that such audits were inadequate.

III. Argument for Mitigation by Licensee

The Commission proposed to impose civil penalties in the amount of \$60,000 for Violation A and \$40,000 for Violation B. The licensee has requested mitigation of the penalty for Violation A.

The summary of the licensee's argument for mitigation is as follows:

"[T]he NRC proposes to escalate the \$40,000 base penalty for Violation A because Commonwealth Edison failed to take corrective action at Braidwood after experiencing steam generator bolting problems at Byron and because of multiple occurrences of Appendix B violations at Braidwood. In our view, mitigation seems more appropriate. . . .

"Escalation of the fine on the basis of multiple occurrences also is unjustified. In light of the preceding [sic] comments on Examples 5 and 7 of Violation A, the remaining examples all refer in various ways to only two basic problems: control of steam generator bolts and control of mechanical equipment erection. The basic aspects of both of these problems were self-identified and there appears to be no safety significance in either issue. In the case of erection activities, Example 1 cites CECO for not having procedures. Examples 3, 5 and 6 then cite CECO for not assuring adherence to those nonexistent procedures. The examples are repetitive and not truly indicative of multiple violations. The same is true for Examples 2 and 4 regarding steam generator bolts. Escalation of the civil penalty on the basis of multiple occurrences is inappropriate.

"Mitigation of the penalty for Violation A is more appropriate because of the unusually extensive corrective actions which have been taken in response to the deficiencies in control of mechanical equipment erection. As discussed in the November 19, 1982 enforcement conference, we have assigned a full-time project manager to the Braidwood site and comprehensive reviews of contractor performance have been conducted. All site contractors were reviewed and substantive changes were made in several contractors' organizations and procedures. A major site QA audit was advanced and increased in scope. All of these actions were taken in direct response to NRC concerns identified in this inspection report. This response goes considerably beyond what would normally be expected for this type of violation. Responsible regulation should encourage this type of activity through mitigation of penalties."

NRC Evaluation

Escalation of the civil penalty on the basis of failure to take corrective action at Braidwood after experiencing steam generator bolting problems at Byron is warranted as discussed in Item I above. It should be noted that Byron and Braidwood have a common FSAR, a common

construction specification, a common system for drawings, ECNs and FCRs and a common architect engineer. Thus, the construction problem at Byron should have indicated a need for a more thorough evaluation for Braidwood.

The licensee also argues that the base penalty for Violation A should not be escalated on the basis of multiple occurrences. Yet, each of the seven examples under Violation A identify different aspects, related to the pertinent criteria under 10 CFR Part 50 Appendix B, of the licensee's failure to implement adequately the quality assurance program for the Braidwood station. While Violation A focuses on quality assurance violations in two general areas—control of steam generator bolts and equipment erection—Violation A enumerates various instances in which the quality assurance was deficient: e.g., lack of procedures, noncompliance with existing procedures, and inadequate records. Moreover, the examples are not simply limited to a few pieces of equipment and to a short time frame. Basically, almost all of the mechanical equipment (over 700 pieces of equipment) were set before 1982, yet there is not adequate documentation to indicate that the installation, inspection, corrective actions etc., regarding this equipment, were in conformance with your QA program. Thus, escalation of the penalty for multiple occurrences is well within the staff's discretion under the enforcement policy.

Regarding mitigation of Violation A because of unusually extensive corrective actions taken, the actions were extensive due to the nature of the problems. However, these actions were no more extensive than required to meet the requirements of 10 CFR 50 Appendix B. Moreover, CECO had identified some of the problems described in Violation A but did not take timely action to secure their correction. Based on the preceding considerations, the licensee has provided no adequate basis for mitigation of the proposed civil penalty.

Conclusion

The licensee has not provided adequate reasons for mitigating the proposed civil penalty.

[FR Doc. 83-18104 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-247 and 50-286]

Consolidated Edison Company of New York, Inc.; Power Authority of the State of New York (Indian Point Station, Units 2 and 3); Issuance of Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Inspection and Enforcement, has denied the request for action filed by the County Attorney, County of Rockland, New York on behalf of the Rockland County Legislature. The request was made by letters dated May 13, 1983, and June 13, 1983, and has been treated pursuant to

10 CFR 2.206 of the Commission's regulations. The Legislature requested that the Nuclear Regulatory Commission immediately suspend operation at the Indian Point Station, Units 2 and 3, and grant other relief related to the findings of emergency planning deficiencies at Indian Point identified by the Federal Emergency Management Agency.

A copy of the "Director's Decision under 10 CFR 2.206" is available in the Commission's Public Document Room located at 1717 H Street, N.W., Washington, D.C., 20555, and in the local public document room for the Indian Point facility located at the White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10601.

A copy of the decision is being filed with the Secretary for the Commission's review in accordance with 10 CFR 2.206(c).

Dated at Bethesda, Maryland, this 29th day of June, 1983.

For the Nuclear Regulatory Commission:
Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

[FR Doc. 83-18105 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 540-155]

Consumers Power 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-6, issued to Consumers Power Company (the licensee), for operation of the Big Rock Point Plant located in Charlevoix County, Michigan.

The amendment would authorize the licensee to replace the Minimum Critical Heat Flux Ratio (MCHFR) safety limit with a Minimum Critical Power Ratio (MCPR) safety limit for normal operation conditions in accordance with the licensee's application for amendment dated December 20, 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 new MCPR limit was conservatively calculated using the RETRAN and COBRA computer programs. These programs were used previously by the licensee for analyses of accidents and transients in the NRC's Systematic Evaluation Program. The new MCPR limit is less conservative than the old Minimum Critical Heat Flux Ratio (MCHFR) limit; therefore, this proposal does reduce the margin of safety. However, the licensee has indicated that the MCPR limit was calculated conservatively and that the reduction in margin of safety is not significant.

Several years ago, the NRC staff informed BWR licensees that the Hench-Levy correlation used in transient analyses was no longer acceptable. At that time most BWR's licensees converted to MCPR dropping the Hench-Levy correlation. Big Rock Point did not convert to MCPR at that time. Instead, Big Rock Point accepted a MCHFR penalty, a more conservative MCHFR, to justify continued use of a modified Hench-Levy correlation. Though review of conversions to MCPR by other BWR's the NRC staff determined that the MCPR method was more accurate than the MCHFR method and that a small reduction in the margin of safety was justified by use of the more accurate MCPR method.

Example (vi) under *Examples of Amendments that are Considered Not Likely to Involve Significant Hazards Considerations* in the Commission's guidance on prenoticing amendments (48 FR 14871) reads:

(vi) A change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plant; for example, a change resulting from the application of a small refinement of a previously used calculational model or design method.

The proposed change to the MCPR limit does result in an insignificant reduction in the margin of safety compared to the current MCHFR limit. However, the MCPR limit is based on

conservative analysis methods which have already undergone NRC staff review in the Systematic Evaluation Program.

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 August 5, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the

Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that

the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis M. Crutchfield: Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the *Federal Register* notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room in the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland, this 29th day of June, 1983.

For the Nuclear Regulatory Commission,
Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5,
Division of Licensing.

(FR Doc. 83-18106 Filed 7-5-83; 8:45 am)

BILLING CODE 7590-01-M

[Docket No. 50-155]

**Consumers Power 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-06, issued to Consumers Power Company (the licensee), for operation of the Big Rock Point Plant located in Charlevoix County, Michigan.

The amendment would institute a procedure for use during start-up in the event that neutron source strength is too low to provide the minimum specified count rate on the out-of-core nuclear instrumentation in accordance with the licensee's application for amendment dated May 27, 1983.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

Based on the discussion below the staff proposes to determine that the request does not involve a significant hazards consideration. 48 FR 14871 provides the following example of an amendment that is not likely to involve a significant hazards consideration: "(ii) A change that constitutes an additional limitation, restriction, or control not presently included in the technical specifications; for example, a more stringent surveillance requirement."

This amendment constitutes an additional limitation, a procedure which would be required whenever the neutron source strength was too low to give the proper response on the system early in start-up.

This procedure for meeting the specifications of Section 7.3.2(d) when the neutron source strength is low during start-up was previously approved for Cycle 16 by the NRC in Amendment

No. 29 dated October 18, 1979. Since Amendment No. 29 the NRC has approved the Big Rock Point Physics Methodology which uses the GROK code in a letter dated September 18, 1982. The SER in support of Amendment No. 29 stated that the procedure would have been approved for Cycles beyond Cycle 16 if NRC staff review of the GROK code had been complete.

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 August 5, 1983, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should

also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all

public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Dennis M. Crutchfield: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of the Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Local Public Document Room for the Big Rock Point Plant, located at the Charlevoix Public Library, 107 Clinton Street, Charlevoix, Michigan 49720.

Dated at Bethesda, Maryland, this 29th day of June, 1983.

For the Nuclear Regulatory Commission.

Dennis M. Crutchfield,
Chief, Operating Reactors Branch No. 5,
Division of Licensing.

[FR Doc. 83-18167 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-272]

Public Service Electric and Gas Company (Salem Nuclear Generating Station Unit No. 1); Exemption

I

Public Service Electric and Gas Company (the licensee) and three other co-owners are the holders of Facility Operating License No. DPR-70, which authorized operation of the Salem Nuclear Generating Station Unit No. 1 (Salem or the facility). This license provides, among other things, that it is subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor located at the licensee's site in Salem County, New Jersey.

II

Section III.G.2 of Appendix R to 10 CFR Part 50 requires that one train of cables and equipment necessary to achieve and maintain safe shutdown be maintained free of fire damage by one of the following means:

a. Separation of cables and equipment and associated non-safety circuits of redundant trains by a fire barrier having a 3-hour rating. Structural steel forming a part of or supporting such fire barriers shall be protected to provide fire resistance equivalent to that required of the barrier;

b. Separation of cables and equipment and associated non-safety circuits of redundant trains by a horizontal distance of more than 20 feet with no intervening combustibles or fire hazards. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area; or

c. Enclosure of cables and equipment and associated non-safety circuits of one redundant train in a fire barrier having a 1-hour rating. In addition, fire detectors and an automatic fire suppression system shall be installed in the fire area.

If these conditions are not met, Section III.G.3 requires alternative shutdown capability independent of the fire area of concern. It also requires a fixed suppression system in the fire area of concern if it contains a large

concentration of cables or other combustibles.

III

The licensee requested in its letters dated March 19, 1981, April 29, 1982, and November 1, 1982, relief from providing automatic fire suppression systems in 13 fire areas in Unit 1. These areas are identified in the Safety Evaluation. For configurations similar to these fire areas, Section III.G requires that a 1-hour rated fire barrier be provided in combination with a detection and an automatic suppression system. Five of the 13 areas did not have fire detection systems and one did not have a 1-hour fire barrier. By letter dated December 22, 1982, the licensee committed to provide detection systems in the five areas and the 1-hour fire barrier. Thus, for 11 fire areas identified as areas P1C-1, -3, -4, -5, P1F-1, -3, -4, -5, P1E, P1H and P1M fire protection consisted of smoke detectors and 1-hour fire barriers.

Our evaluation of the fire protection in the 11 areas determined that the in-situ combustible loading in these fire zones is low; therefore, any postulated fires would involve transient combustible materials. Hazardous quantities of transient combustibles would not be expected in these fire areas for several reasons. First, the areas are not adjacent to or near any major plant traffic route. Second, maintenance and operations in these areas do not involve the use of combustible materials. Third, accessibility to these areas is restricted to personnel performing essential duties because of potential radiation hazards. On this basis, we agree with the licensee that any fires in these areas resulting from transient combustibles would be of limited severity and duration. The installed early warning detection system in conjunction with the 1-hour fire barriers for the protection of one train of redundant cables, provides reasonable assurance that one train of components needed for safe shutdown in each area will be maintained free of fire damage.

Based on our evaluation, we conclude that the level of fire protection in the 11 designated areas is equivalent to the level required in Section III.G of Appendix R. Therefore, the licensee's request to be exempted from the requirements to provide automatic fire suppression system in these areas should be granted.

The remaining two areas where

exemptions were requested are discussed below:

Fire Area P1B-4 kv. Switchgear Room

The technical requirements of Section III.G are not met because the fire suppression is manual rather than automatic. There are two concerns within this area: (1) Safe shutdown equipment located on the floor; (2) Safe shutdown cabling located at various heights above the floor. The fire exposure threat to both the cabling and equipment is presented by the metal-enclosed switchgear and control cabinets and the overhead cable tray and conduit system. The combustible material associated with the switchgear and cabinets, which would contribute to a potential fire, is insignificant. The cabling is qualified to IEEE-383. Although this cable is not considered as a fire barrier, it does reduce the ease of ignition of the insulation and should retard the rate of burning.

A fire in this area would be slow in developing by virtue of the limited amount of combustibles, isolated location, and reduced flammability of the combustible material in the area. The presence of a smoke detection system will provide reasonable assurance of early fire awareness and response by operating technicians and fire brigade members in a reasonable time to activate the manual total flood carbon dioxide system. These factors, considered in association with the physical separation and partial-height walls between the redundant switchgear, achieves a sufficient level of defense-in-depth. We agree with the licensee that the 1-hour barriers and partial-height barriers, along with the existing area-wide fire detection and suppression system, provide reasonable assurance that one train of equipment and cables required for safe shutdown will be free of fire damage.

It is our judgment, based on (1) assessment of the location of redundant shutdown systems, (2) the presence of an early fire warning detection system, and (3) the presence of a fire suppression system and other fire protection features of the plant, that the fire exposure hazard represented by the combustible materials in this area is not sufficiently great as to affect both redundant shutdown divisions.

Based on our evaluation, we conclude that the licensee's alternate fire protection configuration will provide reasonable assurance that one safe shutdown division will be free of fire damage and will achieve an acceptable level of fire protection equivalent to that provided by Section III.G.2. Therefore,

the licensee's request for exemption for the 4kv Switchgear Room should be granted.

Fire Area P1A-1—Elevation 55' Auxiliary Building RHR Heat Exchange Area

This area does not comply with Section III.G because automatic fire detection and automatic fire suppression have not been installed. There is no alternative shutdown capability independent of this area.

The redundant systems in this area are the component cooling water valves and associated cabling which control the component cooling water flow to the RHR heat exchangers. The RHR heat exchangers are not required for hot shutdown. The valves controlling the component cooling water flow to the RHR exchanger can be manually aligned to the correct cold shutdown position.

We find this to be acceptable and in accordance with Section III.G of Appendix R.

Based on the above evaluation, the level of existing protection for this area is in accordance with the technical requirements of Section III.G of Appendix R. Therefore, an exemption for the RHR Heat Exchanger Area is not required.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions from the requirement to provide automatic fire suppression systems in the areas identified above are authorized by law and will not endanger life or property or the common defense and security, are otherwise in the public interest, and are 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.

Dated at Bethesda, Maryland this 17th day of June, 1983.

For the Nuclear Regulatory Commission

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-18106 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-289 (Management Issues)]

**Metropolitan Edison Company, et al.
(Three Mile Island Nuclear Station, Unit
No. 1); Rescheduling of Oral Argument**

June 29, 1983.

Notice is hereby given that, in accordance with the Appeal Board's order of June 29, 1983, the oral argument with respect to three pending motions to reopen the record in the management phase of this case previously scheduled for July 20, 1983, has been rescheduled for 9:30 a.m. on Wednesday, August 3, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: June 29, 1983.

For The Appeal Board.

C. Jean Shoemaker,

Secretary to the Appeal Board.

[FR Doc. 83-18109 Filed 7-5-83; 8:45 am]

BILLING CODE 7590-01-M

**OFFICE OF THE UNITED STATES
TRADE REPRESENTATIVE**

**Determination Regarding Application
of Agreement on Government
Procurement**

Section 1-103 of Executive Order 12188 delegates the functions of the President under Section 2(b) of the Trade Agreements Act of 1979 ("the Act") (19 U.S.C. 2503) to the United States Trade Representative, who shall exercise such authority with the advice of the Trade Policy Committee. Section 1-201 of Executive Order 12260 delegates the functions of the President under Sections 301 and 302 of the Act (19 U.S.C. 2511) to the United States Trade Representative.

Now, therefore, I, William E. Brock, United States Trade representative, in conformity with the provisions of Sections 2 and 301 of the Act, and Executive Orders 12188 and 12260, do hereby determine that with respect to the agreement on Government Procurement ("the Agreement"), Israel has become a party to the Agreement effective June 29, 1983, and will provide appropriate reciprocal competitive government procurement opportunities to United States products and suppliers of such products. In accordance with Section 301(b)(1) of the Act, Israel is designated for purposes of Section 301(a) of the Act. This designation is effective as to contracts awarded on the basis of solicitations for which the closing date for bids or proposals is on or after June 29, 1983. This designation is subject to modification or withdrawal

by the United States Trade Representative.

William E. Brock,

United States Trade Representative.

[FR Doc. 83-18038 Filed 7-5-83; 8:45 am]

BILLING CODE 3190-01-M

**PENSION BENEFIT GUARANTY
CORPORATION**

**Pendency of Request for Exemption
From Bond/Escrow Requirement
Relating to Sale of Assets by an
Employer That Contributes to a
Multiemployer Plan; Libby, McNeill &
Libby, Inc. (Stayton Canning Co.)**

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of pendency of request.

SUMMARY: This notice advises interested persons that the Pension Benefit Guaranty Corporation has received a request from Libby, McNeill & Libby, Inc. for an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974. Section 4204(a)(1) provides that the sale of assets by an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for a five plan year period beginning after the sale. The PBGC is authorized to grant individual and class exemptions from this requirement. Prior to granting an exemption, the PBGC is required to give interested persons an opportunity to comment on the exemption request. The effect of this notice is to advise interested persons of this exemption request and to solicit their views on it.

DATE: Comments must be submitted on or before August 22, 1983.

ADDRESSES: All written comments (at least three copies) should be addressed to: Assistant Executive Director for Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, D.C. 20006. The request for exemption and the comments received will be available for public inspection at the PBGC Public Affairs Office, Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), Pension Benefit Guaranty Corporation, 2020 K Street NW.,

Washington, D.C. 20006; (202) 254-4862. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION:

Background

Section 4204 of the Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980, ("ERISA"), 29 U.S.C. 1384, provides that a bona fide arm's-length sale of assets of a contributing employer to an unrelated party will not be considered a withdrawal if three conditions are met. These conditions, enumerated in section 4204(a)(1) (A)-(C), are that—

(A) The purchaser has an obligation to contribute to the plan for substantially the same number of contributions base units for which the seller was obligated to contribute;

(B) The purchaser obtains a bond or places an amount in escrow, for a period of five years after the sale, in an amount equal to the greater of the seller's average required annual contribution to the plan for the three plan years preceding the year in which the sale occurred or the seller's required annual contribution for the plan year preceding the year in which the sale occurred; and

(C) The contract of sale provides that if the purchaser withdraws from the plan within the first five plan years beginning after the sale and fails to pay any of its liability to the plan, the seller shall be secondarily liable for the liability it (the seller) would have had but for section 4204. The bond or escrow described above would be paid to the plan if the purchaser withdraws from the plan or fails to make any required contributions to the plan within the first five plan years beginning after the sale.

Additionally, section 4204(b)(1) provides that if a sale of assets if covered by section 4204, the purchaser assumes by operation of law the contribution record of the seller for the plan year in which the sale occurred and the preceding four plan years.

Section 4204(c) of ERISA authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B) when warranted. The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions. The granting of an exemption or variance from the requirements of section 4204(a)(1)(B) does not constitute a finding by PBGC that a particular

transaction satisfies the other requirements of section 4204(a)(1).

Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets, (46 FR 46127 (1981)), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it—

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

Section 4204(c) of ERISA and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or exemption in the Federal Register, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

The Request

The PBGC has received a request from Libby, McNeill & Libby, Inc. ("Libby") for an exemption from the bond/escrow requirement of ERISA section 4204(a)(1)(B). In the request, Libby represents among other things, that:

1. Effective November 5, 1982, Libby sold its facility located in Salem, Oregon to the Stayton Canning Company ("Stayton").

2. In connection with this sale, Stayton has assumed the responsibilities of Libby under a collective bargaining agreement with the Western Conference of Teamsters, Local 670.

3. The following chart lists the two multiemployer plans for which an exemption is requested, the estimated amount of Libby's withdrawal liability and the estimated amount of the bond/escrow that would be required under ERISA section 4204(a)(1)(B) with respect to each such plan:

Plan	Estimated of seller's liability	Amount of bond/ escrow
Western Conference of Teamsters Pension Trust Fund ("Western Conference Plan")	\$149,160	\$56,327
Oregon Processors Seasonal Employees Pension Trust Fund ("Oregon Processors Plan")	18,477	6,952
Total	167,637	63,279

The amount of the bond to each plan represents the average annual contribution that Libby made to the affected plan for the three plan years preceding the plan year in which the sale occurred.

4. In the sale contract, Libby agreed that, if the purchaser withdraws and fails to pay withdrawal liability within

five years of the date of the sale, Libby would be secondarily liable for any withdrawal liability it would have had to the affected plan but for the operation of ERISA section 4204.

5. In accordance with PBGC's regulation (29 CFR 2643.2(d)(7)), a copy of Stayton's audited financial statements for the three fiscal years preceding the sale were submitted as part of the application. However, Stayton has asserted that the financial information is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552(b)(4)) and PBGC regulation (29 CFR 2603.18).

6. Libby asserts that this request should be granted on a *de minimis* basis. Based on information provided by the plans, the average annual contributions made by all employers to the Western Conference Plan and Oregon Processors Plan for the three plan years preceding the plan year in which the sale occurred were \$460 million and \$546,000, respectively. Thus, the amount of the bond/escrow is with respect to each plan significantly less than two percent of the amount of employer contributions. PBGC is considering granting this request for exemption on a *de minimis* basis.

7. Stayton has indicated its intention that ERISA section 4204 should apply to the sale.

8. A copy of this request has been sent by Libby to the affected plans and the collective bargaining representative of the Libby's former employees at the Salem facility, by certified mail return receipt requested.

Comment

All interested persons are invited to submit written comments on the pending exemption to the above address, on or before August 22, 1983. All comments will be made a part of the record. Comments received, as well as the relevant information submitted in support of the application for exemption, will be available for public inspection at the address set forth above.

Issued at Washington, D.C., on this 29th day of June 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-18050 Filed 7-5-83; 8:45 am]

BILLING CODE 7708-01-M

POSTAL SERVICE

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Final Notice of Modifications to Existing Systems of Records.

SUMMARY: The purpose of this document is to publish final notice of two records systems description changes that have recently appeared for public comment in the Federal Register.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, (202) 245-5568.

SUPPLEMENTARY INFORMATION: On March 15, 1983, the Postal Service published in the Federal Register (48 FR 10963) advance notice of two proposed routine uses to Postal Service systems USPS 010.002, Collection and Delivery Records—Boxholder Records, and USPS 120.035, Personnel Records—Employee Accident Records. Interested persons were invited to comment on the proposed routine uses. No comments were received. No changes in the advance routine use modifications are being made. Therefore, final notice of these routine uses and the systems to which they apply follow:

USPS 010.020

System Name:

Collection and Delivery Records—Boxholder Records.

"9. Disclosure of address information may be made, upon prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is—(1) outside of the United States and its territories, and (2) within the territorial boundaries of the requesting foreign government."

USPS 120.035

System Name:

Personnel Records—Employee Accident Records.

"10. May be disclosed to Compliance Safety and Health Officers or to Compliance Safety and Health Officers—Industrial Hygienists from the Occupational Safety and Health Administration, or to Industrial Hygienists from the National Institute for Occupational Safety and Health, when conducting announced or unannounced inspections or investigations of postal facilities."

Complete statements of each of the revised systems appear below:

USPS 010.020**SYSTEM NAME:**

Collection and Delivery Records—
Boxholder Records, 010.020.

SYSTEM LOCATION:

Post Office.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Postal customers who have applied for or expressed an interest in lockbox or caller services, whether for private or public use.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records are in printed or card form and contain name, addresses, telephone number, record of payment, lockbox service preference and the names of persons or agents whether family members, business associates, or employees.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 403, 404.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide post office box services to postal patrons.

Use—

1. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

2. Disclosed to a Federal, State or local government agency upon prior written certification that the information is required for the performance of its official business.

3. Disclosed to persons authorized by law to serve judicial process when necessary to serve process.

4. Disclosed to public when box is being used for purpose of doing or soliciting business with the public.

5. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

6. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

7. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

8. May be disclosed to a Federal or State agency providing parent locator services or to other authorized persons as defined by Pub. L. 93-647.

9. Disclosure of address information may be made, upon prior written certification from a foreign government agency citing the relevance of the information to an indication of a violation or potential violation of law and its responsibility for investigating or prosecuting such violation, and only if the address is—(1) outside of the United States and its territories, and (2) within the territorial boundaries of the requesting foreign government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Information is stored on printed or card form filed in metal cabinets. In locations where the records have been automated, information may be found on magnetic tape, magnetic cards or mylar strips.

RETRIEVABILITY:

Information is filed according to local needs, and the volume of records. Billing forms are filed numerically by box number within month in which rent is due. Applications are filed alphabetically by name of individual or firm.

SAFEGUARDS:

Access limited to employees working in the boxholder section.

RETENTION AND DISPOSAL:

a. Billing forms are destroyed by shredding 2 years after closeout of the last entry.

b. Boxholder applications are retained for 2 years after termination of the rental.

c. Lockbox preference questionnaire forms are retained for six months after termination of survey.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Delivery Service Department.
APMG, Finance Department.
Headquarters.

APMG, Rates & Classification Department, headquarters.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the local postmaster, requestors in person should identify themselves with drivers license, military, government or other form of identification.

RECORD ACCESS PROCEDURES:

See "NOTIFICATION" above.

CONTESTING RECORD PROCEDURES:

See "NOTIFICATION" above.

RECORD SOURCE CATEGORIES:

The individual to whom the record pertains.

USPS 120.035**SYSTEM NAME:**

Personnel Records-Employee
Accident Records, 120.035

SYSTEM LOCATION:

Safety offices in any USPS facility.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All postal employees that have an accident that involves 100 dollars or more damage and/or an occupational injury or illness.

CATEGORIES OF RECORDS IN THE SYSTEM:

All postal employees who have an accident that results in property damage and/or an occupational injury or illness.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Pub. L. 91-596 and 94-82, Executive Orders 11807.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—To provide data for analytical studies.

Use—

1. Information contained in this system of records may be disclosed to an authorized investigator appointed by the United States Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record are needed by the investigator in the performance of his duty to investigate a discrimination issue involved in the complaint.

2. To furnish the U.S. Department of Labor with serious accident reports, information to reconcile claims filed with the Office of Worker's Compensation and quarterly and annual summaries of occupational injuries and illnesses; and to make information available to the Secretary of Labor upon his request.

3. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the

appropriate agency, whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

4. Disclosure may be made to a court, claimant, party in litigation, or counsel for a claimant or party when necessary to facilitate settlement or attempts at settlement of claims involving the accident.

5. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

6. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

7. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

8. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

9. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

10. May be disclosed to Compliance Safety and Health Officers or to Compliance Safety and Health Officers—Industrial Hygienists from the Occupational Safety and Health Administration, or to Industrial Hygienists from the National Institute for Occupational Safety and Health, when conducting announced or unannounced inspections or investigations of postal facilities.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in this system is maintained on index cards, magnetic tape, preprinted forms and computer print-outs.

RETRIEVABILITY:

Employee name and social security number.

SAFEGUARDS:

Maintained in closed file cabinets with insured facilities, and are also

protected by computer password and tape or disk library physical security.

RETENTION AND DISPOSAL:

Records and disposed of when five years old following the end of the calendar year to which they relate (as required by OSHA).

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Employee Relations Department, Headquarters.

NOTIFICATION PROCEDURE:

Employees wishing to know whether information about them is maintained in this system of records should address inquiries to the head of the facility where employed. Headquarters employees should submit requests to the SYSTEM MANAGER. Inquiries should contain full name, address, finance number and social security number.

RECORD ACCESS PROCEDURES:

See NOTIFICATION above.

CONTESTING RECORD PROCEDURES:

See NOTIFICATION above.

RECORD SOURCE CATEGORIES:

USPS Accident Reports and OWCP claim forms

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-18181 Filed 7-5-83; 8:45 am]

BILLING CODE 7710-12-M

Privacy Act of 1974; System of Records

AGENCY: Postal Service.

ACTION: Final Notice of Modifications to an Existing System of Records.

SUMMARY: The purpose of this document is to publish final notice of (1) the modification of a routine use, and (2) the existence of a longstanding but heretofore unpublished routine use. Both routine uses apply to a Postal Service system of records, system USPS 050.020, Finance Records—Payroll System.

EFFECTIVE DATE: July 6, 1983.

FOR FURTHER INFORMATION CONTACT: Martha J. Smith, (202) 245-5568.

SUPPLEMENTARY INFORMATION: The Postal Service published an interim notice of the routine use modification to USPS 050.020, Finance Records—Payroll System in the May 10, 1983 issue of the *Federal Register*, 48 FR 21032. The interim notice was effective immediately on a temporary basis. The modification was necessary due to the FICA deduction information which is subject to disclosure in compliance with the Tax

Equity and Fiscal Responsibility Act of 1982. Interested persons were invited to comment on the modification. No comments were received. The interim notice adopted on a temporary basis must be made permanent. No changes in the routine use modification adopted on an interim basis are being made. Accordingly, this notice makes final the routine use modification to USPS 050.020, Finance Records—Payroll System published in the May 10, 1983 issue of the *Federal Register* (48 FR 21032.)

On March 15, 1983, the Postal Service published for comment in the *Federal Register* (48 FR 10963), advance notice of the existence of one previously unpublished longstanding routine disclosure practice. No comments were received. The Postal Service has determined it is necessary to publish final notice of the routine use "27" to system 050.020, Finance Records—Payroll System, which will permit the disclosure of records relating to individual union employees who have elected to participate in union-sponsored insurance plans. This new routine use will enable the Postal Service to disclose to the insurance carriers any relevant payroll information needed to implement such plans.

Therefore, final notice of these routine use changes and the systems to which they apply follows:

USPS 050.020

System Name:

Finance Records—Payroll System.
"6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate on the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W-2 information) must be disclosed to the Social Security Administration in order that it may account for funds received and determined individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other

information as reported on an individual's W-2 form."

"27. To union-sponsored insurance carriers for the purpose of determining eligibility for coverage and payment of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate."

A complete statement of the system as revised appears below:

USPS 050.020

SYSTEM NAME:

Finance Records—Payroll System, 050.020.

SYSTEM LOCATION:

Payroll system records are located and maintained in all Departments, facilities and certain contractor sites of the Postal Service. However, Postal Data Centers are the main locations for payroll information. Also, certain information from these records may be stored at emergency records centers.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former USPS employees and postmaster relief/replacement employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records contain general payroll information including retirement deduction, family compensations, benefit deductions, accounts receivable, union dues, leave data, tax withholding allowances, FICA taxes, salary, name, social security number, payments to financial organizations, dates of appointment or status changes, designation codes, position titles, occupation code, addresses, records of attendance, and other relevant payroll information. Also includes automated Form 50 records.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

39 U.S.C. 401, 1003, 5 U.S.C. 8339.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Purpose—

1. Information within the system is for handling all necessary payroll functions and for use by employee supervisors for the performance of their managerial duties.

2. To provide information to USPS Management and executive personnel for use in selection decisions and evaluation of training effectiveness. These records are examined by the Selection committee and Regional Postmasters General.

3. To compile various lists and mailing lists, i.e., Postal Leader, Women's Programs, Newsletter, etc.

4. To support USPS Personnel Programs such as Executive Leadership, Non-Bargaining Positions Evaluations of Probationary Employees, Merit Evaluation, Membership and Identification Listings, Emergency Locator Listings, Mailing Lists, Women's Programs, and to generate retirement eligibility information and analysis of employees in various salary ranges.

Use—

1. Retirement Deduction—To transmit to the Office of Personnel Management a roster of all USPS employees under Title 5 U.S.C. 8334, along with a check.

2. Tax Information—To disclose to Federal, State and local government agencies having taxing authority, pertinent records, relating to individual employees, including name, home address, social security number, wages and taxes withheld for other jurisdiction.

3. Unemployment Compensation Data—To reply to State Unemployment Offices at the request of separated USPS employees.

4. Employee Address File—For W-2 tax mailings and Postal mailing such as Postal Life, Postal Leaders, etc.

5. Salary payments and allotments to financial organizations—To provide pertinent information to organizations receiving salary payments or allotments as elected by the employee.

6. FICA Deductions—The Social Security Act requires that FICA deductions be made for those employees not eligible to participate in the Civil Service Retirement System (casuals). In addition, the Tax Equity and Fiscal Responsibility Act of 1982 requires that contributions to the Medicare program be deducted from all employees' earnings. (These statutes do not apply to employees in the Trust Territories who are not U.S. citizens.) Accordingly, records of earnings (i.e., W-2 information) must be disclosed to the Social Security administration in order that it may account for funds received and determine individual's eligibility for benefits. Information disclosed includes name, address, SSN, wages paid subject to withholding, Federal, state and local income tax withheld, total FICA wages paid and FICA tax withheld, occupational tax, life insurance premium and other information as reported on an individual's W-2 form.

7. Determine eligibility for coverage and payment of benefits under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees

Health Benefits Program and transfer related records as appropriate.

8. Determine the amount of benefit due under the Civil Service Retirement System, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program and authorizing payment of the amount and transfer related records as appropriate.

9. Transfer to Office of Worker's Compensation Program Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs and Federal Civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

10. Transfer earnings information under the Civil Service Retirement System to the Internal Revenue Service as requested by the Internal Revenue Code of 1954, as amended.

11. Transfer information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

12. Transfer information necessary to support a claim for health insurance benefits under the Federal Employees' Health Benefits Program to a health insurance carrier or plan participating in the program.

13. To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature to the appropriate agency whether Federal, State, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

14. To request or provide information from or to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement or other pertinent information, such as licenses, if necessary to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefits.

15. As a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel

management functions or manpower studies; may also be utilized to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act or to locate specific individuals for personnel research or other personnel management functions.

16. May be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

17. Certain information pertaining to Postal Supervisors may be transferred to the National Association of Postal Supervisors.

18. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

19. Disclosure may be made from the record of an individual, where pertinent, in any legal proceeding to which the Postal Service is a party before a court or administrative body.

20. Pursuant to the National Labor Relations Act, records from this system may be furnished to a labor organization upon its request when needed by that organization to perform properly its duties as the collective bargaining representative of postal employees in an appropriate bargaining unit.

21. Inactive records may be transferred to a GSA Federal Records Center prior to destruction.

22. To provide to the Office of Personnel Management (OPM) approximately 19 data elements (including SSAN, DOB, service computation date, retirement system and FEGLI status) for use by OPM's Compensation Group. Data collected are not for the purpose of making determination about specific individuals but are used only as a means of ensuring the integrity of the active employee/annuitant data annuitant data systems and for analyzing and statistically projecting Federal retirement and insurance system costs. The same data submission will be used to produce summary statistics for reports of Federal employment.

23. Information contained in this system of records may be disclosed to an authorized investigator appointed by the Equal Employment Opportunity Commission, upon his request, when that investigator is properly engaged in the investigation of a formal complaint of discrimination filed against the U.S. Postal Service under 29 CFR Part 1613, and the contents of the requested record

are needed by the investigator in the performance of this duty to investigate a discrimination issue involved in the complaint.

24. Records in this system are subject to review by an independent certified public accountant during an official audit of Postal Service finances.

25. May be disclosed to a Federal or State agency providing parent locator services or the other authorized persons as defined by Pub. L. 93-847.

26. (Temp.) Disclosure of information about postal employees on the employment rolls of the Philadelphia, Pennsylvania, School District (PSD) may be made to the PSD for a one-time comparison with the PSD's time/attendance/payment files. (Note: this routine use will be in effect for a period of one year from May 18, 1983.)

27. To union-sponsored insurance carriers for the purpose of determining eligibility for coverage and payment of benefits under union-sponsored, nonfederal insurance plans and transferring related records as appropriate.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Preprinted forms, magnetic tape, microforms, punched cards, computer reports and card forms.

RETRIEVABILITY:

These records are organized by location, name and social security number.

SAFEGUARDS:

Records are contained in locked filing cabinets; are also protected by computer passwords and tape library physical security.

RETENTION AND DISPOSAL:

Records are retained and updated throughout employment with the Postal Service. Upon separation records become historical data, this data is retained at the local site for two years then forwarded to the Federal Records center nearest the pay location.

SYSTEM MANAGER(S) AND ADDRESS:

APMG, Finance Department and APMG, Employee Relations Department at Headquarters.

NOTIFICATION PROCEDURE:

Request for information on this system of records should be made to the head of the facility where employed, giving full name and social security number. Headquarters employees

should submit request to the System Manager.

RECORD ACCESS PROCEDURES:

See Notification above.

CONTESTING RECORD PROCEDURES:

See Notification above.

RECORD SOURCE CATEGORIES:

Information is furnished by employees, supervisors and the Postal Source Data System.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-18162 Filed 7-5-83; 8:45 am]

BILLING CODE 7710-12-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 500-1]

Baldwin-United Corp.; Order of Suspension of Trading

June 30, 1983.

It appearing to the Securities and Exchange Commission that there is a lack of current adequate and accurate information concerning (1) efforts of the company to obtain standstill agreements with its creditors, (2) the financial condition of the company, and (3) other material events impacting on the business operations and assets of the company; and because of the failure of Baldwin-United Corp. to file with the Commission its Quarterly Report on Form 10-Q for the fiscal period ending March 31, 1983, the Commission is of the opinion that the public interest and protection of investors require a summary suspension of trading in the securities and options for the securities of Baldwin-United Corp.

Therefore, it is ordered, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10:00 a.m. on June 30, 1983, through midnight July 9, 1983.

By the Commission.
George A. Fitzsimmons,
Secretary.

FR Doc. 83-18166 Filed 7-5-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13366; 812-5515]

Bankers National Series Trust; Filing of Application

June 28, 1983.

Notice is hereby given that on June 16, 1983, a notice (Investment Company Act Release No. 13334) ("first notice") was

issued on an application filed by Bankers National Series trust ("Applicant"), 1599 Littleton Road, Parsippany, NJ 07054, a business trust organized under the laws of the Commonwealth of Massachusetts and registered as an open-end, diversified, management investment company under the Investment Company Act of 1940 ("Act"), on March 30, 1983, with amendments thereto on June 2, and June 7, 1983, for an order of the Commission pursuant to Section 6(c) of the Act exempting Applicant from Section 2(a)(41) of the Act and Rules 2a-4 and 22c-1 thereunder to the extent necessary to permit Applicant to value the assets held in its BNL Money Market Portfolio ("Money Portfolio") using the amortized cost method of valuation and from Section 17(f) of the Act to permit Applicant to maintain its investments in time deposits in book entry form. The first notice inadvertently omitted a discussion of the relief sought from Section 17(f) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below and in the first notice, and to the Act and rules thereunder for the text of the provisions from which Applicant seeks to be exempted.

Applicant's Money Market Portfolio will be investing in, *inter alia*, certificates of deposit of United States regulated banks. Applicants state that, on September 9, 1982, the Federal Reserve Board amended its Regulation Q to permit such certificates of deposit to be issued in book entry format. Applicant contends that safekeeping of the certificates of deposit does not depend upon a certificate being issued to the Money Market Portfolio and would, in fact, result in unnecessary expenses. Applicant requests an exemption from the provisions of Section 17(f) of the Act, and in connection therewith has consented to the following conditions to any order granting that exemption:

1. The Money Market Portfolio bill adopt a system that is reasonably designed to prevent unauthorized officer's instructions and which will provide, at a minimum, for the form, content, and means of giving, recording, and reviewing the instructions. The definition of "officer's instructions" will be the same as for Rule 17f-4(c)(1) of the Act.

2. The instruments to be held in book entry form will only be bought from banks eligible to be a trustee or

custodian pursuant to Section 26(a)(1) of the Act.

3. The financial institution will send confirmations, receipts or notices to either Applicant's custodian ("Custodian") or the Applicant and simultaneously a copy of the confirmation, receipt or notice to the other.

4. A representative of Applicant's investment adviser ("Adviser") will negotiate a purchase of a certificate of deposit from a financial institution. This will be done over the telephone. The representative will request that the financial institution send a confirmation or notice of the purchase to the Custodian. This confirmation or notice will be:

- (i) Physically delivered to the Custodian;
- (ii) Transmitted via the Federal Funds Wire System; or
- (iii) Transmitted by a telex.

The representative of the Adviser will also inform the Custodian of the details of the transaction and that a request will be coming in. These oral instructions to the Custodian will be confirmed in writing with the Custodian through an over-the-phone lines service or otherwise. The Custodian will not transfer funds until it receives the transaction request from the financial institution. When it does receive the request, and if the request is in accord with the instructions it has received from the Adviser, it will then transfer funds via the Federal Wire System.

5. The transaction will be recorded in a book entry form in the name of the Custodian for Applicant. The financial institution, upon maturity of the instrument, will pay the Custodian for the Applicant.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than July 18, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-18104 Filed 7-5-83; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 19923; SR-CBOE-80-16]

Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change on Summary and Temporary Basis and Notice of Extended Public Comment Period

On June 9, 1980, the Chicago Board Options Exchange Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, filed with the Commission, Pursuant to the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new Exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers. The proposed rule change also prescribed minimum requirements concerning the extent to which a market maker's trading activity must be conducted in person.¹ The rule change was approved by the Commission on February 12, 1981,² but the 1981 approval order was vacated on April 5, 1982, by the United States Court of Appeals for the Seventh Circuit in *Clement v. Securities and Exchange Commission*, an action challenging the minimum requirement for in-person market maker transactions, and the matter was remanded to the Commission.³

On May 11, 1982, with extensions thereafter effective until June 28, 1983, the Commission reviewed the rule filing

¹ Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on June 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

² Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981).

³ *Clement v. Securities and Exchange Commission*, 674 F.2d 841 (7th Cir. 1982).

and summarily and temporarily approved those portions of the proposed rule change not addressed in *Clement*.⁴ During this interval, the Commission awaited certain amendments to the proposal from CBOE⁵ and solicited and evaluated public comment upon it.⁶

Public comment has focused upon the proposed requirement, challenged in *Clement* and invalidated there on procedural grounds, that all CBOE market makers be required to execute a minimum portion of their market making transactions in person, rather than from outside the trading crowd through use of floor brokers. No additional public comment has been received since March of 1983, except that CBOE has sent the Commission a letter which, among other things, requests its rule change be approved on a one-year pilot basis and explains the differences between the terms of the in-person requirement presently proposed and those of the earlier in-person requirement.⁷ CBOE also notes that the market makers most critical of the in-person proposal are joint CBOE-Chicago Board of Trade ("CBT") members and outlines several past advantages of joint membership. CBOE points out that for most market makers who were not joint members, orders given to floor brokers were excluded from the calculation of their principal appointment volume (which

was required to constitute at least 50 percent of their total volume)⁸ and their total volume beginning in the fourth quarter of 1978.

While the Commission considers a final order addressing the whole of the proposed rule change, it will be necessary for it to extend for an additional 45 days its summary and temporary approval of those portions of the proposed rule change not at issue in *Clement v. Securities and Exchange Commission*.⁹ The Commission is also extending the public comment period to July 28, 1983, to provide a final opportunity for those wishing to submit comments on the proposed rule change. Interested persons are invited to submit written data, views and arguments concerning the submission. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, DC 20549. Reference should be made to File No. SP-CBOE-80-16.

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available at the principal office of the CBOE.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved until August 12, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-18163 Filed 7-5-83; 8:45 am]
BILLING CODE 8010-01-M

**[Release No. 19927; File No. SR-NSCC-83-81]
Filing and Immediate Effectiveness of
Proposed Rule Change; National
Securities Clearing Corp.**

June 29, 1983.

Pursuant to Section 19(b)(1) of the

⁴ The figure is 75 percent under the current rule change.

⁵ CBOE has requested this extension. See letter of June 27, 1983, from Anne Taylor to Richard Chase. File No. SR-CBOE-80-18.

Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 24, 1983, the National Securities Clearing Corporation ("NSCC") filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The proposed rule change refines the language of Section I(H)(3) of NSCC's Standards of Financial Responsibility and Operational Capability ("Standards") and Part I, Question 3b, of the related Bank and Trust Company Report Form ("Report Form") to enable NSCC to focus more closely on those NSCC Bank Settling Members that may be experiencing financial difficulty. Under the proposed rule change, a Bank Settling Member would be required to report to NSCC monthly whether that Member is prohibited from paying dividends on its own securities issues or whether it "would be required by bank regulation to obtain consent from a bank regulatory authority if (the Member) were to pay dividends in an amount equal to 50% of the average amount paid in the past two years." Previously, a Bank Settling Member was required to report to NSCC monthly whenever the Member needed regulatory approval "to pay dividends in excess of an amount equal to 50% of the average amount paid over the past two years," even if the bank had substantial and continued profitability over the past three years.

NSCC's purpose for the proposed rule change is to revise the Standards and Report Form so that NSCC is better advised of circumstances that may indicate a Bank Settling Member's deteriorating financial condition. As previously drafted, a Bank Settling Member's positive response to Part I, Question 3b of the Report Form could indicate to NSCC that a particular Bank Settling Member may be experiencing financial difficulty, when, in reality, that Settling Member is in sound financial condition. Under the proposed rule change, a Bank Settling Member, in answering Question 3b of Part I, is to assume it affirmatively will be paying dividends equal precisely to 50% of the previous two-year distribution average and to report to NSCC only when the Member would be required to obtain bank regulatory agency consent to distribute that assumed dividend amount. Bank Settling Members that actually distribute pursuant to regulatory approval dividends in excess of net profits plus retained earnings for the previous two years minus amounts allocated to capital ("net profits") will not report to NSCC if they could have

⁴ See Securities Exchange Act Release Nos. 18727 (May 11, 1982), 47 FR 21169 (1982); 18963 (August 16, 1982), 47 FR 37020 (1982); 19203 (November 1, 1982), 47 FR 50790 (1982); 19386 (December 30, 1982), 48 FR 915 (1983); and 19461 (March 29, 1983), 48 FR 14795 (1983).

⁵ CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. See Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790 (1982). As noted below, the Commission has also received a letter from CBOE requesting approval of its proposed "in-person" rule on a pilot basis. See letter of May 10, 1983, from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Division of Market Regulation, Securities and Exchange Commission. File No. SR-CBOE-80-16.

⁶ The public comments received since the beginning of last November are discussed in Securities and Exchange Act Release No. 19386 (December 30, 1982), 48 FR 915 (1983) and 19461 (March 29, 1983), 48 FR 14795 (1983), and are available for public inspection in File No. SR-CBOE-80-18.

⁷ In its present form, the proposed in-person rule requires 25 percent of market maker transactions to be executed in person. The former requirement, voided in *Clement*, called for in-person execution of at least 75 percent of contract volume (excluding closing transactions not executed in person) or a minimum of 20,000 contracts in classes to which the market maker held a market maker appointment. CBOE changed the percentage figure from 75 percent to 25 percent, not for the purpose of decreasing the required amount of in-person marketmaking, but in order to accommodate the change of the basis of measurement from contract volume to number of transactions. See letter of May 10, 1983, Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Securities and Exchange Commission, Division of Market Regulation. File No. SR-CBOE-80-18.

distributed the assumed dividend amount without needing regulatory approval.*

NSCC believes that the proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934, as amended, and the rules and regulations thereunder applicable to NSCC because the revised Report Form will enable NSCC to receive, more effectively, early warning of a deteriorating financial condition of a Bank Settling Member. In particular, NSCC believes that the proposed rule change will help NSCC to assure the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible.

The foregoing change has become effective, pursuant to Section 19(b)(3)(A) of the Act and subparagraph (e) of Securities Exchange Act Rule 19b-4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purpose of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the *Federal Register*. Persons desiring to make written comments should file copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-NSCC-83-8.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for

inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-18185 Filed 7-5-83; 8:45 am]
BILLING CODE 8010-01-M

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

June 28, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Ampal-American Israel Corp.
Class A Common Stock, No Par Value (File No. 7-6788)
AVX Corporation
Common Stock, \$1 Par Value (File No. 7-6789)
Bradford National Corp.
Common Stock, \$10 Par Value (File No. 7-6790)
Cullinane Database Systems, Inc.
Common Stock, \$10 Par Value (File No. 7-6791)
Cyrus Corp.
Common Stock, \$30 Par Value (File No. 7-6792)
Institutional Investors Trust
Shares of Beneficial Interest, No Par Value (File No. 7-6793)
Key Pharmaceuticals, Inc.
Common Stock, \$1111 Par Value (File No. 7-6794)
Michigan General Corp.
Common Stock, \$1 Par Value (File No. 7-6795)
Rowan Companies, Inc.
Common Stock, \$12½ Par Value (File No. 7-6796)
Technicom International, Inc.
Common Stock, \$0.1 Par Value (File No. 7-6797)
Telerate, Inc.
Common Stock, \$0.1 Par Value (File No. 7-6798)
Telesphere International, Inc.
Common Stock, \$0.1 Par Value (File No. 7-6799)
Tymshare, Inc.
Common Stock, No Par Value (File No. 7-6800)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 20, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-18187 Filed 7-5-83; 8:45 am]
BILLING CODE 8010-01-M

Philadelphia Stock Exchange, Inc.; Application for Unlisted Trading Privileges and of Opportunity for Hearing

June 28, 1983.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the common stock of:

Intermedics, Inc.
Common Stock, \$0.1 Par Value (File No. 7-6801)

This security is listed and registered on one or more other national securities exchange and is reported on the consolidated transaction reporting system.

Interested persons are invited to submit on or before July 20, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extension of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-18186 Filed 7-5-83; 8:45 am]
BILLING CODE 8010-01-M

*For example, a Bank Settling Member has net profits of \$5,000,000, \$6,000,000 and \$7,000,000 in successive years and distributes dividends to the full amount of net profits in the first two years. Although the Bank Settling Member would be required to obtain bank regulatory agency consent for any third year distribution exceeding \$7,000,000, it could distribute any amount up to \$7,000,000, including the "assumed dividend amount" of \$2,750,000 without obtaining such consent and thus would not be required under the proposal to answer "yes" to Question 3b. If, however, the same Bank Settling Member has net profits of only \$2,500,000 in the third year and wishes to distribute dividends in excess of that amount, it could not distribute the "assumed dividend amount" of \$2,750,000 without obtaining bank regulatory agency consent. In this situation, the Bank Settling Member is required to answer "yes" to Question 3b to alert NSCC to a possibly deteriorating financial condition at that Bank.

Sunshine Act Meetings

Federal Register

Vol. 48, No. 130

Wednesday, July 8, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

AGENCY: Institute of Museum Services.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the agenda of a forthcoming meeting of the National Museum Services Board. This notice also describes the functions of the Board. Notice of this meeting is required under the Government in the Sunshine Act (Pub. L. 94-409) and regulations of the Institute of Museum Services 34 CFR 64.74.

DATE: July 15-16, 1983.

ADDRESS: Council Room, Old Post Office Building, 1100 Pennsylvania Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Sara Traut, Special Assistant to the Director, Institute of Museum Services, 1100 Pennsylvania Avenue, N.W., Washington, D.C.; (202) 786-0536.

SUPPLEMENTARY INFORMATION: The National Museum Services Board is established under the Museum Services Act which is the Arts, Humanities, and Cultural Affairs Act of 1976, Pub. L. 94-462. The Board has the responsibility for the general policies with respect to the powers, duties and authorities vested in the Institute under this title. Grants are

awarded by the Institute of Museum Services after review by the Board.

The meeting of July 15-16 will not be open to the public pursuant to paragraphs 6, 9(B), and other relevant provisions of subsection (c) of Section 552b of Title 5, United States Code because the Board will consider information that may disclose:

Information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy; and information the disclosure of which might significantly frustrate implementation of proposed agency action related to the award process.

The agenda for the meeting on July 15-16, 1983 will be as follows:

10 a.m.-4 p.m. (Closed to the public for the reasons stated above.)

Consideration of specific applications.

Dated: June 30, 1983.

Lilla Tower,

Director.

[S-979-83 Filed 7-1-83; 11:07 am]

BILLING CODE 4000-02-M

2

U.S. COMMISSION ON CIVIL RIGHTS

July 1, 1983.

PLACE: Room 512, 1121 Vermont Avenue NW., Washington, D.C.

DATE AND TIME: Monday, July 11, 1983, 9:30 a.m.-12 noon, 1:30-4 p.m.; Tuesday, July 12, 10 a.m.

STATUS OF MEETING: Open to the public:

- I. Approval of Agenda
- II. Approval of Minutes of Last Meeting
- III. Review of the Report, *Fifteen Years Ago* * * * *Today: Rural Alabama Revisited*
- IV. Review of the F.Y. 1985 Budget Package
- V. Discussion of Housing Consultant Proposal and Scheduling of State Advisory Committee Chairs Conference
- VI. State Advisory Committee Interim Appointment:
 - A. Arizona
 - B. Vermont
- VII. State Advisory Committee Recharter:
 - A. North Carolina
 - B. Vermont
- VIII. Vermont Advisory Committee Report Entitled, *Franco-Americans in Vermont*
- IX. Civil Rights Developments in the Rocky Mountain Region
- X. Staff Director's Report:
 - A. Status of Funds
 - B. Personnel Report
 - C. Office Directors' Reports

Tuesday, July 12, 10:00 a.m.:

Press Conference to Release the Statement on the FY 1984 Education Budget

PERSON TO CONTACT FOR FURTHER

INFORMATION: Barbara Brooks, Press and Communications Division (202) 254-6697.

[S-981-83 Filed 7-1-83; 3:55 pm]

BILLING CODE 6335-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, July 5, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note.—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Application for consent to establish a branch:

Citizens Bank and Trust of Lagrange County, Lagrange, Indiana, for consent to establish a branch on the west side of State Road 5

South, 0.4 miles south of Middlebury Street, Shippshewana, Indiana.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: June 28, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-989-83 Filed 7-1-83; 11:01 am]

BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, July 11, 1983, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b(c)(2), (c)(6), (c)(8), and (c)(9)(A)(ii) of Title 5, United States Code, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of

the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Note. Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

Discussion Agenda:

Applications for Federal deposit insurance:

Manilabank California, a proposed new bank to be located at 350 South Figueroa Street, Los Angeles, California.

Korea First Bank of New York, a proposed new bank to be located at 29 West 30th Street, New York (Manhattan), New York.

Memorandum re: Administration of cease-and-desist proceedings under section 8(b) of the Federal Deposit Insurance Act with respect to consent cease-and-desist orders.

Memorandum re: Revisions to the Corporation's General Travel Regulations (GTR).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(6)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 389-4425.

Dated: July 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-977-83 Filed 7-1-83; 3:36 pm]

BILLING CODE 6714-01-M

5

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2 p.m. on Monday, July 11, 1983, to consider the following matters:

Summary Agenda: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a

member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous meetings.

Applications for consent to establish a branch.

Community First Bank, Bakersfield, California, for consent to establish a branch at 460 East Shaw Avenue, Fresno, California.

The Troy Saving Bank, New York, for consent to establish a branch at 1601 Broadway, Watervliet, New York.

Application for consent to merge and establish one branch.

Richmond Bank, Richmond, Kentucky, for consent to merge, under its charter and with the title "Richmond Bank and Trust Company," with the Waco Deposit Bank, Waco, Kentucky, and for consent to establish the sole office of the Waco Deposit Bank as a branch of the resultant bank.

Request for exemption pursuant to section 348.4(b)(2) of the Corporation's rules and regulations:

The Bank of Robstown, Robstown, Texas.

Memorandum and Resolution re: Proposed amendment to Part 330 of the Corporation's rules and regulations, entitled "Clarification and Definition of Deposit Insurance Coverage," by adding a new section that would define the amount of an insured deposit, taking into account accrued or anticipated interest or dividends.

Reports of committees and officers:

Minutes of actions approved by the standing committees of the Corporation pursuant to authority delegated by the Board of Directors.

Reports of the Division of Bank Supervision with respect to applications, requests, or actions involving administrative enforcement proceedings approved by the Director or Associate Director (Administration and Corporate Applications) of the Division of Bank Supervision and the various Regional Directors, pursuant to authority delegated by the Board of Directors.

Report of the Director, Office of Corporate Audits and Internal Investigations:

Audit Report re: The Unity Bank and Trust Company, Boston (Roxbury), Massachusetts (dated June 10, 1983).

Discussion Agenda:

Memorandum re: Guidelines for the Indemnification of Corporation Employees.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, N.W., Washington, D.C.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive

Secretary of the Corporation, at (202) 389-4425.

Dated: July 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,
Executive Secretary.

[S-976-83 Filed 7-1-83; 3:39 am]

BILLING CODE 6714-01-M

6

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 10 a.m., Thursday, July 7, 1983.

PLACE: Board room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE

INFORMATION: Ms. Gravlee (202-377-6970).

MATTERS TO BE CONSIDERED:

Preemption of State Due-on-Sale Laws;
Imposition of Prepayment Penalties.

[No. 45, July 1, 1983]

[S-966-83 Filed 7-1-83; 10:56 am]

BILLING CODE 6720-01-M

7

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

June 29, 1983.

TIME AND DATE: 10 a.m., Wednesday, July 6, 1983.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Old Dominion Power Company, Docket No. VA 81-40-R. (Issues include whether the company is an independent contractor within the scope of the Mine Act.)

CONTACT PERSON FOR MORE

INFORMATION: Jean Ellen (202) 653-5632.

[S-971-83 Filed 7-1-83; 11:21 am]

BILLING CODE 6735-01-M

8

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: Approximately 10:30 a.m., Friday, July 8, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: June 30, 1983.

James McAfee,

Associate Secretary of the Board.

[S-964-83 Filed 6-30-83; 4:09 pm]

BILLING CODE 6210-01-M

9

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Friday, July 8, 1983.

PLACE: Board Building, C Street Entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: Summary

Agenda: Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposal for survey information about seller financing of home sales.

2. Proposal to expand Federal Reserve Banks' authority to approve bank mergers and acquisitions.

3. Consideration of a request for an exception from Regulation L (Management Official Interlocks) to permit an interlock between First Atlanta Corporation and Citizens Bancshares Corporation, both of Atlanta, Georgia.

Discussion Agenda:

4. Proposed revisions to Policies on Unionization and Collective Bargaining for Federal Reserve System employees. (Proposed earlier for public comment; Docket No. R-0462.)

5. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated June 30, 1983.

James McAfee,

Associate Secretary of the Board.

[S-965-83 6-30-83; 4:09 pm]

BILLING CODE 6210-01-M

10

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: 10 a.m., Monday, July 11, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: July 1, 1983.

James McAfee,

Associate Secretary of the Board.

[S-978-83 Filed 7-1-83; 3:12 pm]

BILLING CODE 6210-01-M

11

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-31A]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 27884, June 17, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:30 p.m., Wednesday, July 13, 1983.

CHANGES IN THE MEETING: The time has been changed from 2:30 p.m., to 10 a.m. Additional items added to the agenda as follows:

2. Petitions and complaints:
b. Matrix Line Printers and Components Thereof (Docket No. 945).
c. Certain Liquid Crystal Display Watches with Rocker Switches (Docket No. 946).

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

[S-972-83 Filed 7-1-83; 12:19 pm]

BILLING CODE 7020-02-M

12

NATIONAL COUNCIL ON THE HANDICAPPED

Executive Committee Meeting

This is to *Amend* the notice that appeared in the *Federal Register*, Tuesday, June 18, 1983, page 29786.

The meeting of the National Council on the Handicapped is *Not* a full Council meeting, only the *Executive Committee*. The remaining matters in the original announcement are correct.

For information contact: Hilda Legg,
National Council on the Handicapped,
245-3498.

[S-987-83 Filed 6-30-83; 5:07 pm]

BILLING CODE 4000-01-M

13

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-15]

TIME AND DATE: 9 a.m., Tuesday, July 12, 1983.

PLACE: NTSB Board Room, Eighth Floor, 800 Independence Ave., SW., Washington, D.C. 20594.

STATUS: The first four items will be open to the public; the remaining items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Breakaway of 38 Barges, Arkansas River, December 4, 1982.

2. *Highway Accident Report:* Sigma Chi Fraternity at University of Virginia, Rental Truck Tipover and Collision with Automobile, U.S. Route 29-A, near Lynchburg, Virginia, October 6, 1982.

3. *Safety Studies Program.*

4. *Safety Objectives Plan.*

5. *Opinion and Order—*Petition of Meade, Dkt. SM-2898; disposition of the Administrator's appeal.

6. *Opinion and Order—*Administrator v. Smith, Dkt. SE-5569; disposition of respondent's interlocutory appeal.

7. *Opinion and Order—*Sottile v. Administrator, Dkt. 5-EAJA-5388; Disposition of the Administration's appeal.

8. *Opinion and Order—*Administrator v. Hopkins, Dkt. SE-5611; disposition of the Administrator's appeal.

CONTACT PERSON FOR MORE

INFORMATION: Sharon Flemming; (202) 382-6525.

July 1, 1983.

[S-975-83 Filed 7-1-83; 12:30 p.m.]

BILLING CODE 4910-58-M

14

NUCLEAR REGULATORY COMMISSION

DATE: Week of July 4, 1983 (Revised).

PLACE: Commissioner's Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: Tuesday, July 5.

2:00 p.m.:

Evaluation of Implications of Salem Event (Part II) (Public Meeting) (As Announced)

Thursday, July 7:

1:30 p.m.:

Discussion of Regulatory Reform Task Force-Administrative Proposals-Backfit Rule (Public Meeting) (Time Change)

3:00 p.m.:

Discussion of Procedures for Diablo Canyon Review (Closed-Exemption 10) (New Item)

Friday, July 8:

2:00 p.m.:

Meeting with ACRS (Public Meeting) (As Announced)

ADDITIONAL INFORMATION: On June 29 the Commission voted 5-0 to hold Discussion of Management-Organization and Internal Personnel Matters, held that day and was continued on June 30. On June 30 the Commission voted 5-0 to hold Affirmation of Suspension of Exemption Permitting Use of Glass Enamel and Glass Enamel Frit Containing Small Amounts of Uranium, held that day.

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should reverify the status on the day of the meeting.

CONTACT PERSON FOR MORE

INFORMATION: Walter Magee, (202) 634-1410.

Walter Magee,

Office of the Secretary.

June 30, 1983.

[S-979-83 Filed 7-1-83; 3:37 p.m.]

BILLING CODE 7590-01-M

15

PAROLE COMMISSION

[3PO401]

National Commissioners (the Commissioners presently maintaining offices at Chevy Chase, Maryland, Headquarters).

TIME AND DATE: 10 a.m., Thursday, July 14, 1983.

PLACE: Room 420-F, One North Park Building, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815.

STATUS: Closed pursuant to a vote to be taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Referrals from Regional Commissioners of approximately 4 cases in which inmates of Federal prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE

INFORMATION: Linda Wines Marble, Chief Case Analysts, National Appeals Board, United States Parole Commission (301) 492-5987.

[S-980-83 Filed 7-1-83; 3:37 pm]

BILLING CODE 4410-01-M

16

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the

provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 4, 1983, at 450 5th Street, N.W., Washington, D.C.

Closed meetings will be held on Wednesday, July 6, 1983, at 10 a.m. and on Thursday, July 7, following the 10 a.m. open meeting. An Open meeting will be held on Thursday, July 7, 1983, at 10 a.m. in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10).

Chairman Shad and Commissioners Evans, Thomas and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, July 6, 1983, at 10 a.m., will be:

Formal Orders of Investigation.

Access to investigative files by Federal,

State, or Self-regulatory authorities.

Litigation matter.

Institution of administrative proceeding of an enforcement nature.

Institution of injunctive actions.

Authorization to discuss settlement of possible enforcement action.

Freedom of Information Act appeal.

Report of Investigation.

The subject matter of the closed meeting scheduled for Thursday, July 7, 1983, following the 10 a.m. open meeting, will be:

Settlement of administrative proceeding of an enforcement nature.

The subject matter of the open meeting scheduled for Thursday, July 7, 1983, at 10 a.m., will be:

1. Consideration of whether to allow, or under what conditions to allow, the use of letters of credit: (1) As "cover," in lieu of margin, when establishing short options positions in foreign currency or stock index options; (2) as collateral for secured demand notes made by subordinated lenders contributing capital to broker-dealers; and (3) as margin deposits required by the Options Clearing Corporation for certain aggregate short or exercised options positions of participants. For further information, please contact Thomas V. Sjoblom at (202) 272-7379.

2. Consideration of whether to issue a release soliciting comments on proposals that

would revise Form S-18 by: (1) Raising the offering price ceiling from \$5 million to \$7.5 million; (2) raising the offering price ceiling for securities sold for the account of persons other than the issuer from \$1.5 million to \$2.5 million; and (3) revising the requirements for disclosure of transactions with management. For further information, please contact Suzanne S. Brannan at (202) 272-2644.

3. Consideration of whether to issue a release soliciting comments on proposals that would: (1) Amend Rule 144 by removing, as a prerequisite to resales of restricted securities by non-affiliates after a three-year holding period, the requirement that adequate current information be publicly available with respect to the issuer of such securities; and (2) rescind Rule 237, an exemption for the resale of certain securities held for five years, and Form 237, a notice of sales pursuant to Rule 237. For further information, please contact Betsy C. Goodell at (202) 272-2644.

4. Consideration of a petition from the California Association of Utility Shareholders. The petition requests that the Commission propose amendments to its rules to provide for disclosure in Commission filings by regulated utilities of the effects on book value and earnings per share arising from the sale of new equity securities at a price which is less than book value per share. For further information, please contact Clarence M. Staubs at (202) 272-2130.

5. Consideration of whether to issue a release adopting Rule 2a-7 under the Investment Company Act of 1940 ("Act") which would exempt, subject to enumerated conditions, certain "money market" funds from the valuation and pricing provisions of the Act to the extent that they choose to utilize the "amortized cost" method of portfolio valuation or "penny rounding" method of price computation. For further information, please contact H. R. Hollock, Jr. at (202) 272-3030.

6. Consideration of whether to authorize a joint plan pursuant to Section 11(e) of the Public Utility Holding Company Act ("Act") filed by Northern States Power Company ("Northern States"), an exempt company which has registered under Section 5(a) of the Act for the limited purpose of submitting such plan, and Lake Superior Power Company ("Lake Superior"), an electric utility subsidiary of Northern States. The plan provides for the retirement of the publicly-held minority interest in the common stock of Lake Superior. For further information, please contact Mary Ann Oliver at (202) 272-7647.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Jerry Marlatt at (202) 272-2092.

June 30, 1983.

[S-999-83 Filed 6-30-83; 4:45 pm]
BILLING CODE 9010-01-M

17

NATIONAL COMMISSION ON STUDENT FINANCIAL ASSISTANCE

Public Meeting

DATE: July 26, 1983.

TIME: 9 a.m.-5 noon.

PLACE: The Cannon House Office Building, Rm 304, Washington, D.C. 20001.

PURPOSE: To consider reports from several Commission subcommittees.

FOR FURTHER INFORMATION CONTACT: Richard T. Jerue, Chief Executive Officer (202) 724-2914.

This meeting was called by the Commission Chairman, Mr. David R. Jones.

Submitted the 30th day of June 1983.

Richard T. Jerue,
Chief Executive Officer.

[S-974-83 Filed 7-1-83; 12:20 pm]
BILLING CODE 6820-BC-M

18

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy

A meeting of the U.S. Advisory Commission on Public Diplomacy will be held July 20, 1983 from 10 a.m. to 12:30 p.m. in Room 800, 400 C Street, S.W., Washington, D.C. The Commission will meet with representatives of the Private Sector Survey on Cost Control in the Federal Government and other nongovernment consultants. Preparation of the Commission's annual report will also be discussed.

Since space is limited, please call Elizabeth Fahl, (202) 485-2468, if you are interested in attending the meeting.

Dated: July 1, 1983.

Mr. Charles Canestro,
Management Plans, Analysis, Directives Staff.

[S-973-83 Filed 7-1-83; 12:21 pm]
BILLING CODE 8230-01-M

Federal Register

Wednesday
July 6, 1983

Part II

Department of Commerce

National Bureau of Standards

General Services Administration

Joint Federal Telecommunication
Standard and Federal Information
Processing Standard 100; Interface
Between Data Terminal Equipment (DTE)
and Data Circuit-Terminating Equipment
(DCE) for Operation With Packet-
Switched Data Communications
Networks; Approval

DEPARTMENT OF COMMERCE

National Bureau of Standards

[Docket No. 21116-230]

GENERAL SERVICES
ADMINISTRATIONApproval of Joint Federal
Telecommunication Standard and
Federal Information Processing
Standard 100, Interface Between Data
Terminal Equipment (DTE) and Data
Circuit-Terminating Equipment (DCE)
for Operation With Packet-Switched
Data Communications Networks

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automated data processing standards. The Administrator of the General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the National Communications System (NCS) was designated by the Administrator, GSA, as the responsible agent for the development of telecommunication standards for NCS interoperability and the computer-communication interface.¹

On August 5, 1981, notice was published in the *Federal Register* (46 FR 39876-39881) that a proposed joint Federal Information Processing Standard and Federal Standard for Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation with Packet-Switched Data Communications Networks was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NBS and NCS. On the basis of this review, NBS recommended that the Secretary approve the joint standard as a Federal Information Processing Standard (FIPS), and prepared a detailed justification document for the Secretary's review in support of that recommendation. NCS recommended approval by the Administrator, GSA, after technical and policy approval of the Director, Office of Science and Technology Policy (OSTP), Executive Office of the President. The purpose of this notice is to announce

that the Secretary and the Administrator have approved the joint standard, which will be published as one document with two designations, FIPS Publication 100, and Federal Standard 1041.

The detailed justification document which was presented to the Secretary, the Director, OSTP, and the Administrator, GSA, and which includes an analysis of the written comments received, is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230.

The approved joint standard contains two portions: (1) An announcement portion which provides information concerning the applicability, implementation, and maintenance of the standard and (2) a specifications portion which deals with the technical requirements of the standard. Only the announcement portion of the joint standard is provided in this notice.

The joint standard is based on Recommendation X.25 "Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Terminals Operating in the Packet Mode on Public Data Networks," adopted by the International Telegraph and Telephone Consultative Committee of the International Telecommunication Union (CCITT). The announcement portion of the joint standard contains a provision which adopts a subset of CCITT Recommendation X.25. This provision of the joint standard was developed by NBS and NCS staff.

Interested parties may purchase either paper or microfiche copies of this standard, including the technical specifications portion, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement portion of the standard.

In parallel with the development of the technical specifications for the joint standard, the Institute for Computer Sciences and Technology (ICST) has proceeded with the design, development and implementation of a verification program. ICST is establishing a test and evaluation service to evaluate equipment and services for conformance to this joint standard. The purpose of this service is to assist Federal agencies, and private sector users who wish to follow the options specified in the standard and limit acquisitions to equipment that has been verified for conformance to the joint standard. The

service may also be attractive to the vendors who are seeking a common basis to ensure that their products can interoperate. A list of verified equipment will be made available by the General Services Administration.

Initially, the verification testing service will be conducted by ICST. However, ICST plans to accept self-verification from competent suppliers and, if sufficient interest is expressed, possibly help to establish multiple commercial verifications centers. ICST requests suggestions or assistance from organizations in improving the verification process, taking into consideration the testing methodology, and its correctness to the specifications of the joint standard.

Parties interested in making suggestions or in offering assistance may obtain a copy of the NBS X.25 verification program description or information about accreditation for self-certification from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234, Attention: X.25 Verification.

Persons desiring further information about the joint standard or the verification program may contact Michael Wong, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234 (301) 921-3723.

Dated: June 8, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

Dated: June 16, 1983.

Frank J. Carr,

Assistant Administrator, Office of Information Resources Management, General Services Administration.

Federal Standard 1041—Federal Information Processing Standards Publication 100
(Date)

Announcing the Joint Standard for Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation With Packet-Switched Data Communications Networks

Federal Information Processing Standards Publications are developed and issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 (79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973), and Part 6 of Title 15, Code of Federal Regulations (CFR).

Federal Standards in the "telecommunications" series are developed by the Office of the Manager, National Communications System. These Federal Standards are issued by the General Services Administration pursuant to the Federal

¹ DOD Directive 5100.41, "Arrangements for discharge of executive agency responsibility for the NCS."

Property and Administrative Services Act of 1949, as amended.

Name of Standard: Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Operation With Packet-Switched Data Communications Networks.

Category of Standard: Hardware, Data Transmission.

Explanation: Federal automated data processing equipment, services, and telecommunication equipment using public packet switched data communications networks (PSDCN) based on the family of CCITT Recommendations derived from X.1 and X.2 shall employ the interface and protocols specified in this joint standard. In addition, designers of these internally operated and maintained Federal networks employing packet switched technology should consider the use of this interface as appropriate. The joint standard provides:

- A family of physical layer interfaces, from which a particular interface may be selected;
- A single data link layer control procedure; and
- Packet level procedures for virtual calls and permanent virtual circuits, and an optional datagram operation.

The mandatory interface attributes of this joint standard are summarized as follows:

Physical Level:

Transmission rates: 2.4, 4.8, 9.6 Kbits/s
Interface: One or more of the following: RS-232-C, X.21, RS-449

Link Level:

Procedure: LAPB
Parameter K: 7
Smallest N1: 164 octets

Packet Level:

Services: Virtual call and permanent virtual circuit

Packet types: All basic plus Diagnostic packets. Packet Reject shall not be used.

User data field length: Octet-aligned

Packet sequence numbering: Modulo 8

D bit procedure: Supported by all DCEs; DTE need not employ the D bit when sending to the DCE, but no DTE shall reject incoming packet with the D bit set to 1 or 0 as having this bit in error unless it is known by receiver that the sender has no D bit capability.

X.25 diagnostic codes: Use standard codes whenever they apply; non-std codes may be used for events not listed in X.25 within a period of 24 months after the effective date of this standard.

Fast Select: DCEs shall implement fast select; DTE need not employ fast select when sending to DCE, but all DTEs with higher level functionality which allows response to fast select must be able to accept incoming fast select packet.

Interrupt packet: Receipt of a DTE interrupt packet before a previous DTE interrupt packet has been confirmed is an error condition.

Duplicated facility codes: The last appearing facility code should be treated by the DTE as if it were the only appearance of that code.

Non-zero cause field of restart request packet: Discarded

Restart request too long in state r1: Discarded

This joint standard is intended to enhance interoperability by specifying certain subsets and other constraints on Federal use of CCITT Recommendation X.25.

The Government's intent in employing this joint standard is to reduce the cost of acquiring and using Federal automated data processing equipment, services, and telecommunication equipment with PSDCN. The joint standard is also intended to reduce the cost of acquiring and using Government-owned or leased PSDCN. These goals will be achieved by:

- Increasing the available alternative sources of supply;
- Increasing the reutilization of Government resources; and
- Assuring the required interoperability.

Approving Authority: Secretary of Commerce (Federal Information Processing Standards). Administrator, General Services Administration (Federal Standards).

Maintenance Agency: The National Bureau of Standards and the Office of the Manager, National Communications System will jointly maintain this standard coordinating as necessary with the General Services Administration (GSA).

Cross Index: The following are related standards upon which this FIPS PUB is based. The inclusion of a particular standard on this list does not necessarily mean that the standard is applicable in all cases to which this FIPS PUB applies.

(a) International Standard 2110-1980: *Data Communication—25-Pin DTE/DCE Interface Connector and Pin Assignments.*

(b) International Telegraph and Telephone Consultative Committee (CCITT) Recommendation V.24 (1980): *List of Definitions for Interchange Circuits Between Data Terminal Equipment and Data Circuit Terminating Equipment.*

(c) CCITT Recommendation V.28 (1980): *Electrical Characteristics for Unbalanced Double-Current Interchange Circuits.*

(d) Electronics Industries Association (EIA) RS-232-C (1969 August): *Interface Between Data Terminal Equipment and Data Communication Equipment Employing Serial Binary Data Interchange.*

(e) International Standard 4902-1980: *Data Communication—37-Pin and 9-Pin DTE/DCE Interface Connectors and Pin Assignments.*

(f) CCITT Recommendation V.11 (X.27) (1980): *Electrical Characteristics for Balanced Double-Current Interchange Circuits for General Use with Integrated Circuit Equipment in the Field of Data Communications.*

(g) EIA RS-422-A (1978 June): *Electrical Characteristics of Balanced Voltage Digital Interface Circuits.*

(h) Federal Standard 1020A (1980 January): *Telecommunications: Electrical Characteristics of Balanced Voltage Digital Interface Circuits.*

(i) CCITT Recommendation V.10 (X.26) (1980): *Electrical Characteristics for Unbalanced Double-Current Interchange Circuits for General Use with Integrated Circuit Equipment in the Field of Data Communications.*

(j) EIA RS-423-A (1978 June): *Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.*

(k) Federal Standard 1030A (1980 January): *Telecommunications: Electrical Characteristics of Unbalanced Voltage Digital Interface Circuits.*

(l) CCITT Recommendation X.21bis (1980): *Use on Public Data Networks of Data Terminal Equipment which are Designed for Interfacing to Synchronous V-Series Modems.*

(m) CCITT Recommendation V.54 (1980): *Loop Test Devices for Modems.*

(n) EIA RS-449 (1977 November): *General Purpose 37-Position and 9-Position Interface Between Data Terminal Equipment and Data Circuit-Terminating Equipment.*

(o) Federal Standard 1031 (1980 June): *Telecommunications General Purpose 37-Position and 9-Position Interface Between Data Terminal Equipment and Data Circuit Terminating Equipment.* (Implementing instructions in the form of a Federal Property Management Regulation have not yet been issued. The General Service Administration is considering cancelling the FED-STD 1031. Furthermore, a Federal Information Processing Standard for ADP applications corresponding to Federal Standard 1031 has not been adopted by the National Bureau of Standards.)

(p) International Standard 4903-1980: *Data Communication—15-Pin DTE/DCE Interface Connector and Pin Assignments.*

(q) EIA Industrial Electronics Bulletin No. 12 (1977 November): *Application Notes on Interconnection Between Interface Circuits Using RS-449 and RS-232C.*

(r) Draft International Standard 2593 (1980): *Data Communication—34-Pin DTE/DCE Interface Connector and Pin Assignments.*

(s) CCITT Recommendation V.35 (1980): *Data Transmission at 48 Kilobits per Second Using 60-108 kHz Group Band Circuits.*

(t) CCITT Recommendation X.21 (1980): *General Purpose Interface Between Data Terminal Equipment and Data Circuit-Terminating Equipment for Synchronous Operation on Public Data Networks.*

(u) CCITT Recommendation V.5 (1980): *Standardization of Data-Signaling Rates for Synchronous Data Transmission in the General Switched Telephone Network.*

(v) CCITT Recommendation V.6 (1980): *Standardization of Data-Signaling Rates for Synchronous Data Transmission on Leased Telephone-Type Circuits.*

(w) American National Standard X3.1-1978: *Synchronous Signaling Rates for Data Transmission.*

(x) Federal Information Processing Standard Publication 22-1 (1977 September): *Synchronous Signaling Rates Between Data Terminal and Data Communication Equipment.* (FIPS PUB 22-1 is identified also as FED-STD 1013.)

(y) Federal Standard 1013 (1977 August): *Telecommunications: Synchronous Signaling Rates Between Data Terminal Equipment and Data Circuit-Terminating Equipment Utilizing 4 kHz Circuits.* (FED-STD 1013 is identified also as FIPS PUB 22-1.)

(z) American National Standard X3.36-1975: *Synchronous High-Speed Data*

Signaling Rates Between Data Terminal Equipment and Data Communication Equipment.

(aa) Federal Information Processing Standards Publication 37 (1975 June): *Synchronous High Speed Data Signaling Rates Between Data Terminal Equipment and Data Communications Equipment*. (FIPS PUB 37 is identified also as FED-STD 1001.)

(ab) Federal Standard 1001 (1975 June): *Telecommunications: Synchronous High-Speed Data and Signaling Rates Between Data Terminal Equipment and Data Communications Equipment*. (FED-STD 1001 is identified also as FIPS PUB 37.)

(ac) EIA RS-269-B (1976 January): *Synchronous Signaling Rates for Data Transmission*.

(ad) International Standard 3309-1979: *Data Communication—High-Level Data Link Control Procedures—Frame Structure*.

(ae) International Standard 4335-1979: *Data Communication—High-Level Data Link Control Procedures—Elements of Procedures*.

(af) Addendum 1 to International Standard 4335-1979: *Data Communication—High-Level Data Link Control Procedures—Elements of Procedures*.

(ag) Addendum 2 to International Standard 4335-1979: *Data Communication—High-Level Data Link Control Procedures—Elements of Procedures*.

(ah) International Standard 6256-1980: *Data Communication—High-Level Data Link Control Procedures—Balanced Class of Procedure*.

(ai) American National Standard X3.66-1979: *Advanced Data Communication Control Procedures (ADCCP)*.

(aj) Federal Information Processing Standard Publication 71 (1980 May) as revised by the Federal Register notice 47 FR 23798, dated June 1, 1982 and corrected by the notice 47 FR 25397 dated June 11, 1982: *Advanced Data Communication Control Procedures (ADCCP)*. (FIPS PUB 71 is technically consistent with FED-STD 1003A.)

(ak) Federal Information Processing Standard Publication 78 (1980 September): *Guideline for Implementing Advanced Data Communication Control Procedures (ADCCP)*.

(al) Federal Standard 1003A (1981 August): *Telecommunication: Synchronous Bit-Oriented Data Link Control Procedures*. (FED-STD 1003A is technically consistent with FIPS PUB 71.)

(am) CCITT Recommendation X.25 (1980): *Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Terminals Operating in the Packet Mode on Public Data Networks*.

(an) Draft Proposed International Standard 7498: *Data Processing—Open Systems Interconnection—Basic Reference Model*.

(ao) CCITT Recommendation X.1 (1980): *International User Classes of Service in Public Data Networks*.

(ap) CCITT Recommendation X.2 (1980): *International User Facilities in Public Data Networks*.

(aq) CCITT Recommendation X.96 (1980): *Call Progress Signals in Public Data Networks*.

Applicability. The technical specifications of this joint standard shall be employed in

the acquisition, design, and development of all Federal automated data processing equipment, services, and telecommunication equipment and PSDCN whenever an interface based on CCITT Recommendation X.25

(1980), *Interface Between Data Terminal Equipment (DTE) and Data Circuit-Terminating Equipment (DCE) for Terminals Operating in the Packet Mode on Public Data Networks*, is required. Referred to below as CCITT Recommendation X.25, Recommendation X.25, or X.25.

Implementation: The provisions of this joint standard are effective 30 days after date of publication of the announcement portion of the approved standard in the Federal Register. Any applicable equipment or service ordered on or after the effective date, or procurement action for which solicitation documents have not been issued by that date, must conform to the provisions of this standard unless a waiver has been granted in accordance with the procedures described below.

This joint standard shall be reviewed by the Institute for Computer Sciences and Technology, National Bureau of Standards and the Office of the Manager, National Communications System, within five years after its effective date. This review shall take into account technological trends and other factors to determine if the joint standard should be affirmed, revised, or withdrawn.

Specifications. This joint standard adopts a subset, identified below, of the International Telegraph and Telephone Consultative Committee's Recommendation X.25.

(a) At the physical level, the provisions of Section 1 of CCITT Recommendation X.25 shall be used. As a minimum, networks shall support dedicated circuit access; other types of access (e.g., through the general switched telephone network) may also be offered.

CCITT Recommendation X.1 standardizes data signaling rates of 2.4, 4.8, 9.6, and 48 kbits/s for packet mode interfaces. At a minimum, networks shall support the synchronous data signaling rates of 2.4, 4.8, and 9.6 kbits/s full duplex; other speeds (e.g., 19.2 kbits/s) may also be offered. The 48 kbits/s rate need not be supported in those locations where it is not available; 56 kbits/s is recommended in its place (see American National Standard X3.36-1975 and related documents referenced above). The term "user class of service" used in X.25 refers to the data signaling rate of DTE/DCE interface.

In accordance with CCITT Recommendation X.25, networks shall provide one or more of the following interface options:

- i. CCITT Recommendation X.21;
- ii. EIA RS-232-C, which is essentially equivalent to one of the options in CCITT Recommendation X.21bis;
- iii. CCITT Recommendation X.21bis option that is equivalent to RS-449 using only the EIA RS-423A unbalanced electrical characteristics.

Interworking between EIA RS-232-C on one side of the interface and RS-449 on the other side is permitted in accordance with EIA Industrial Electronics Bulletin Number 12. Where interworking with RS-232-C equipment is not required, the provisions described below employing RS-449 with the

RS-423A electrical characteristics may optionally be employed at signalling rates below 48 Kbit/s.

Networks which support 48 or 56 Kbits/s data signalling rates shall provide one or more of the following interface options:

- i. CCITT Recommendation X.21;
- ii. CCITT Recommendation X.21bis option that specifies CCITT Recommendation V.35; or
- iii. CCITT Recommendation X.21bis option that specifies CCITT Recommendation V.36 which is equivalent to EIA RS-449.

Note.—Current study in national and international standards groups may result in the development of additional physical interfaces. Each such physical interface will be evaluated for inclusion in this joint standard. If there are significant savings, one physical interface may be selected as the future mandatory physical interface.

Note.—DTE purchasers and designers should determine which physical interface(s) is provided by the associated DCE(s).

(b) Only the LAPB link level procedures shall be used.

Note.—These procedures are a subset of those described in FIPS PUB 71 and Federal Standard 1003A and correspond to FIPS PUB 78 recommended class B. This subset is identified as follows:

- i. Link configuration: two combined stations on a point-to-point link.
- ii. Class of procedures: balanced asynchronous (BA) with options two and eight. The RSET command shall not be used. (RSET is found in option 11 of the FIPS PUB 71. RSET is part of the basic repertoire in Federal Standard 1003A; option 11 of Federal Standard 1003A deletes the RSET command. Note that RSET is not part of CCITT Recommendation X.25.)
- iii. Two-way simultaneous operation shall be employed.
- iv. The smallest N1, (the maximum number of bits in an information frame excluding flags and zero bit insertion for transparency), which shall be supported shall be 164 octets (The maximum length of fast select call setup packet). If a DTE neither transmits, nor receives for processing by higher level functionality fast select packets, an N1 as small as 135 octets may be supported by the DTE.

v. The address of the combined station provided by the network shall be 10000000; the address of the other combined station shall be 11000000; where the left-hand bit is the least significant bit (bit number 1) and shall be transmitted first. This convention is consistent with the provisions of FIPS 71 and FS 1003A.

vi. The FCS shall be a 16-bit sequence as indicated in Section 2.2.7. DTE/DCE may also employ the 32-bit FCS as indicated in FIPS PUB 71 (revised) and FED-STD 1003A. DTE/DCE equipment using the 32-bit FCS shall be able to also operate with the 16-bit FCS. The smallest N1 shall be 166 octets when the 32 bit FCS is used. If a DTE neither transmits, nor receives for processing by higher level functionality fast select packets, an N1 as small as 137 octets may be supported by the DTE when the 32-bit FCS is used.

Note.—FIPS PUB 78 provides a detailed discussion of the relative merits of the 16-bit and 32-bit FCS.

vii. The frame reject information field shall be padded with 4 zero bits in bit positions 21 through 24 of the information field to provide a length of three octets.

viii. It is required that all implementations be capable of operating with $K=7$; optionally, values of 1 to 6 are permissible with modulo 8 operation and values 1 to 127 are permissible with modulo 128 operation.

Note.—DTE purchasers and designers should determine that values of K other than 7 are supported by the associated DCE(s).

(c) The user data field of packets shall be an integral number of octets. If a packet is received which shows a user data field not equal to an integral number of octets, the receiving DTE/DCE shall follow the packet level procedures for processing a packet type which is too long. A new diagnostic code, "non-octet aligned packet," consistent with the *Data Communications—X.25 Packet Layer Specification for Data Terminal Equipment*, ISO DP 8208, November 8, 1982, is recommended as #82.

(d) The reject packet shall not be used.

(e) All DCE restart confirmation, DCE reset confirmation, and DCE clear confirmation packets shall be interpreted by the DTE as having local significance only.

(f) The D-bit shall be implemented by all networks. DTE's need not employ the D-bit procedures when transmitting to the network, but no DTE shall reject incoming packets with the D-bit set to 1 or 0 as having this bit in error unless the receiving DTE knows the remote DTE has not implemented the D-bit procedure; in this case, the receipt of a D-bit set to 1 may be treated by the receiving DTE as an error condition.

(g) The selection of logical channel number for new virtual calls shall follow the procedures suggested in Section 4.1.2, Note 2, Annex A Note 5, and Annex A Note 6, of the CCITT Recommendation X.25.

(h) It is required that all implementations be capable of operating with packet sequence numbering modulo 8; optionally, implementations of packet sequence numbering modulo 128 are also permitted.

Note.—DTE purchasers and designers should determine if the associated DCE(s) support packet sequence numbering modulo 128.

(i) All DTE's and DCE's shall follow the flow control principles outlined in the first two sentences of the first paragraph of Section 4.4.1.3.

(j) The alternative procedure for passing packets containing a P(S) that is out of sequence but within the window as described in the third paragraph of Section 4.4.1.3, of CCITT Recommendation X.25 shall not be used.

(k) The second sentence of Section 4.4.1.4, Note 2 shall not apply. This sentence permits networks to defer updating the window for data packets with $D=0$, and sent within the window but before a data packet with $D=1$, until the network receives a corresponding P(R) for the packet with $D=1$.

(l) The resetting cause field of a reset request packet shall be set to zero. If a reset request is received with a non-zero resetting

cause field, the packet shall be discarded. The network shall then initiate the resetting procedure with the resetting cause field indicating local/remote procedure error.

(m) The clearing cause field of a clear request packet shall be set to zero. If a clear request packet is received with a non-zero clearing cause field, the packet shall be discarded. The network shall then initiate the clearing procedure with the clearing cause field indicating local/remote procedure error.

(n) The restarting cause field of a restart request packet shall be set to zero. If a restart request packet is received with a non-zero restart cause field, the restart request packet shall be discarded without further action. Optionally, the DCE may generate a diagnostic packet with a recommended diagnostic code #81 (improper cause code from DTE), which is consistent with the *Data Communications—X.25 packet Layer Specification for Data Terminal Equipment*, ISO DP 8208, November 8, 1982.

(o) A diagnostic code shall be provided in all clear request, reset request, and restart request packets in accordance with the codes listed in Annex E of CCITT Recommendation X.25 whenever they apply; non-Assigned codings in X.25 may be used for events not listed in X.25 within the period of 24 months after the effective date of this standard. Prior to the end of this 24 months period, this standard will be reviewed by NBS to determine whether the standard should be revised to incorporate a different table. After this revision, codes not specifically listed shall not be used.

(p) A generic diagnostic code shall not be used when a more specific diagnostic code is known to be applicable.

(q) The network diagnostic codes shall be used in accordance with the codes listed in Annex E of CCITT Recommendation X.25 whenever they apply; non-assigned codings in X.25 may be used for events not listed in X.25 within the period of 24 months after the effective date of this standard. Prior to the end of this 24 months period, this standard will be reviewed by NBS to determine whether the standard should be revised to incorporate a different table. After this revision, network diagnostic codes not specifically listed shall not be used.

(r) The network shall consider the receipt of a DTE interrupt packet before a previous DTE interrupt packet has been confirmed as an error, and shall execute the error procedure described in Annex C, Table C-4/X.25 and the corresponding note 2.

(s) The timeouts and time limits specified in Annex D shall be observed by all DTE and DCE equipment. T21 shall not be less than the value given in table D-2/X.25. The preferred actions listed in table D-2/X.25 shall be followed.

(t) When the link level procedures enter the logically disconnected state, the associated packet level procedures shall clear all virtual calls and reset all permanent virtual circuits and datagram logical channels. When the link level procedures reenter the information transfer state, the associated packet level procedures shall execute the restart procedure. The terms "logically disconnected

state" and "information transfer state" are used as defined in American National Standard X3.66-1979 (referenced above). Link level procedures enter the logically disconnected state when a DISC command is sent and a UA response is received, for example. The link level procedure shall also be considered to be in the logically disconnected state after N2 (re)transmissions of SABM or DISC, where N2 is as defined in CCITT Recommendation X.25. The logically disconnected state is not assumed after N2 (re)transmissions of other types of frames.

(u) If a restart request packet is received in state r1 which exceeds the maximum permitted length, the DCE shall discard the restart request packet without further action. Optionally, the DCE may generate a diagnostic packet with diagnostic code #39 (packet too long).

(v) In the event that a facility code appears more than once in a facility field, the receiving DTE detecting this condition should treat the last appearance of the particular code as if it were the only appearance of that code.

(w) All networks shall supply diagnostic packets when their use is suggested in CCITT Recommendation X.25. No DTE shall reject diagnostic packets as errors.

(x) In Section 6, 1, 1, the second paragraph, the last phrase, "and is set to 0 in all other packets", shall be interpreted that the Qualifier bit is set to 0 in all other packets except data packets. For the case of data packets, the Qualifier bit is set to 0 or 1 as indicated in Section 4, 3, 6.

(y) The list of user facilities for packet-switched data networks, extracted from CCITT Recommendation X.2, is given below. These facilities are described in Section 7 of CCITT Recommendation X.25. The following further constraints apply:

i. Networks shall provide the facilities designated as essential "E" below.

ii. Networks shall also implement the Fast Select and Fast Select Acceptance facilities to facilitate more efficient operation in conveying higher layer protocol information or user data during call establishment. DTE's need not employ fast select packets when transmitting to the network, but all DTEs associated with the higher level functionality which allows response to a fast select packet must be able to accept incoming fast select packets.

iii. The packet retransmission facility shall not be used.

iv. All DTE's which employ any of the facilities labelled as additional "A" below (except Fast Select and Fast Select Acceptance) shall also be capable of operating without employing any A facilities (except Fast Select and Fast Select Acceptance).

v. The throughput class value of 48,000 bits/s may be interpreted as 56,000 bits/s in those locations where 56,000 bit/s access is used.

FACILITIES OF PACKET SWITCHED DATA NETWORKS

User facility	VC	PVC	DG*
Optional user facilities assigned for an agreed contractual period:			
Extended packet sequence numbering (modulo 128)	A	A	A*
Non-standard default window sizes	A	A	A*
Non-standard default packet sizes 16, 32, 64, 256, 512, 1024	A	A	-
Default throughput class assignment	A	A	A*
Flow control parameter negotiation	E	-	-
Throughput class negotiation	E	-	-
Packet retransmission	A***	A***	A***
Incoming calls barred	E	-	E*
Outgoing calls barred	E	-	E*
One-way logical channel outgoing	E	-	A*
One-way logical channel incoming	A	-	A*
Closed user group	E	-	E*
Closed user group with outgoing access	A	-	A*
Closed user group with incoming access	A	-	A*
Incoming calls barred within a closed user group	A	-	A*
Outgoing calls barred within a closed user group	A	-	A*
Bilateral closed user group	A	-	A*
Bilateral closed user group with outgoing access	A	-	A*
Reverse charging acceptance	A	-	A*
Fast select acceptance	A**	-	-
Datagram queue length selection*	-	-	A*
Datagram service signal logical channel*	-	-	A*
Datagram non-delivery indication*	-	-	E*
Datagram delivery confirmation*	-	-	E*
D-bit modification	A	A	-
Optional user facilities requested by the DTE on a per call basis:			
Closed user group selection	E	-	E*
Bilateral closed user group selection	A	-	A*
Reverse charging	A	-	A*
RPOA selection	A	-	A*
Flow control parameter negotiation	E	-	-
Fast select	A**	-	-
Throughput class negotiation	E	-	-
Abbreviated address calling	FS	-	A*

FACILITIES OF PACKET SWITCHED DATA NETWORKS—Continued

User facility	VC	PVC	DG*
Datagram non-delivery indication	-	-	E*
Datagram delivery confirmation	-	-	E*

Note.—Detailed explanations of these facilities are provided in CCITT Recommendation X.25.

Legend:

E=An essential user facility to be offered by all networks.

A=An additional user facility which may be offered by certain networks.

FS=Further study is required. This standard will be modified when this study is complete.

-=Not applicable.

DG=Applicable when the datagram service is being used.*

VC=Applicable when the virtual call service is being used.

PVC=Applicable when the permanent virtual circuit service is being used.

*—The datagram service and its related facilities may be used only when:
—there is to be a one-way transfer of information which does not require recovery at the network layer; and,
—a response to this transfer of information is not required at the network layer.

Notes. 1. At the present time, the transfer of datagram packets across international borders through public packet-switching networks is not permitted.

2. DCE's are not required to provide datagram service. DTE's are not required to generate or accept datagrams and datagram-related packets.

**—Fast select shall be provided by all DCE's. All DTE's associated with the higher level functionality which allows response to a fast select packet must be capable of accepting incoming fast select packets, but need not generate fast select packets.

***—The packet retransmission facilities shall not be used.

(z) The list of the applicable call progress signals, extracted from CCITT Recommendation X.96, is given below. These signal definitions apply to the cause codes specified in CCITT Recommendation X.25. The related circumstances giving rise to each call progress signal is also defined in Table 1 below. The significance of categories indicates broadly the type of action expected of the DTE receiving the signal:

Category	Significance
A	Requested action confirmed by network.
B	Call cleared because the procedure is complete.
C1 and C2	Call cleared. The calling DTE should call again soon; the next attempt may be successful. However, after a number of unsuccessful call attempts with the same response, the cause could be assumed to be in Category D1 or D2. The interval between successive attempts and the number of maximum attempts will depend on a number of circumstances including: —nature of the call progress signal —users' traffic pattern —tariffs —possible regulations by the network provider.
D1 and D2	Reset. The DTE may continue to transmit data recognizing that data loss may have occurred. Call cleared. The calling DTE should take other action to clarify when the call attempt might be successful. or Reset (for permanent virtual circuit only). The DTE should cease data transmission and take other action as appropriate.
C1 and D1	Due to subscriber condition.
C2 and D2	Due to network condition.

The sequence of call progress signals in Table 1 implies, for Categories C and D, the order of call set-up processing by the network. In general, the DTE can assume, on receiving a call progress signal, that no condition higher up in the table is present. Network congestion is an exception to this general rule. The actual coding of call progress signals does not necessarily reflect this sequence.

Users and DTE manufacturers are warned to make due allowance to possible later extensions to this table by providing appropriate fall-back routines for unexpected signals.

TABLE 1

Call progress signal	Definition	Category
Delivery confirmation	The datagram has been accepted by the destination DTE	A
Local procedure error	A procedure error caused by the DTE is detected by the DCE at the local DTE/DCE interface	C1
Network congestion	A condition exists in the network such as: (1) temporary network congestion (2) temporary fault condition within the network, including procedure error within a network or an international link.	C2
Invalid facility request	A facility requested by the calling DTE is detected as invalid by the DCE at the local DTE/DCE interface. Possible reasons include: —request for a facility which has not been subscribed to by the DTE; —request for a facility which is not available in the local network; —request for a facility which has not been recognized as valid by the local DCE	D1 or D2
RPOA out of order	The RPOA nominated by the calling DTE is unable to forward the call	D2
Not obtainable	The called DTE address is out of the numbering plan or not assigned to any DTE	D1
Access barred	The calling DTE is not permitted the connection to the called DTE. Possible reasons include: —unauthorized access between the calling DTE and the called DTE; —incompatible closed user group	D1
Reverse charging acceptance not subscribed	The called DTE has not subscribed to the reverse charging acceptance facility	D1
Fast select acceptance not subscribed	The called DTE has not subscribed to the fast select acceptance facility	D1
Incompatible destination	The remote DTE/DCE interface or the transit network does not support a function or facility requested (e.g., the datagram service).	D1

TABLE 1—Continued

Call progress signal	Definition	Category
Out of order	The remote number is out of order. Possible reasons include: —DTE is Uncontrolled Not Ready; —DCE Power Off; —Network fault in the local loop; —X.25 Level 1 not functioning; —X.25 Level 2 not in operation.	D1 or D2
Number busy	The called DTE is detected by the DCE as engaged on other call(s), and therefore as not being able to accept the incoming call. (In the case of the datagram service, the queue at the destination DCE is full.)	C1.
Remote procedure error	A procedure error caused by the remote DTE is detected by the DCE at the remote DTE/DCE interface.	D1.
Network operational	Network is ready to resume normal operation after a temporary failure or congestion.	C1.
Remote DTE operational	Remote DTE/DCE interface is ready to resume normal operation after a temporary failure or out of order condition (e.g., restart at the remote DTE/DCE interface). Loss of data may have occurred.	C1 or D1.
DTE originated	The remote DTE has initiated a clear, reset, or restart procedure.	B or D1.

Waivers: Waiver of this standard is required when an interface based on CCITT Recommendation X.25 (1980) is to be employed and has either one of the following conditions: 1) The interface has options that are not permitted by this standard. 2) The interface does not implement all options mandated by this standard.

Heads of agencies desiring a waiver from the requirements stated in this standard, so as to acquire applicable equipment or service not conforming to this standard, shall submit a request for waiver to the Administrator, General Services Administration for review and approval. Approval will be granted if, in the judgment of the Administrator after consultation with the Assistant Secretary of

Commerce for Productivity, Technology and Innovation, based on all available information including that provided in the waiver requests, a major adverse economic or operational impact would occur through conformance with this standard.

A request for waiver shall include a justification for the waiver, including a description and discussion of the adverse economic or operational impact that would result from conforming to this standard as compared to the alternative for which the waiver is requested. ICST and NCS will provide technical assistance, as required, to GSA.

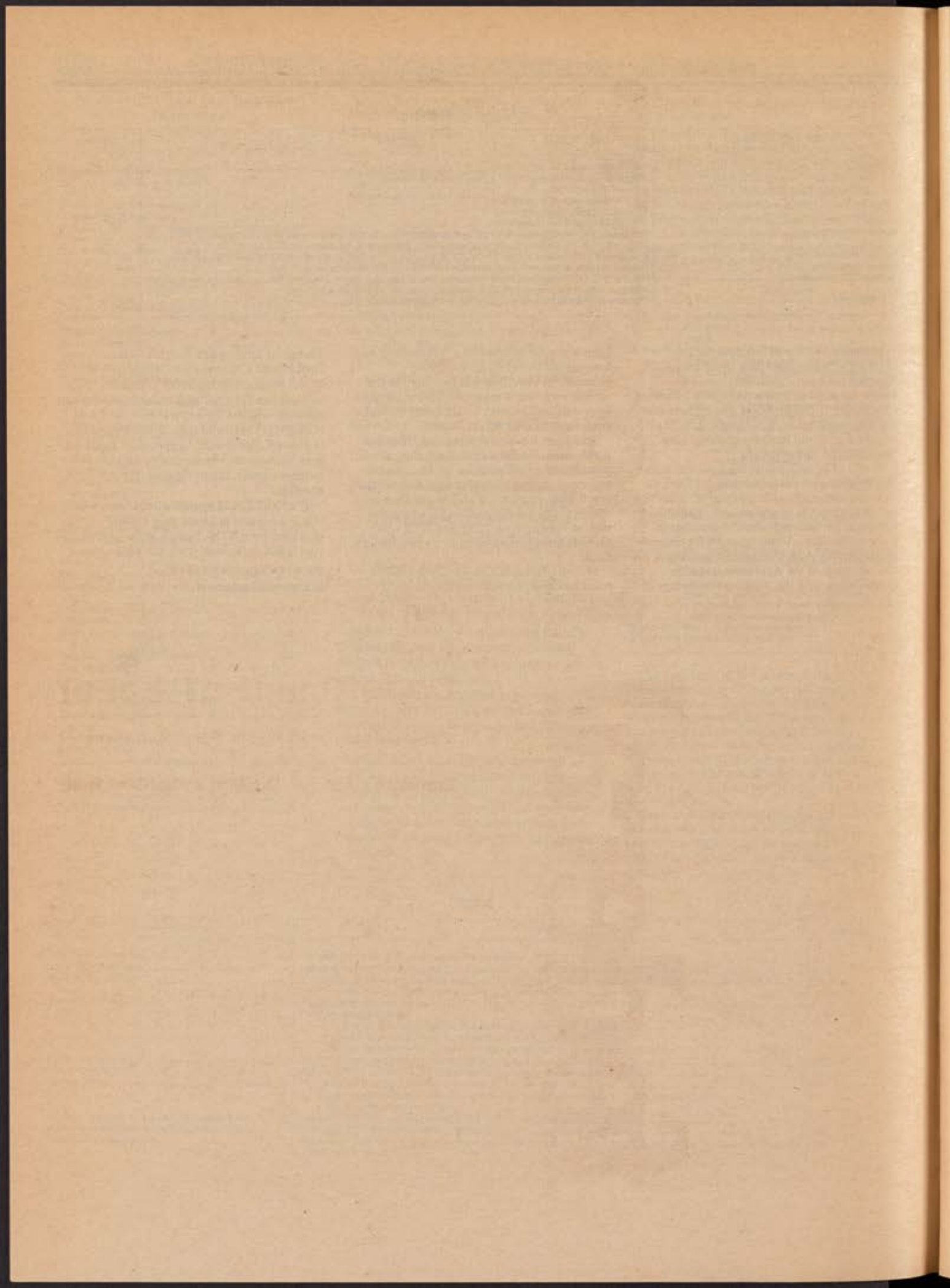
Where to Obtain Copies: Copies of this publication are for sale by the National

Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards publication 100 (FIPS-PUB-100)/Federal Standard 1041 (FED-STD 1041), and title. When microfiche is desired, this should be specified. Payment may be made by check, money order, purchase order, credit card, or deposit account.

The CCITT X.25 specifications upon which this publication is based may also be obtained from NTIS. Specify PB82-187766; the cost is \$50; telephone (703) 487-4650.

[FR Doc. 83-16839 Filed 7-5-83; 6:45 am]

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Wednesday
July 6, 1983

Part III

Department of Labor

Mine Safety and Health Administration

Standards for Air Quality; Proposed Rule

Department of Labor
Bureau of Labor Statistics

Part III

Department of Labor

Division of Statistics

Division of Statistics

Division of Statistics

Division of Statistics

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DEPARTMENT OF LABOR**Mine Safety and Health Administration****30 CFR Parts 55, 56, and 57****Standards for Air Quality**

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of Availability of Preproposal Draft.

SUMMARY: The Mine Safety and Health Administration (MSHA) has developed a preproposal draft of revisions to existing air quality standards for the metal and nonmetal mining industry. MSHA invites comment from all interested parties on the preproposal draft. Copies of the draft may be obtained by contacting the Agency.

DATE: Comments must be received on or before September 6, 1983.

ADDRESS: Send comments to the Office of Standards, Regulations, and Variances, MSHA, Room 631, Ballston Towers No. 3, 4015 Wilson Boulevard, Arlington, Virginia 22203.

FOR FURTHER INFORMATION CONTACT: Patricia W. Silvey, Acting Director, Office of Standards, Regulations and Variances, MSHA, (703) 235-1910.

SUPPLEMENTARY INFORMATION: On March 25, 1980, MSHA published an Advance Notice of Proposed Rulemaking (ANPRM) in the *Federal Register* (45 FR 19267) announcing its comprehensive review of existing metal and nonmetal mine safety and health standards in 30 CFR Parts 55, 56, and 57. The purposes of the review are to eliminate duplicative and unnecessary standards, provide alternative methods of compliance, reduce recordkeeping requirements, and upgrade provisions consistent with advances in technology.

These rulemakings will also include consideration of Executive Order 12291, the Regulatory Flexibility Act and the Paperwork Reduction Act.

On November 20, 1981, MSHA published a subsequent ANPRM in the *Federal Register* (46 FR 57253) listing eight sections selected by the Agency for priority review. Standards relating to air quality, Section .5, were included in the priority group. On March 9, 1982, MSHA published a notice in the *Federal Register* (47 FR 10190) announcing public conferences to discuss issues related to the standards under priority review. The Section .5 conferences were concluded in April 1982.

During the conferences, many commenters requested that the Agency make available a preproposal draft of the standards under review before issuing a proposed rule. MSHA has now completed development of the preproposal draft for Section .5. The draft document contains the Agency's draft proposals, a comparison with existing standards, and a summary explanation of the proposed changes. The draft would update the exposure levels for 650 chemical substances; specify the contents of a respiratory protection program; clarify requirements for operator monitoring; and implement the statutory requirements for observation of exposure monitoring, access to records of monitoring, and miner notification of overexposure.

The draft restructures the standards into a new Part 58. The draft proposals for air quality use the following designations: "General" (G), surface and underground areas of any mine; "Surface" (S), surface areas of any mine; or "Underground" (U), underground areas of mines. These designations assure that the standards will apply only to the appropriate types of mine

operations and eliminate unnecessary duplication. In addition, the standards in Section .5 have been reorganized to provide more logical groupings, and an index has been developed to enable ready references between existing standard numbers and their new numerical designation.

MSHA requests comment on both the substance of the draft proposals and the reorganization of the standards. The Agency is interested in any alternative to these draft requirements. MSHA is also interested in any economic data or other regulatory impact information the public may wish to submit.

A copy of the preproposal draft of the standards has been mailed to persons and organizations known to be interested in this rulemaking. Others may obtain a copy of the preproposal draft standards by submitting a request to the address provided above.

List of Subjects**30 CFR Part 55**

Hazardous materials, Metals, Metals and nonmetals, Mine safety and health, Reporting and recordkeeping requirements.

30 CFR 56

Hazardous materials, Mine safety and health, Metals and nonmetals, Reporting and recordkeeping requirements.

30 CFR 57

Hazardous materials, Metals, Metals and nonmetals, Mine safety and health, Reporting and recordkeeping requirements.

Dated: June 30, 1983.

Thomas J. Shepich,

Deputy Assistant Secretary for Mine Safety and Health.

[FR Doc. 83-18184 Filed 7-5-83; 8:45 am]

BILLING CODE 4510-43-M

Federal Register

Wednesday
July 6, 1983

Part IV

Department of Education

**Registration With Selective Service;
Student Assistance General Provisions;
Rule**

Document
July 2, 1942

Part IV

Department of Education

Regiment with Special Order
Special Assistance through the
File

DEPARTMENT OF EDUCATION

34 CFR Part 668

Student Assistance General Provisions; Registration With Selective Service

AGENCY: Department of Education.

ACTION: Notice regarding implementation of final regulations for the Student Assistance General Provisions—Selective Service Registration Requirements.

SUMMARY: The Secretary of Education announces a schedule for the implementation of regulations on registration with Selective Service as a condition for receipt of student financial assistance.

EFFECTIVE DATE: June 24, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. William Moran, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Ave., SW. (Room 4100, Regional Office Building 3), Washington, D.C. 20202 (202) 245-2247.

SUPPLEMENTARY INFORMATION: On April 11, 1983, the Secretary of Education published regulations amending Subpart B of the Student Assistance General Provisions, 34 CFR Part 668, to implement section 1113 of the Fiscal Year 1983 Defense Department Authorization Act (Pub. L. 97-252). 48 FR 15578-84. Section 1113 provides that beginning with the 1983-84 award year, any student who is required to be registered with Selective Service and fails to register is ineligible for student financial assistance provided through programs established under Title IV of the Higher Education Act.

These programs include the Pell Grant, Supplemental Educational Opportunity Grant (SEOG), College Work Study (CWS), National Direct Student Loan (NDSL), Guaranteed

Student Loan (GSL), PLUS Loan, and State Student Incentive Grant Programs.

The April 11, 1983 regulations took effect on May 28, 1983. However, the Secretary announced on June 6, 1983 (48 FR 26779, June 10, 1983) that in accordance with an injunction issued by the United States District Court for the District of Minnesota, he would not enforce the regulations pending dissolution or modification of the injunction.

The Supreme Court issued a stay of the injunction on June 24, 1983. Accordingly, the Secretary will enforce the regulations as written, in accordance with the following schedule for initial implementation:

(1) If an institution of higher education disburses Title IV aid to a student, certifies the institutional portion of the student's application under the Guaranteed Student Loan or PLUS program, or certifies the institutional portion of the Pell Grant Request for Payment (ED Form 304-Pell Grant ADS) for the 1983-84 award year on or before July 31, 1983, the institution must either:

(a) Require a Statement of Registration Compliance from the student prior to taking such action, or

(b) Take such action first and then inform the student of the requirement that the student file a Statement of Registration Compliance with the institution. (This option is mandatory if the institution has already made such a disbursement or certification.)

Beginning August 1, 1983, an institution must receive a student's Statement of Registration Compliance prior to making either initial or subsequent disbursements of any Title IV aid to that student, or certifying the above-referenced forms.

(2) If an institution receives a loan check for the benefit of a student under the Guaranteed Student Loan or PLUS program for the 1983-84 award year, and it chooses to endorse that check or

release it to the student on or before July 31, 1983, the same rules apply with regard to such endorsement or release of the check as are applicable to the disbursement of Title IV aid under paragraph (1) above. Beginning August 1, 1983, an institution must receive a student's Statement of Registration Compliance prior to such endorsement or release of a loan check.

(3) If an institution determines that a student has received or benefited from a Guaranteed Student Loan or PLUS loan for the 1983-84 award year but has not submitted a Statement of Registration Compliance, the institution shall inform the student of the duty to submit a Statement of Registration Compliance and shall follow the additional requirements set forth in 34 CFR 668.24(b) (3) and (4). This requirement does not apply where the institution determines that a GSL or PLUS loan check was received by the student, or that a PLUS loan check was received by a parent for the benefit of the student, before June 24, 1983.

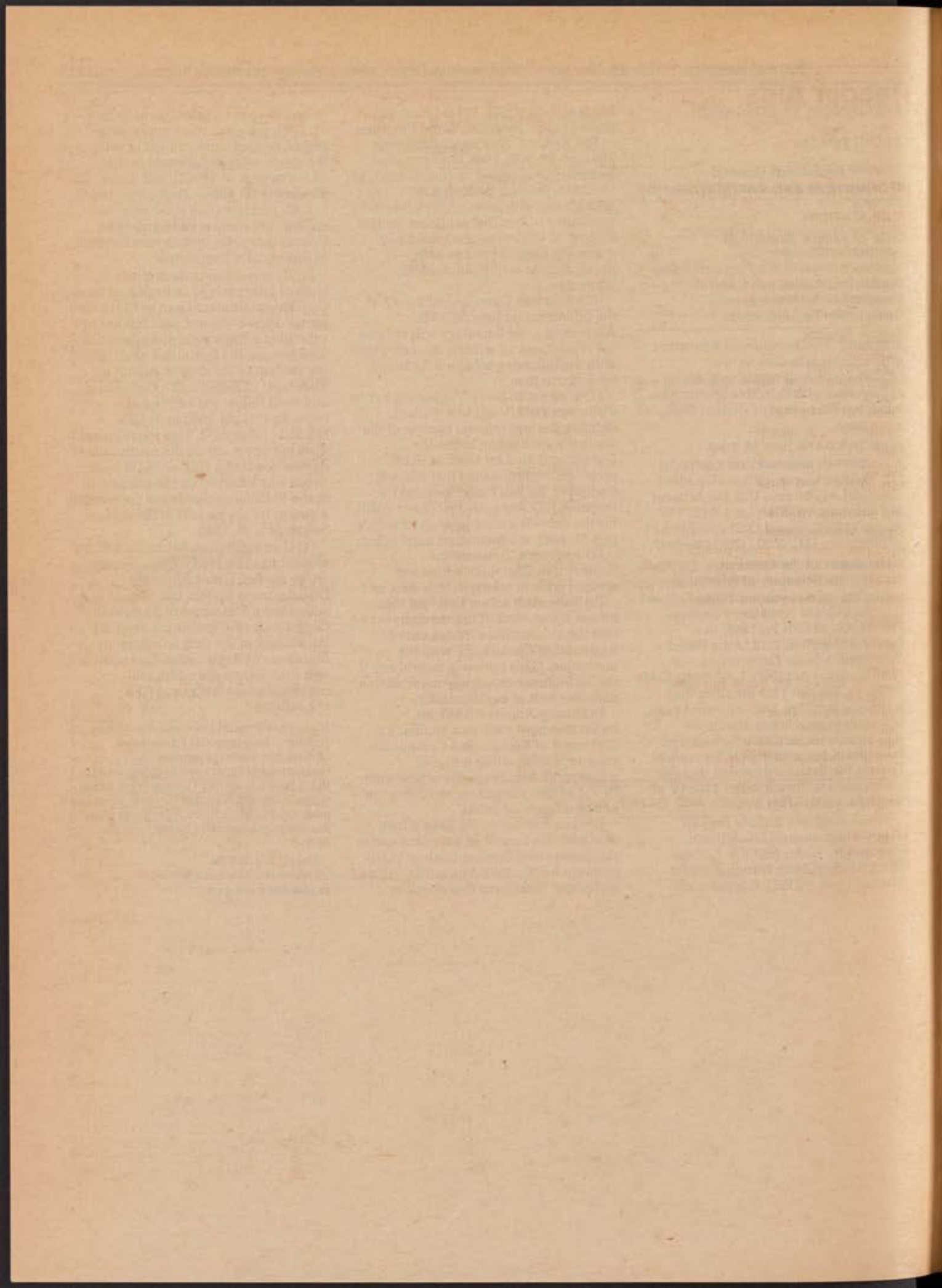
(4) If an institution determines that a student has received a disbursement under the Pell Grant Alternate Disbursement System but has not submitted a Statement of Registration Compliance, the institution shall inform the student of the duty to submit a Statement of Registration Compliance and shall follow the additional requirement set forth in 34 CFR 668.24(b)(5).

(Catalog of Federal Domestic Assistance Numbers: Supplemental Educational Opportunity Grant program, 84.007; Guaranteed Student Loan program, 84.032; PLUS program, 84.032; College Work-Study program, 84.033; National Direct Student Loan program, 84.038; Pell Grant program, 84.063; State Student Incentive Grant program, 84.069)

Dated: July 1, 1983.

[FR Doc. 83-18361 Filed 7-5-83; 11:09 am]

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INFORMATION AND ASSISTANCE

PUBLICATIONS

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday).

This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication

on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

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 30, 1983.

Just Released



Code of Federal Regulations

Revised as of January 1, 1983

Quantity	Volume	Price	Amount
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	Title 7—Agriculture (Parts 1060–1119) (Milk Orders—West North Central Region and South Central Region) (Stock No. 022–003–95111–3)	6.50	
	Title 10—Energy (Part 500 to End) (Stock No. 022–003–95123–7)	7.00	

Total Order \$

A cumulative checklist of CFR issuances for 1982–83 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

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