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federal register

Thursday
August 4, 1983

Selected Subjects

Aliens
Immigration and Naturalization Service

Arms and Munitions
Alcohol, Tobacco and Firearms Bureau

Aviation Safety
Federal Aviation Administration

Bridges
Coast Guard

Buses
Interstate Commerce Commission

Child Welfare
Child Support Enforcement Office

Crop Insurance
Federal Crop Insurance Corporation

Hazardous Materials Transportation
Research and Special Programs Administration

Household Appliances
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Imports
International Trade Commission

Loan Programs—Agriculture
Commodity Credit Corporation

Marine Safety
Coast Guard

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 908

[Valencia Orange Reg. 311]

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period August 5–August 11, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, 202–447–5975.

SUPPLEMENTARY INFORMATION:

Findings

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 California-Arizona Valencia orange crop for the benefit of producers and will not substantially affect costs for the directly regulated handlers.

This regulation is issued under the marketing agreement, as amended, and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendation and information submitted by the Valencia Orange Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on July 26, 1983 at Lindsay, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is easier.

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 policy of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared policy of the Act to make this regulatory provision effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 908

Marketing agreements and orders, California, Arizona, Oranges (Valencia).

PART 908—[AMENDED]

1. Section 908.611 is added as follows:

§ 908.611 Valencia orange regulation 311.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period August 5, 1983 through August 11, 1983, are established as follows:

(a) District 1: 353,000 cartons;
(b) District 2: 397,000 cartons;
(c) District 3: Unlimited cartons.

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

Dated: August 3, 1983.

D. S. Kuryloski,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83-21436 Filed 8-3-83; 12:00 pm]
BILLING CODE 3410-02-M

7 CFR Parts 915, 916, 917, 921, 922, 924, 926, 930, 945, 946, 947, 948, 953, 958, 967, 982, 985, and 993

Expenses and Rates of Assessment for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of the committees functioning under Marketing Orders 915, 916, 917, 921, 922, 924, 926, 930, 945, 946, 947, 948, 953, 958, 967, 982, 985, and 993. Funds to administer these programs are derived from assessments on handlers of the fruits, vegetables and specialty crops regulated under the orders.

EFFECTIVE DATES: March 1, 1983–February 29, 1984 (§§ 916.222, 917.235, 917.236, 917.237); April 1, 1983–March 31, 1984 (§§ 915.222, 921.222, 922.223, 924.223, 926.223); May 1, 1982–April 30, 1983 (§ 930.212); May 1, 1983–April 30, 1984 (§ 930.213); June 1, 1983–May 31, 1984 (§§ 953.220, 985.303); July 1, 1983–June 30, 1984 (§§ 946.236, 947.236, 948.289, 948.290, 958.227, 982.328); August 1, 1983–July 31, 1984 (§§ 945.236, 967.219, 993.334).

FOR FURTHER INFORMATION CONTACT: Charles W. Porter, Chief, Vegetable Branch, F&V, AMS, USDA, Washington, D.C. 20250; (202) 447–2615.

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

These marketing orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). These actions are based

upon the recommendations and information submitted by each committee, established under the respective marketing order, and upon other information. It is found that the expenses and rates of assessment, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking and good cause exists for not postponing the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553). Each order requires that the rate of assessment for a particular fiscal period shall apply to all assessable fruits, vegetables, and specialty crops handled from the beginning of such period. To enable the committees to meet current fiscal obligations, approval of the expenses is necessary without delay. It is necessary to effectuate the declared policy of the act to make these provisions effective as specified, and handlers have been apprised of such provisions, and the effective time.

List of Subjects in 7 CFR Parts 915 through 993

Marketing agreements and orders, Apricots, Avocados, Celery, Cherries, Filberts, Grapes, Hazelnuts, Nectarines, Onions, Peaches, Pears, Plums, Potatoes, Prunes, Spearmint oil.

Sections 915.221 (M. O. 915), 916.221 (M. O. 916), 917.232, 917.233, and 917.234 (M. O. 917), 921.221 (M. O. 921), 922.222 (M. O. 922), 924.222 (M. O. 924), 926.222 (M. O. 926), 945.235 (M. O. 945), 946.235 (M. O. 946), 947.235 (M. O. 947), 948.287 and 948.288 (M. O. 948), 953.219 (M. O. 953), 958.226 (M. O. 958), 967.218 (M. O. 967), 982.327 (M. O. 982), 985.302 (M. O. 985), and 993.333 (M. O. 993) are removed and new sections are added as follows: (Also, § 930.212, 48 FR 28970, for the fiscal period ending April 30, 1983, is further revised.) (The following sections prescribe annual expenses and assessment rates and will not be published in the Code of Federal Regulations.)

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

§ 915.222 Expenses and assessment rate.

Expenses of $407,197 by the Avocado Administrative Committee are authorized, and an assessment rate of $0.28 per bushel of avocados is established for the fiscal year ending March 31, 1984.

PART 916—NECTARINES GROWN IN CALIFORNIA

§ 916.222 Expenses and assessment rate.

Expenses of $2,624,058 by the Nectarine Administrative Committee are authorized, and an assessment rate of $0.13 per No. 22D standard lug box of nectarines is established for the fiscal year ending February 29, 1984. Unexpended funds may be carried over as a reserve.

PART 917—FRESH PEARS, PLUMS, AND PEACHES GROWN IN CALIFORNIA

§ 917.235 Expenses and assessment rate.

Expenses of $809,468 by the Pear Commodity Committee are authorized, and an assessment rate of $0.17 per No. 29B special lug box of pears is established for the fiscal year ending February 29, 1984. Unexpended funds may be carried over as a reserve.

§ 917.236 Expenses and assessment rate.

Expenses of $2,334,786 by the Plum Commodity Committee are authorized, and an assessment rate of $0.16 per No. 22D standard lug box of plums is established for the fiscal year ending February 29, 1984; and unexpended funds may be carried over as a reserve.

§ 917.237 Expenses and assessment rate.

Expenses of $1,955,740 by the Peach Commodity Committee are authorized, and an assessment rate of $0.125 per No. 22D standard lug box of peaches is established for the fiscal year ending February 29, 1984; and unexpended funds may be carried over as a reserve.

PART 921—FRESH PEACHES GROWN IN DESIGNATED COUNTIES IN WASHINGTON

§ 921.222 Expenses and assessment rate.

Expenses of $21,208.75 by the Washington Fresh Peach Marketing Committee are authorized, and an assessment rate of $2.20 per ton of peaches is established for the fiscal year ending March 31, 1984; and unexpended funds may be carried over as a reserve.

PART 922—APRICOTS GROWN IN DESIGNATED COUNTIES IN WASHINGTON

§ 922.223 Expenses and assessment rate.

Expenses of $4,452.75 by the Washington Apricot Marketing Committee are authorized and an assessment rate of $1.80 per ton of apricots is established for the fiscal year ending March 31, 1984; and unexpended funds may be carried over as a reserve.

PART 924—FRESH PRUNES GROWN IN DESIGNATED COUNTIES IN WASHINGTON AND IN UMATILLA COUNTY, OREGON

§ 924.223 Expenses and assessment rate.

Expenses of $28,442.75 by the Washington-Oregon Fresh Prune Marketing Committee are authorized, and an assessment rate of $1.00 per ton of prunes is established for the fiscal year ending March 31, 1984; and unexpended funds may be carried over as a reserve.

PART 926—TOKAY GRAPES GROWN IN SAN JOAQUIN COUNTY, CALIFORNIA

§ 926.223 Expenses and assessment rate.

Expenses of $186,875 by the Industry Committee are authorized, and an assessment rate of $0.13 per 23-pound lug of grapes is established for the fiscal year ending March 31, 1984. Unexpended funds may be carried over as a reserve.

PART 930—CHERRIES GROWN IN MICHIGAN, NEW YORK, WISCONSIN, PENNSYLVANIA, OHIO, VIRGINIA, WEST VIRGINIA, AND MARYLAND

§ 930.212 Expenses and assessment rate.

Expenses of $139,347.28 by the Cherry Administrative Board are authorized, and an assessment rate of $1.05 per ton of cherries delivered for processing is established for the fiscal year ending April 30, 1983.

§ 930.213 Expenses and assessment rate.

Expenses of $120,705 by the Cherry Administrative Board are authorized, and an assesssment rate of $2.00 per ton of cherries delivered for processing is established for the fiscal year ending April 30, 1984. Unexpended funds may be carried over as a reserve.

PART 945—IRISH POTATOES GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

§ 945.236 Expenses and assessment rate.

Expenses of $66,620 by the Idaho-Eastern Oregon Potato Committee are authorized, and as assessment rate of $0.0026 per hundredweight of potatoes is established for the fiscal year ending July 31, 1984. Unexpended funds may be carried over as a reserve.

PART 946—IRISH POTATOES GROWN IN WASHINGTON

§ 946.236 Expenses and assessment rate.

Expenses of $19,450 by the State of Washington Potato Committee are

authorized, and an assessment rate of $0.002 per hundredweight of potatoes is established for the fiscal year ending June 30, 1984. Unexpended funds may be carried over as a reserve.

PART 947—IRISH POTATOES GROWN IN MODOC AND SISKIYOU COUNTIES, CALIFORNIA, AND IN ALL COUNTIES IN OREGON, EXCEPT MALHEUR COUNTY

§ 947.236 Expenses and assessment rate.

Expenses of $37,485 by the Oregon-Northern California Potato Committee are authorized, and an assessment rate of $0.003 per hundredweight of potatoes is established for the fiscal year ending June 30, 1984. Unexpended funds may be carried over as a reserve.

PART 948—IRISH POTATOES GROWN IN COLORADO

§ 948.289 Expenses and assessment rate.

Expenses of $1,398 by the Colorado Area 3 Potato Committee are authorized, and an assessment rate of $0.005 per hundredweight of potatoes is established for the fiscal year ending June 30, 1984. Unexpended funds may be carried over as a reserve.

§ 948.290 Expenses and assessment rate.

Expenses of $32,449 by the Colorado Area 2 Potato Committee are authorized, and an assessment rate of $0.0015 per hundredweight of potatoes is established for the fiscal period ending June 30, 1984. Unexpended funds shall be carried over as a reserve.

PART 953—IRISH POTATOES GROWN IN SOUTHEASTERN STATES

§ 953.220 Expenses and assessment rate.

Expenses of $10,000 by the Southeastern Potato Committee are authorized, and an assessment rate of $0.005 per hundredweight of potatoes is established for the fiscal period ending May 31, 1984. Unexpended funds may be carried over as a reserve.

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO, AND MALHEUR COUNTY, OREGON

§ 958.227 Expenses and assessment rate.

Expenses of $412,500 by the Idaho-Eastern Oregon Onion Committee are authorized, and an assessment rate of $0.0725 per hundredweight of onions is established for the fiscal period ending June 30, 1984. Unexpended funds may be carried over as a reserve.

PART 967—CELERY GROWN IN FLORIDA

§ 967.219 Expenses and assessment rate.

Expenses of $135,000 by the Florida Celery Committee are authorized, and an assessment rate of $0.02 per crate of celery is established for the fiscal year ending July 31, 1984. Unexpended funds shall be carried over as a reserve.

PART 982—FILBERTS/HAZELNUTS GROWN IN OREGON AND WASHINGTON

§ 982.328 Expenses, assessment rate, and operating reserve.

Expenses of $54,727 by the Filbert/Hazelnut Marketing Board are authorized, and an assessment rate payable by each handler in accordance with § 982.61 is fixed at 0.2 cent per pound of filberts for the marketing year ending June 30, 1984. Unexpended funds are carried over as a reserve, or made available to handlers.

PART 985—SPEARMINT OIL PRODUCED IN THE FAR WEST

§ 985.303 Expenses, assessment rate, and operating reserve.

Expenses of $135,000 by the Spearmint Oil Administrative Committee are authorized, and an assessment rate payable by each handler in accordance with § 985.41 is fixed at 10 cents per pound for salable spearmint oil for the 1983–84 marketing year ending May 31, 1984. Unexpended funds may be carried over as a reserve in the maximum amount permitted pursuant to § 985.42.

PART 993—DRIED PRUNES PRODUCED IN CALIFORNIA

§ 993.334 Expenses and assessment rate.

Expenses of $259,200 by the Prune Marketing Committee are authorized and an assessment rate payable by each handler in accordance with § 993.81 is fixed at $2.00 per ton for salable dried prunes for the 1983–84 crop year ending July 31, 1984.

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

Dated: July 29, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-21132 Filed 8-3-83; 8:45am]

BILLING CODE 3410-02-M

7 CFR Part 989

Raisins Produced From Grapes Grown In California; Change in the List of Countries to Which Reserve Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation enlarges the list of countries eligible for reserve pool sales. The current list includes all countries outside the Western Hemisphere and Greenland. The change would add all countries in Central and South America and adjacent islands except the Caribbean Islands. The revised list is necessitated by a change in the industry's export merchandising program to include the additional countries. The export program is intended to increase California raisin exports.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250, (202) 447–5053.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

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.

Notice of this action was published in the Federal Register on May 12, 1983 (48 FR 21339). In that notice interested persons were given the opportunity to submit comments until July 11, 1983. None was received.

The change expands the list of countries to which raisin handlers may sell reserve raisins to permit sales to countries in Central and South America and adjacent islands, except the Caribbean Islands. This list is contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201–989.231). The subpart is operative pursuant to the marketing agreement, and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the

Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Currently, all countries outside the Western Hemisphere and Greenland are eligible outlets for reserve raisins.

The change in the list conforms it with the industry's expanded export merchandising program and permits the later replacement of exports to the additional countries with reserve raisins. Pursuant to § 989.66(f) of the order, reserve raisins can be used to replace exports of free tonnage to countries listed in § 989.221.

Canada, Mexico, and the Caribbean Islands were excluded from the merchandising program because the industry feared that any exports to these countries would be transshipped to the United States. The likelihood of this happening with exports to the countries added to the list is unlikely because of high freight rates and tariffs.

List of Subjects in 7 CFR Part 989

Marketing agreements and orders, Grapes, Raisins, and California.

After consideration of all relevant matter presented, including that in the notice, the Committee's recommendation, and other available information, it is found that to revise § 989.221, as hereinafter set forth, will tend to effectuate the declared policy of the act.

PART 989—[AMENDED]

Therefore, § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.210–989.221) is revised to read as follows:

§ 989.221 Countries to which sale and export of reserve raisins may be made by handlers.

Pursuant to § 989.67(c), the Committee shall sell reserve raisins to handlers for export to all markets in the world except to the following: The United States, Canada, and Mexico and all islands adjacent to these countries, and all of the Caribbean Islands north of the 12th parallel, but not excluding those islands on the continental shelf of South America.

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

Dated: August 1, 1983.

D. S. Kuryloski,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 83-21257 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1427

[Amdt. 3]

CCC Cotton Loan Program Regulations Governing 1980 and Subsequent Crops

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this final rule is to amend the Commodity Credit Corporation (CCC) Cotton Loan Program Regulations Governing the 1980 and Subsequent Crops concerning the packaging of cotton which is pledged to CCC as collateral for price support loans. The specifications for bale packaging materials used in wrapping cotton for 1983 that were approved and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC) are acceptable to CCC. Therefore, CCC is incorporating these specifications by reference and will require that 1983-crop cotton pledged to CCC as collateral for price support loan be wrapped to comply with these specifications.

DATE EFFECTIVE: August 3, 1983. The Director of the Federal Register approved the incorporation by reference of the 1983 specifications effective on August 3, 1983.

ADDRESS: Grant Buntrock, Cotton, Grain, and Rice Price Support Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Cozart, Cotton, Grain, and Rice Price Support Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 447–7987. The Final Impact Statement describing the options considered in developing the rule that eliminated the publishing in the **Federal Register** of packaging specifications and the impact of implementing each option is available upon request from the above-named individual.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that these program provisions will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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

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

A final rule was published in the **Federal Register** on July 1, 1982, that amended the cotton loan program regulations to provide that CCC would no longer publish in the **Federal Register** the packaging specifications acceptable to CCC for packaging cotton pledged to CCC for price support loans. Instead, CCC incorporated by reference, in accordance with 1 CFR Part 51, the specifications that were approved and published by the Joint Cotton Industry Bale Packaging Committee (JCIBPC) for 1982-corp cotton as acceptable to CCC for packaging cotton pledged to CCC for 1982 price support loans.

The purpose of this final rule is to amend the cotton loan program regulations to incorporate by reference the specifications approved and published by the JCIBPC for 1983-corp cotton as acceptable to CCC for packaging cotton pledged to CCC for 1983 price support loans. Therefore, CCC is incorporating these packaging specifications by reference in accordance with 1 CFR Part 51.

Copies of the specifications published by the JCIBPC will be made available to the public upon request by that Committee and by county ASCS offices.

The provisions relating to the specifications for the packaging of cotton for the 1982 crop which were previously codified at 7 CFR 1427.5(l) shall remain applicable to such crop.

List of Subjects in 7 CFR Part 1427

Cotton, Loan programs—agriculture, Packaging and containers, Price support programs, Surety bonds, Warehouse.

Final Rule

PART 1427—[AMENDED]

Accordingly, the regulations at 7 CFR 1427.5(l) are amended to read as follows:

§ 1427.5 Eligible cotton.

* * * * *

(l) Each bale must be packaged in materials which meet the specifications adopted and pubished by the Joint Cotton Industry Bale Packaging Committee (JCIBPC), sponsored by the National Cotton Council of America, for bale coverings and bale ties or must be packaged in material and/or bale coverings and bale ties which are identified and approved by the JCIBPC as experimental packaging material. Heads of bales must be completely covered. Copies of the 1983 Specifications for Cotton Bale Packaging Materials published by the JCIBPC which are incorporated by reference are available to the public upon request at the county ASCS office and at the following address: Joint Cotton Industry Bale Packaging Committee, National Cotton Council of America, P.O. Box 12285, Memphis, Tennessee 38112. Information with respect to experimental packaging material may be obtained from JCIBPC.

* * * * *

(Secs. 4, 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); Secs. 101, 103, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1444, 1421); Sec. 602, 91 Stat. 934 (7 U.S.C. 1444))

Signed at Washington, D.C., July 29, 1983.

Everett Rank,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 83-21201 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 212 and 235

Documentary Requirements; Nonimmigrants; Waivers; Admission of Certain Inadmissible Aliens; Parole; Inspection of Persons Applying for Admission; Revised Processing Procedures

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule revises the procedures for processing the alien Arrival-Departure Record, Form I-94, and the Mexican Border Visitors Permit, Form I-444. Form I-94 was revised for use with the new Immigration and Naturalization Service Nonimmigrant Information System which will benefit the government and the public through automated processing by relieving commercial carriers of unnecessary paperwork.

Use of Form I-444 is revised to include Nevada in the five-state area in which Mexican nationals are allowed to travel and the period of travel increased from 15 to 30 days.

EFFECTIVE DATE: September 6, 1983.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives & Instructions, Immigration and Naturalization Service, 425 I St. NW., Washington, D.C. 20536, Telephone: (202) 633-3048

For Specific Information: Lawrence J. Weinig, Immigration Inspector, Immigration and Naturalization Service, 425 I St. NW., Washington, D.C. 20536, Telephone: (202) 633-2680.

SUPPLEMENTARY INFORMATION: The Immigration and Naturalization Service now has an automated records system called the Nonimmigrant Information System (NIIS). This new system requires a revised Arrival-Departure Record, Form I-94 (Form approved OMB No. 1115-077, Expires 8-31-85). The procedures for completion of the form by INS personnel were changed accordingly. Presently, when the alien enters, the top part of Form I-94 is retained by the Service and the bottom part is stapled into the passport. When the alien departs, the stub is removed by the carrier and forwarded to the Service. Formerly, Form I-94 consisted of an original and a carbon. Upon the alien's arrival, the carbon was retained by the Service, and the original was placed in the passport. The original was removed by the carrier upon departure.

This order revises paragraph (a) of § 212.6 of Title 8 to conform to § 235.1(f) of Title 8 which expanded use of the Mexican Border Visitors Permit, Form I-444. This use was expanded three ways. First, the border area accessible with a Form I-444 was expanded to include Nevada. Secondly, the use of Form I-444 (Revised 4-1-83) was extended from 15 to 30 days. Thirdly, use of Form I-94 has been reduced in some circumstances by using I-444 instead.

Final rule section 235.4 removes references to the second copy of the obsolete Arrival-Departure Record, Form I-94 (June 1, 1979, edition). The current Form I-94 was revised January 1, 1983.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking is unnecessary because this final rule comes under the section 553(a)(2) exception for matters relating to agency management.

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

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

List of Subjects

7 CFR Part 212

Administrative practice and procedure, Aliens, Port of entry.

7 CFR Part 235.

Administrative practice and procedure, Inspections, Port of entry.

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

PART 212—DOCUMENTARY REQUIREMENTS: NONIMMIGRANTS; WAIVERS; ADMISSION OF CERTAIN INADMISSIBLE ALIENS; PAROLE

1. In § 212.6, paragraph (a) is revised to read as follows:

§ 212.6 Nonresident alien border crossing cards.

(a) *Use*—(1) *Nonresident alien Canadian border crossing card, Form I-185.* Any Canadian citizen or British subject residing in Canada may use Form I-185 for entry at a United States port of entry.

(2) *Mexican border crossing card, Form I-186 or I-586.* The rightful holder of a nonresident alien Mexican border crossing card, Form I-186 or I-586, may be admitted under § 235.1(f) and (g) of this title if found otherwise admissible. However, any alien seeking entry as a visitor for business or pleasure must also present a valid passport and shall be issued Form I-94 if the alien is applying for admission from:

(i) A country other than Mexico or Canada, or

(ii) Canada if the alien has been in a country other than the United States or Canada since leaving Mexico.

* * * * *

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

2. In Part 235, § 235.4 is revised to read as follows:

§ 235.4 Endorsement of documents.

The admitting immigration officer shall, by means of a stamp, record in each passport required to be presented the word "Admitted" and the date and place of admission. The same information shall, upon admission, be recorded on any immigrant visa, reentry permit or required Form I-94. The "I-94 Departure Record" part of Form I-94, properly endorsed, shall be returned to the alien for retention while in the

United States. At the time of departure from the United States, the alien shall surrender the I–94 Departure Record to a representative of the carrier transporting the alien.

(Secs. 103, 212, and 235 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103, 1182, and 1225)

Dated: July 13, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner for Examinations, Immigration and Naturalization Service.

[FR Doc. 83–21190 Filed 8–3–83; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 40

Uranium Mill Tailings; Suspension of Selected Provisions

AGENCY: Nuclear Regulatory Commission.

ACTION: Final suspension of regulations.

SUMMARY: The Nuclear Regulatory Commission is suspending selected portions of its regulations dealing with the disposal of uranium mill tailings. The provisions suspended are those which would be affected by recently published proposed Environmental Protection Agency (EPA) standards for protection of the environment from these wastes. The result of the suspension will be to place in abeyance certain Commission regulations that could have a significant cost impact on its licensees if the regulations are implemented before the Commission makes the anticipated rule changes necessary to conform the regulations to the EPA standard when it is finalized. The proposed suspension was published for public comment and comments received have been considered in this final action. This action is necessary to comply with recently enacted legislation.

EFFECTIVE DATES: The suspension is effective from September 6, 1983 until April 1, 1984 or the effective date of a final rule which would change Appendix A to conform to final EPA standards, whichever comes first.

FOR FURTHER INFORMATION CONTACT: Robert Fonner, Office of the Executive Legal Director, telephone (301) 492–8692, or Kitty Dragonette, Low-Level Waste Licensing Branch, Division of Waste Management, NMSS, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427–4160.

SUPPLEMENTARY INFORMATION: Section 18(a) of Pub. L. 97–415, the Nuclear Regulatory Commission Authorization Act for fiscal years 1982 and 1983, requires the Commission to suspend the implementation and enforcement of certain provisions of its regulations on uranium mill licensing promulgated as final rules on October 3, 1980 (45 FR 65521–65538). The portions of the Commission's regulations required to be suspended are those that would require a major commitment or major action by licensees which would be unnecessary if (1) the EPA proposed standards are promulgated in final form without modification, and (2) the Commission's regulations are modified to conform to the EPA standards. Under the legislative scheme, the suspension is a precursor to subsequent modification of the Commission's regulations. A prime objective of the suspension is to avoid a situation in which a licensee might undertake a major commitment that would not be required after a subsequent Commission rulemaking that would modify the October 3, 1980 regulations.

On April 29, 1983, the EPA published its proposed environmental standards for uranium mill tailings at licensed commercial processing sites. *See* 48 FR 19584. On May 26, 1983, the Commission published its proposed suspension of portions of Appendix A to 10 CFR Part 40 (*see* 48 FR 23649) for public comment. Copies of all comments received may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, DC.

Discussion of Comments

Overview

Eleven persons submitted comments on the proposed suspension. Comments were received from three states (Wyoming Department of Environmental Quality, Colorado Department of Health, and the Governor of Utah), four industrial groups (Kerr-McGee Corporation, Kerr-McGee Nuclear Corporation, Homestake Mining Co., and United Nuclear Corporation (hereafter referred to as Kerr-McGee et al.), American Mining Congress, Federal-American Partners, and Ebasco Services, Inc.), and four public interest groups (Sierra Club, Environmental Policy Institute, Southwest Research and Information Center, and Coalition for Nuclear Power Postponement).

The general thrust of the comments from the states and public interest groups was that the proposed suspension was unnecessary, too comprehensive, or based or erroneous legal interpretations. The Federal-American Partners were also opposed to the suspension but their view was based on opposition to the EPA standard. Ebasco commented on risk methodology. The other two industrial groups generally favored suspending more of Appendix A.

The principal conclusions reached in analyzing the comments are that the proposed approach is valid and legal, that the nature of the suspending action is misunderstood in some cases, and that only minor changes from the proposed action are warranted in light of comments received. Specifically, only the proposed action on two requirements of Criterion 6 have been changed. The fourth sentence, prohibiting licensees from taking credit for thin synthetic layers to reduce radon flux, is not suspended as proposed. The general requirement in the fifth sentence to evaluate long-term performance of cover materials is retained but with minor phrases suspended.

The following discussion summarizes the major issues raised by the commenters, analyzes those issues, and indicates changes made in the portions of the regulations that are suspended. The issues have been grouped into the following general areas: (1) comments on the commission's approach as presented in the proposed notice, (2) suggestions on specific suspension items, (3) views of the Commission's rules in Appendix A and the proposed EPA standard, and (4) other.

Comments on Commission Approach

In the proposed suspension, the Commission outlined the key elements of its approach to the action. The elements included an approach to the question of suspending regulations based upon as assumption regarding major commitment, consideration of both more and less restrictive provisions in the proposed EPA standard, disregard of options for case-by-cases exemptions in the EPA proposal, and a literal approach to consider both the EPA standards and the NRC regulations as written.

A number of commenters (State of Wyoming, Sierra Club, Environmental Policy Institute, and Southwest Research and Information Center) believe that the Commission should not have undertaken to suspend any part of Appendix A because no determination was made that implementation of the affected regulations, within the time frame of the suspension, would result in a major action or major commitment by its licensees. In essence these commenters take issue with the approach used by the Commission in proposing certain section of Appendix A for suspension.

The Commission's approach, as described in the proposed suspension, was based on an assumption that any licensee may at any time implement any part of the rule, or use any part of it in siting or design efforts, and that such use or implementation of the rule may result in major commitment of resources on the part of the licensee. The Commission's use of these assumptions is, it believes, reasonable, as noted in the discussion of its approach in the proposed suspension (48 FR 23639, 23650–1), and supported by both the terms of the legislation (Pub. L. 97–415, section 18(a), section 275f.(2) of the Atomic Energy Act of 1954, as amended) and the legislative record.

The legislation itself is clear and unambiguous. Under it the Commission *shall* suspend implementation and enforcement of *any* provision of Appendix A which the Commission determines requires a major action or major commitment by licensees which would be unnecessary if:

(A) the standards proposed by the Administrator are promulgated in final form without modification, and

(B) the Commission's requirements are modified to conform to such standards.

Conforming action is mandated (sec. 275.f(3) of the Atomic Energy Act of 1954, as amended). The legislative record [1] underscores that focus of the statute is on the potential of the regulation to bring about a financial obligation or expenditure. In House Report 97–884, the conferees note that the term "commitment" may include financial obligations or expenditures that might be required (H. Rept. 97–884, p. 46). Further, the determination is to be made based upon a review and analysis of the Commission's regulations and EPA's proposed active site standards as soon as the latter are published (*id.*, p. 46). It is a reasonable inference from this record that the determination does not require a survey of licensees to determine their corporate intentions, but may be based upon a comparison of the NRC regulation to the EPA proposal, and is to be completed within three months. Accordingly the Commission is adhering to its initial approach to the scope of the suspension. The Commission believes this approach is justified in light of the short statutory deadline for the required suspension action, and the Commission's continuing authority to regulate uranium mill tailings disposal on a case-by-case basis until final EPA standards are issued and the Commission had adopted conforming changes to its regulations.

Two commenters (Sierra Club, Environmental Policy Institute) took issue with the Commission's characterization of the suspension under the legislation as a precursor to subsequent modifications of the NRC regulation, noting that nothing in the legislation mandates modification of the NRC regulations.

The comment is correct insofar as it relates to independent NRC action not predicated upon EPA rulemaking. However, in the event of a timely EPA rulemaking the statute is clear. Section 275f.(3) of the Atomic Energy Act of 1954, as amended, states "(3) Not later than 6 months after the date on which the Administrator promulgates final standards pursuant to subsection b. of this section, the Commission shall, after notice and opportunity for public comment, amend the October 3 regulations, and adopt such modifications, as the Commission deems necessary to conform to such final standards of the Administrator." (Emphasis supplied.) As noted eralier, the same statute required the Commission to suspend upon the assumption that EPA's proposed standards will also be the final standards. Accordingly, in the circumstances of this suspension it is not incorrect to characterize the suspension as a precursor to modification of the rules.

Two commenters (American Mining Congress and Kerr-McGee et al.) assert that the Commission should suspend all of Appendix A to 10 CFR Part 40, not just selected portions, on the ground that all of the Commission's regulations are arbitrary, unsupported and not reasonably related to cost of implementation. This assertion by the commenters is totally consistent with the position asserted by them in litigation with the Commission over the rules in question.

Needless to say, the Commission does not agree that any of 10 CFR Part 40, Appendix A is arbitrary, capricious or without support. The suspension of any portion of Appendix A should not be taken to infer any shortcoming in either the substance of the suspended portion or in the manner of its promulgation as a final rule. The suspension indicates no more than a deferral to authority given EPA to set general environmental standards under the terms of section 275 of the Atomic Energy Act of 1954, as amended, and the statutory need of NRC to conform to those standards. The conferees expressly stated that the amendments to the Atomic Energy Act giving rise to this suspension were not to affect, in any way, any ongoing litigation involving the validity of the Commission's rules. *See id.*, p. 47. Indeed, the conferees specifically rejected the notion that NRC in any way acted improperly in promulgating the regulations prior to EPA action. *Id.*

The Commission believes that much of the concern expressed by some of the commenters stems from misunderstanding the nature of the suspension and from its implications for future action. In the proposed notice the Commission noted that the suspension is "a precursor to subsequent modification of the Commission's regulations." Thus commenters may be concerned that the anticipated conforming changes will involve actually deleting the suspended provisions. That is not a necessary result. The Commission intends to study the significance of these differences further. Thus, the Commission's proposed suspension should be viewed as preliminary judgments subject to further review. In addition, a factor in the Commission's approach was the apparent lack of flexibility in the existing rule. The proposed notice stated "Even where the suspended portions of Appendix A do not represent an essential on preferred means of satisfying the final EPA standards, the conforming changes ultimately adopted by the Commission may only need to provide licensees additional flexibility beyond that provided in Appendix A." For example, conforming changes may simply involve word charges, such as replacing "shall" with "should," and language requiring serious consideration of below grade disposal in place of "the prime option" language.

Moreover, these suspension decisions represent only a very preliminary review of the differences between the proposed EPA standards and the NRC regulations. In its further consideration of conforming changes in Appendix A, the Commission may well conclude that, as a practical matter, the differences between the NRC and EPA standards do not affect all those portions of the siting and design requirements in Appendix A proposal for suspension. The Commission may well conclude, for example, following further review that some or all of the suspended portions of Appendix A represent the preferred method for satisfying the final EPA standards. Even the suspended portions of Appendix A do not represent an essential or preferred means of satisfying the final EPA standards, the conforming changes ultimately adopted by the Commission may only need to

[1] House Report 97–884 is not an official legislative history since it was rejected by the House on December 2, 1982. It is available, however, for reference on the intentions of the conferees. *See* Cong. Rec. S 15314, December 16, 1982.

provide licensees additional flexibility beyond that provided in Appendix A.

Industry urged that the Commission take into account the provisions in the EPA proposal to exempt operators from the liner requirement and the nondegradation ground water requirement. However, the Commission continues to believe that regulatory standards should not be based on exemptions.

The language in both the Commission's rules and the EPA proposal does not always clearly indicate which provisions are requirements and which are design objectives or goals. The proposed approach included considering the literal meaning rather than the intent of both rules. The Commission continues to believe that the literal approach provides the clearest direction to licensees on matters where the two rules differ.

Arguments that the suspension is not needed were fairly general. They varied from views that sufficient flexibility exists in Appendix A to accommodate the EPA proposal (Wyoming and Colorado) to questions on agency authorities and interpretation of the legislation. The Sierra Club expressed the view that the Commission had wrongly interpreted the legislation to define a " 'new' relationship with EPA" and that the Commission rule and authority have primacy. The Sierra Club advocated fighting for the agency's regulatory independence. The Environmental Policy Institute also focused on the Commission's separate authority and responsibility. The Institute also expressed the view that the legislative intent was to preserve the Commission's rules and only suspend those portions absolutely necessary.

The American Mining Congress (AMC) concluded that the collective legislative intent would lead to the suspension of all of Appendix A. The AMC stated that both the Commission and EPA have been mandated by Congress to reevaluate regulations and issue only regulations that are reasonably related to risk and cost of compliance. The AMC also challenged EPA's authority to set requirements inside an NRC licensed restricted area. In particular, the AMC expressed the view that the ground water provisions are not "generally applicable standards" and therefore improper for EPA to establish. The Commission recognizes that there is an ambiguity in Reorganization Plan No. 3 of 1970 (84 Stat. 2086) as to where to draw the line on exercising EPA and NRC authority. However, for uranium mill tailings, we are dealing with subsequent legislation in section 275 of the Atomic Energy Act, as amended, which does not appear to draw the distinction referred to by the AMC. Second, in terms of the limited purpose of this suspension, the Commission does not believe it appropriate or necessary to take issue in this action with EPA over the boundaries of its jurisdiction. The Southwest Research and Information Center also raised the issue of the Commission's legal responsibilities under Title II of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA) claiming that the EPA proposal cannot set those responsibilities aside. The Federal American Partners also stated "the Nuclear Regulatory Commission (NRC) should not suspend their regulations in favor of those proposed by the EPA," but did not elaborate a legal basis for this statement.

Comments on Specific Suspension Items

Four commenters, Kerr-McGee et al., Southwest Research and Information Center (the Center), the Colorado Department of Health, and the Governor of Utah offered comments on specific suspension items. The comments addressed the scope and the reasons for suspension. The following discussion tracks the criteria in Appendix A and the numbering system in the proposed suspension.

Criterion 1—1.(a) The Center suggested not suspending the words "for thousands of years" and Colorado and the Center suggested not suspending "without ongoing active maintenance." The Center argued that the practical difference between the NRC and EPA language does not represent a "major" commitment by licensees. Colorado stated that the two agencies really have the same intent and there is no conflict. Kerr-McGee et al. supported the suspension. The Governor of Utah voiced opposition to reliance on active maintenance and the shorter EPA effective time. The temporary suspension of the flat prohibition against all planned maintenance is necessary for consistency with the EPA standard, which would not prohibit planned maintenance where it is a cost-effective alternative. In the *Commission Approach* section of the proposed suspension, the judgmental nature of the language differences and the difficulties in determining "major commitments" were acknowledged. The preceding discussion of comments reviews these issues again. Based on the information at hand and in anticipation that conforming changes will further clarify the differences in the two rules, the suggestions were not adopted.

1.(b) Kerr-McGee et al. objected to suspension of the word "usable" based on objections to the fact that the EPA standard does not take aquifer use into account. The commenter did not provide a basis for his arguments based on differences in the two rules. The Governor of Utah supported suspension and agreed with the EPA position. Kerr-McGee et al.'s suggestion was not adopted.

Kerr-McGee et al. also suggested suspending the next to last paragraph of Criterion 1 beginning "In the selection of disposal sites . . ." on the basis that site considerations should not take precedence over engineering and design considerations. This suggestion was based on cost-effective and cost justified arguments and the view that the requirement is unnecessary in view of the 200–1,000 year EPA standard. Since siting only applies to new sites or new disposal areas, and in light of the uncertainties associated with relying on engineering measures for even 200 years, the arguments are not convincing and the suggestion was not adopted.

Criterion 3—Kerr-McGee et al. supported suspension of Criterion 3. The Center, Colorado, and Governor of Utah each suggested not suspending Criterion 3 in its entirety. The Center's arguments on Criterion 1 were referenced and the Center expressed the view that UMTRCA language to minimize and, to the maximum extent practicable, eliminate maintenance dictates that the Commission not implement the less stringent language of the EPA standard. The Governor of Utah expressed strong support of below-grade disposal and exceptions on a proven case-by-case basis. As the Commission noted in its reasons for proposed suspension, both agencies have concluded that below-grade disposal is an excellent way to minimize maintenance. However, below-grade disposal is not necessary to meet EPA's proposed longevity requirement. The proposed suspension is necessary for consistency with EPA's proposal and makes it clear that below-grade or equivalent disposal is not mandated in all cases, particularly for existing tailings piles. The Commission continues to believe that the conservative literal approach to the language in the two rules best serves the purpose of the suspension. Thus Criterion 3 is being suspended in full.

Criterion 4—The Center and the Governor of Utah advocated leaving Criterion 4 intact and not to suspend any provisions. Kerr-McGee et al. supported all the proposed suspensions. The Center commented that NRC should suspend only those features for which

NRC has data or information that conclusively shows that they "will not" be required to meet the EPA standard and rejects the Commission's "may not" be needed approach. In the proposed suspension, the Commission noted that ongoing studies are addressing this issue and the Commission is not prepared to reach a final technical conclusion on this matter. The Commission continues to believe that suspending provisions that stemmed from the longer timeframes in the Commission's rule is prudent. The Center also repeated their position on explicitly proving "major" commitments. The Center noted that many of the suspended features were included in EPA's supporting documents and are good ways to meet the EPA proposed standards. However, the Center does not address the lack of flexibility the Criterion includes which is at the heart of the Commission's proposed action. The requirements are acknowledged to be good ways to meet the EPA standard but they may not be the only and necessary way. The Governor of Utah argued that exemptions to the requirements in Criterion 4 should be made only on a case-by-case basis. The Governor's position stems from advocating stability and effective controls for "at least 1,000 years" and his dissatisfaction with the proposed EPA standard. The Commission is mandated to compare its regulations to the proposed EPA standard and the suspension must be based on the standard as proposed. The Criterion 4 provisions proposed for suspension are included in the final action.

Criterion 5—4.(a) Kerr-McGee et al. objected to suspension of the sentence "Any seepage which does occur shall not result in a deterioration of existing ground water supplies from their current or potential uses," based on their interpretation of the proposed EPA standards. Kerr-McGee et al. assert that the EPA standards allow seepage. In explaining its approach, the Commission noted that its proposed suspension was based on the EPA standard as written without regard to the provisions or options for exemptions. The no seepage requirement is presented as EPA's primary performance standard and design standard. If subsequent events indicate that this standard is not met, the secondary ground water quality standards come into play. The ground water standards would allow some degradation of ground water to the specified limits or to other limits if remedial actions cannot restore the ground water and EPA approves an exemption. Since compliance with the suspended sentence requires an exemption from EPA, the Commission continues to believe it prudent to suspend it.

4.(b) Kerr-McGee et al. objected to the proposed suspension of the items in the second paragraph of Criterion 5 based on a reading that the words remaining required liners when the EPA standard does not. First, the words remaining do not require liners—only that installation be considered. Second, the Commission views the no liner provision for other than existing impoundments in the EPA standard as an exemption. Section 264.221 of 40 CFR Part 264 requires case-by-case approval and determination that "alternative design and operation, together with location characteristics, will prevent the migration of any hazardous constituents into the ground water or surface water at any future time." Certainly suspension of the sentence was not intended to require Kerr-McGee et al. to move existing tailings to a lined impoundment and the Commission does not see how Kerr-McGee et al. reached this conclusion. Kerr-McGee et al. proposed that the entire paragraph be suspended. Since it applies to both existing and future impoundments, the Commission continues to believe that liners should be considered and that the remaining language in the proposed suspension is consistent with the EPA standard.

Kerr-McGee et al. also suggested suspending the paragraph beginning "The characteristics of the underlying soil . . ." and ending ". . . various formations shall be determined." Kerr-McGee et al. assert that it is "difficult and even infeasible to characterize groundwater conditions in a uranium district." For several reasons, the Commission does not believe this requirement should be suspended. First, it is not in conflict with the EPA standard. Under the EPA scheme, licensees must monitor aquifers at the down gradient edge of the impoundment. This requirement cannot be met without some knowledge of the geohydrology of the site. Second, evaluation of liner failure modes requires site-specific information and is important to NRC licensing decisions including evaluation of monitoring programs and remedial action plans.

4.(e) Kerr-McGee et al. objected to suspension of "usable" for the same reasons discussed earlier. The Governor of Utah supported the suspension. The Commisson still believes the EPA proposed standard dictates suspension.

Kerr-McGee et al. also suggested that the last paragraph on managing stockpiles in Criterion 5 be suspended based on the absence of EPA requirements on stockpiling. While it is true that the EPA standard does not specifically address stockpiling (note that ores are not waste and thus not byproduct material so the EPA standard should not address stockpiling) and includes cleanup limits for after-the-fact application, as Kerr-McGee et al. note, the Commission fails to see how the EPA standard would affect this provision. Preventing extensive cleanup or excavation of storage areas and potential spread of contamination are important mitigating actions to minimize impacts of mill operation. Reliance on extensive cleanup would require commitment of more funds for decommissioning and involve large uncertainties. Thus the requirement was not suspended.

Criterion 6—5. (a) The Center objected to suspending the numerical values for cover thickness and radon flux. Kerr-McGee et al. supported this suspension. The principal argument the Center presented focused on the commenter's application of the "major commitment" test. The Center noted that EPA analyses indicated that 2–3 meters cover would usually be required to meet the EPA flux limit and that implementation of the two rules would therefore involve essentially the same cover cost. The Commission disagrees and considers that obtaining or producing detailed cost estimates are not necessary as discussed under *Commission Approach* and in preceding sections of this notice. The key to the Commission's proposed suspension was that 3 meters of cover may not always be required. Suspending the numerical value allows case-by-case evaluation so that licensees can consider a full range of alternative designs and plans.

The Center also asserted that the costs of complying with a 2 vs 20 picocurie/meter^2•sec radon flux were not "major" when compared to total costs of construction and 30-year operation of a mill. "Major" is a very subjective decision and even a few thousands of dollars for engineering design contract work could be "major" to a nonoperating plant with no current income from sales. The Center's suggestions on these two points were not adopted.

Kerr-McGee et al. recommended that the sentence "Direct gamma exposure from the tailings or water should be reduced to background levels." be suspended. Reasons included no EPA criterion on direct gamma exposure and reliance on institutional control of access to limit exposures. Kerr-McGee et al. conceded that 2 feet of soil or rock

to control erosion would achieve background. The background level for gamma exposures is not inconsistent with the EPA standard. The Commission believes that excessive reliance on institutional controls should be limited. Further, in the sentence "should" is permissive and does not mandate background in all cases. The suggestion was not adopted.

5.(b) Both Colorado and Utah objected to suspending the sentence prohibiting reliance on thin synthetic layers in calculating radon flux. The two states share NRC and EPA reservations about the longevity of thin synthetic layers. Kerr-McGee et al. supported suspension. Given the current state-of-the-art and information available, the Commission still has reservations about relying on synthetic liners for 200 or more years and also concedes that for at least the duration of the suspension, licensees could not practically take advantage of the flexibility to consider thin synthetic layers and therefore adopts the States' suggestion not to suspend.

5.(c) Colorado and the Center expressed the view that the sentence requiring long-term performance evaluation of non-soil cover materials should be retained. Kerr-McGee et al. supported the suspension to foster new technology. Colorado agreed that the 3 meter language should be suspended. Commenters noted that even 200 years is a long time and materials should be evaluated for long-term performance. The Commission believes the State's point is well taken and the final suspension includes suspension of only parts of the sentence. Specifically, the words "to reduce tailings covers to less than three meters" are suspended as recommended by the State and also the words "cracks or" are suspended to make the evaluation less oriented to radon flux, a point made by Kerr-McGee et al.

5.(d) Colorado objected to suspension of the requirements on radium levels of near-surface cover materials. Kerr-McGee et al. supported the proposal. While the Commission would hope that most licensees could use background level materials, footnote 7 of the EPA standard states "Radon emissions from the covering materials should be estimated as part of developing a closure plan for each site." This language clearly indicates that flexibility is intended in choosing cover materials under the EPA standards. Thus the Commission must reject the suggestion not to suspend.

Criteria 7—11. Kerr-McGee et al. objected to a number of provisions in these criteria but none of the arguments were based on the direction in the legislative mandate for this suspension. Therefore, none of the suggestions were adopted.

Criterion 12—6. The Center and Utah objected to suspension of the sentence concerning ongoing active maintenance, restating their views that final disposition should not depend on ongoing active maintenance. Both expressed the view that sites can and should be designed so that maintenance is not required. The suspension does not mean that the Commission favors active maintenance—only that the degree of flexibility provided by the EPA standard should be provided. The proposed suspension was retained.

Views on Appendix A and EPA Standard

Many of the points made by the commenters stemmed from dissatisfaction with the proposed EPA standard or the NRC's rules in Appendix A to 10 CFR Part 40. Some submissions such as the second filing from Wyoming and the comments from the Coalition for Nuclear Power Postponement, Ebasco, and Federal-American Partners raised no issues directly related to the present action. Kerr-McGee et al. and the American Mining Congress articulated previously filed views on Appendix A. Where the comment itself was directed at one of the rules or where the only rationale for a suggested change in suspended provisions was disagreement with one or both of the two rules, the comment was not considered applicable to this action. The suspension action is based on the EPA and NRC rules as written and comparing the requirements in the rules as stated. Many of the comments may be useful to EPA and copies of all comments were provided to EPA. Others, such as Colorado, suggested changes that will need to be made in conforming Appendix A to the EPA standards. Colorado noted that Criterion 10 would have to be modified to cover the costs of active maintenance if it is to be relied on. Governor Matheson's (Utah) comments about planned reliance on active maintenance can be helpful in carefully wording conforming changes to allow flexbility, clearly identify goals, and preserve important regulatory requirements.

Other

The Governor of Utah recommended that the 20 picocurie flux standard for radon be made a performance standard involving actual measurements. However, the EPA standard is clearly intended as a design standard.

The discussion in the proposed suspension for the reason for suspending paragraph (a) of Criterion 4 included a discussion of Probable Maximum Flood (PMF). The discussion prompted responses from Kerr-McGee et al. and Utah. Kerr-McGee et al. objected to the Commission's clarifying discussion and asserted that the PMF is excessive and a 100-year flood is adequate. Utah supported the PMF design criteria. The rational discussion in the proposed suspension was an expression of views and is not binding. The comments do not affect the suspension.

The Ebasco comments advocated that both agencies use systems analysis and sensitivity analyses to evaluate the confidence levels in risk modeling and in discussion of rules. The comments had no direct application to the suspension action.

The State of Colorado would prefer clay liners required as mandatory backup for synthetic liners. As noted in the proposed suspension, the EPA proposal would allow both materials and the Commission agrees that such a backup is a good idea. However, this suspension action cannot accommodate adding such a requirement. Provisions can only be temporarily suspended.

NEPA Considerations

The Commission has determined that the suspension of specific portions of 10 CFR Part 40, Appendix A, as listed above does not involve a significant environmental impact and that no Environmental Impact Statement or Negative Declaration is needed for this action. The final suspension will be effective for a maximum of 6–7 months, ending April 1, 1984, at the latest. During this limited period of time, the Commission expects that any environmental consequences resulting from the suspension will be small due both to the fact that a short period of time is involved and the fact that the Commission may continue to regulate mill tailings on a case-by-case basis. Presently, the responsibility of each source material milling licensee to operate and dispose of waste in an environmentally sound manner is established on a case-by-case basis in the conditions of the license after the site-specific full environmental review. Any change in license conditions with significant environmental consequences, or issuance of a new license, will receive a full environmental review under 10 CFR Part 51 of the Commission's regulations.

Suspension of portions of Appendix A is not an amendment of Appendix A. Suspension is a temporary procedural measure which neither modifies nor relaxes the actual requirements in the

rule but only makes them inapplicable on a temporary basis, in accord with statutory guidelines. If and when substantive rule changes are proposed or promulgated, appropriate NEPA evaluations will be performed to support these actions.

Regulatory Flexibility Act

Since this suspension is not a rule change, the Regulatory Flexibility Act would not directly apply. Suspension has, however, the potential benefit of minimizing unnecessary licensee expenditure of resources by alerting licensees to those provisions of Appendix A that are either more or less restrictive than proposed EPA standards. Licensees can factor this notice into corporate plans and evaluations.

List of Subjects in 10 CFR Part 40

Government contracts, Hazardous materials-transportation, Nuclear materials, Penalty, Reporting requirements, Source material, and Uranium.

Suspension

Add the following addendum directly after Appendix A to 10 CFR Part 40:

Addendum to Appendix A

In order to comply with section 18(a) of Pub. L. 97-415, the Nuclear Regulatory Commission is suspending the following portions of Appendix A to 10 CFR Part 40.

1. Criterion 1.

(a) In the first paragraph suspend the phrases ". . . for thousands of years . . ." and ". . . without ongoing active maintenance . . . ."

(b) In the second listed item of the first paragraph, suspend the word "usable."

(c) Suspend the last paragraph reading, "Tailings shall be disposed of in a manner that no active maintenance is required to preserve conditions of the site."

2. Criterion 3.

Suspend Criterion 3 in its entirety.

3. Criterion 4.

(a) Suspend paragraph (a) in its entirety.

(b) Suspend paragraph (b) in its entirety.

(c) In the first sentence of paragraph (c), suspend the phrase ". . . be relatively flat after final stabilization to minimize erosion potential and to. . . ."

(d) Suspend the remainder of paragraph (c) beginning with "The broad objective . . ." and ending with ". . . identified."

(e) Suspend the first sentence of paragraph (d), beginning "A full self-sustaining vegetative . . ." and ending ". . . to negligible levels."

(f) Suspend the second and third sentences of paragraph (d) beginning with "Where a full . . ." and ending with ". . . pile."

(g) In the fourth sentence of paragraph (d) beginning "The following factors . . .," suspend the words "the final" in the phrase ". . . in establishing the final rock cover . . . ."

(h) In the first listed item in paragraph (d), suspend the parenthetical phrase "(excepting bedding material average particles size shall be at least cobble size or greater)."

(i) Suspend the fourth paragraph of paragraph (d) beginning with "Individual rock fragments shall . . ." and ending with ". . . shall not be used." in its entirety.

(j) In the fifth paragraph of paragraph (d) beginning with "Rock covering . . ." and ending with ". . . of this Criterion." suspend all of the text beginning with ". . . where top covers are very thick . . . and ending with ". . . of this Criterion."

(k) Suspend the first sentence of the last paragraph of paragraph (d) beginning "Furthermore, all impoundments . . ." and ending ". . . slope gradient."

(l) In the second sentence of the last paragraph of paragraph (d) suspend "In addition to rock cover on slopes . . ." and ". . . with substantial rock cover (rip rap)."

(4) Criterion 5.

(a) In the first paragraph, suspend the first two sentences beginning "Steps shall be taken . . ." and ending ". . . potential uses." and the phrase ". . . in order to accomplish this objective." in the third sentence.

(b) In the first listed item under the first paragraph beginning with "Installation of . . ." suspend the reference to "low permeability" as a characteristic of bottom liners. Also suspend the last two sentences beginning with "Where clay liners . . ." and ending with "exposure).)"

(c) In the second paragraph beginning "Where ground water impacts . . ." suspend the phrase "to its potential use before milling operations began to the maximum extent practicable."

(d) Suspend in its entirety the third paragraph beginning "While the primary method of protecting groundwater shall be isolation . . ." and ending ". . . from current or potential uses."

(e) In the first sentence of the fifth paragraph beginning "This information shall be gathered . . ." suspend the word "usable" where it modifies "groundwater."

5. Criterion 6.

(a) In the first sentence suspend the phrases ". . . but not less than three meters . . . ," and ". . . to less than two picocuries per square meter per second."

(b) In the fifth sentence beginning "If non soiled (sic) materials . . ." suspend the phrases ". . . to reduce tailings cover to less than three meters. . . ." and ". . . crack or . . .".

(c) Suspend the last and second to last sentences referring to near-surface cover materials not containing elevated levels of radium, and being, as far as radioactivity is concerned, essentially the same as surrounding surface soils.

6. Criterion 12. Suspend the first sentence which states that final disposition of tailings should be such that ongoing active maintenance is not necessary to presereve isolation.

7. Criteria 2, 7, 8, 9, 10, and 11 are not affected by the EPA proposal and no suspension is necessary for any portion of those criteria. Note: See notice dated May 26, 1983 (48 FR 23849) and the preamble to this final suspension for discussion.

This suspension in its entirety will terminate on April 1, 1984, without further notice or action by the Commission. The suspension may be terminated earlier than April 1, 1984, as part of a Commission final rule that would modify Appendix A in accordance with section 275 of the Atomic Energy Act of 1954, as amended.

Dated at Washington, DC this 29th day of July, 1983.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-21192 Filed 8-3-83; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 80-EA-23; Amdt. 39-4703]

Airworthiness Directives; DeHavilland Model DHC-6 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises Airworthiness Directive (AD) 80-13-11, Amendment 39-3814, applicable to DeHavilland Model DHC-6 airplanes by clarifying the requirement for paint removal prior to the visual inspection of the control rods. The FAA has noted the possibility of misinterpretation of the AD regarding the inspection process. This revision will increase the effectiveness of the AD by reducing the possibility of error when accomplishing the inspection.

DATES: Effective date: August 10, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: DeHavilland Service Bulletin 6/390, Rev. A, dated June 9, 1980, applicable to this AD may be obtained from DeHavilland Aircraft of Canada Limited, Downsview, Ontario, Canada M3K 145. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT:

Vahan Barsamian, FAA, Aircraft Certification Office, ANE-172, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581, Telephone (516) 791-6220; or

Larry Werth, FAA, ACE-109, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: AD 80-13-11 (Amendment 39-3814), applicable

to DeHavilland Model DHC-6 airplanes, was published in the **Federal Register** on June 26, 1980 (45 FR 43156, 43157). Since publication of AD 80-13-11, the FAA has become aware of possible misinterpretation regarding the removal of paint prior to those inspections required by paragraph (d) of the AD. Accordingly, paragraph (d) is being revised to incorporate references which direct removal of any paint prior to the accomplishment of the specified inspections.

This amendment clarifies the procedures of the AD. It has no effect on safety or cost and will eliminate the possibility of field confusion when complying with the existing AD. Therefore, notice and public procedure hereon are unnecessary and not in the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, AD 80-13-11, Amendment 39-3814 (45 FR 43156, 43157) § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is revised as follows:

Revise paragraph (d) to read as follows:

"(d) On aircraft Serial Numbers 686 and subsequent and all other aircraft on which paragraphs (b) or (c) have been accomplished:

(1) Using the dye penetrant method in paragraphs 8, 9, and 10 of the Accomplishment Instructions of the above Bulletin or approved equivalent, visually inspect with at least a ten-power glass those areas shown in Figure 1 on all tube ends of the rod assemblies listed in Column 4 or 5 of Table 2 of the above Bulletin.

(2) The inspections specified in paragraph (d)(1) of this AD must be accomplished at intervals not to exceed 800 hours time-in-service, or 1 year, whichever occurs first, from the last inspection."

This amendment becomes effective August 10, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); sec. 11.89 of the Federal Aviation Regulations (14 CFR Sec. 11.89))

Note.—The Federal Aviation Administration has determined that this document involves an amendment that is clarifying in nature and does not impose any additional burden on any person. Therefore: (1) It is not major under Executive Order 12291 (46 FR 13193; February 19, 1981); and (2) it is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify that it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it provides additional information, clarifying in nature, and because it involves few, if any, small entities.

Issued in Kansas City, Missouri, on July 25, 1983.

Murray E. Smith,

Director, Central Region.

[FR Doc. 83-21074 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-59-AD; Amdt. 39-4699]

Airworthiness Directives; Empresa Brasileria de Aeronautica S.A. (EMBRAER) Models EMB-110P1 and EMB-110P2 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) applicable to certain EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. It requires a check of the static balance of the ailerons, rudder, and elevators and, if necessary, rebalance of the appropriate control surface. Several occurrences of control surface unbalance have been reported which may cause a change in the dynamic/flutter characteristics of the airplane. This action will detect and correct any control surface unbalance so that it can be rebalanced to prevent it from affecting the safety of flight of the airplane.

DATES: Effective Date: August 9, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: EMBRAER Service Bulletin (SB) 110-55-021, dated May 18, 1983 applicable to this AD may be obtained from Empresa Brasileria de Aeronautica S.A. (EMBRAER), P.O. Box 343-CEP, 12.200, Sao Jose Dos Campos, Sao Paulo Brazil. A copy of the service bulletin is contained in the Rules Docket, FAA, Room 1558, Federal Building, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Charles L. Perry, ACE-120A, Aerospace Engineer, Airframe Branch, Atlanta Aircraft Certification Office, FAA, 1075 Inner Loop Road, College Park, Georgia 30337; Telephone (404) 763-7407.

SUPPLEMENTARY INFORMATION: There have been several reports of static unbalance of the ailerons, rudder, and elevators on EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. This may cause a change in the dynamic/flutter characteristics of the airplane which could result in flutter of the control surfaces and ensuing aircraft damage. Consequently, Empresa Brasileria de Aeronautica S.A. (EMBRAER) has issued Service Bulletin No. 110-55-021, dated May 18, 1983, which provides for a static balance check of elevators, rudder and ailerons and if necessary, static rebalance of each control surface.

The Centro Technico Aerospacial (CTA), who has responsibility and authority to maintain the continuing airworthiness of these airplanes in Brazil, has issued CTA AD 83-05-03, which makes compliance with this Service Bulletin mandatory on airplanes operated under Brazilian registration. This action has the same effect as an FAA AD on airplanes certified for operation in the United States. The FAA relies upon the certification of CTA combined with FAA review of pertinent documentation in finding compliance of the design of these airplanes with the applicable United States airworthiness requirements and the airworthiness and conformity of products of this design certificated for operation in the United States. The FAA has examined the available information related to the issuance of Service Bulletin No. 110-55-021, dated May 18, 1983 and the CTA AD 83-05-03, dated May 13, 1983.

Based on the foregoing, the FAA has determined that the condition addressed by Service Bulletin No. 110-55-021, dated May 18, 1983, is an unsafe condition that may exist on other products of the same type design certificated for operation in the United States.

Therefore, an AD is being issued requiring a static balance check of elevator, rudder, and ailerons and, if necessary, static rebalance of each unbalanced control surface on certain EMBRAER Models EMB-110P1 and EMB-110P2 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation

Regulations (14 CFR 39.13) is amended by adding the following new AD.

EMBRAER: Applies to Models EMB–110P1 and EMB–110P2 (S/N 110001 through 110386, 110388 through 110397, 110399 through 110401, 110404 through 110408, 110410 through 110412, 110414 and 110421) airplanes certificated in any category.

Compliance: Required as indicated, unless already accomplished.

To preclude flutter from occurring in any control surface, accomplish the following:

(a) Within the next 30 days after the effective date of this AD, check the elevators for static balance in accordance with the procedures shown in Item 1.118 of the EMBRAER Structural Repair Manual, T.O.–IC95–3 and T.O.–IC95A–3. If an unbalanced condition is found, prior to further flight, rebalance the elevator in accordance with the procedures shown in Item 1.119 of the EMBRAER Structural Repair Manual, T.O.–IC95–3 and T.O.–IC95A–3, but replace Figure 1–24 with Figure 1 of this AD. Do not exceed the mass balance weight values of Table 1–6A of this AD.

(b) Within the next 60 days after the effective date of this AD, check the ailerons and rudder for static balance in accordance with the procedures shown in Item 1.118 of the EMBRAER Structural Repair Manual, T.O.–IC95–3 and T.O.–IC95A–3. If an unbalanced condition is found, prior to further flight, rebalance the ailerons and rudder in accordance with the procedures shown in Item 1.119 of the EMBRAER Structural Repair Manual, T.O.–IC95–3 and T.O.–IC95A–3, but replace Figure 1–24 with Figure 1 of this AD. Do not exceed the mass balance weight values of Tables 1–6B and 1–6C, respectively, of this AD.

(c) When checking the balance of the control surfaces in accordance with paragraphs (a) and (b) of this AD:

(1) Remove the surface from the airplane, complete, finished and painted, static discharge wicks installed, trim tab activating rod installed, trim tab activating teleflex cable (case of the left elevator) installed and attached as in the airplane. In this case, the elevator trim tab teleflex cable must be attached to the bellcrank by the clamp only.

(d) Aircraft may be flown in accordance with FAR 21.197 to a location where this (AD) can be accomplished.

(e) An equivalent method of compliance with this AD, if used, must be approved by the Manager, Atlanta Aircraft Certification Office, ACE–115A, 1075 Inner Loop Road, College Park, Georgia 30337.

This amendment becomes effective August 9, 1983.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation is an emergency regulation that is not major under Section 8 of Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If this action is subsequently determined to involve a significant regulation, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, when filed, may be obtained by contacting the Rules Docket under the caption "**ADDRESSES**" at the location identified.

Issued in Kansas City, Missouri, on July 22, 1983.

John E. Shaw,

Acting Director, Central Region.

BILLING CODE 4910-13-M

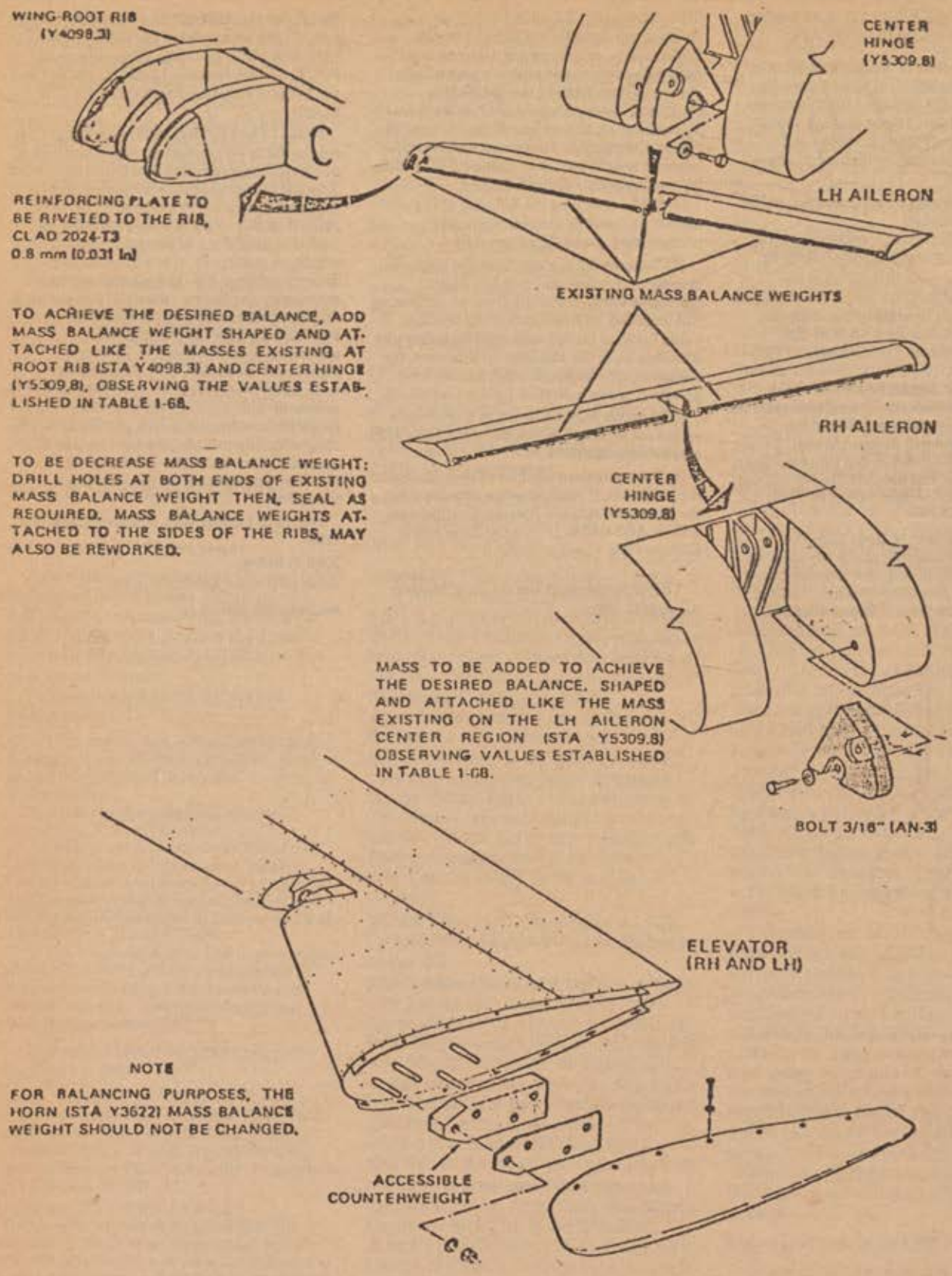
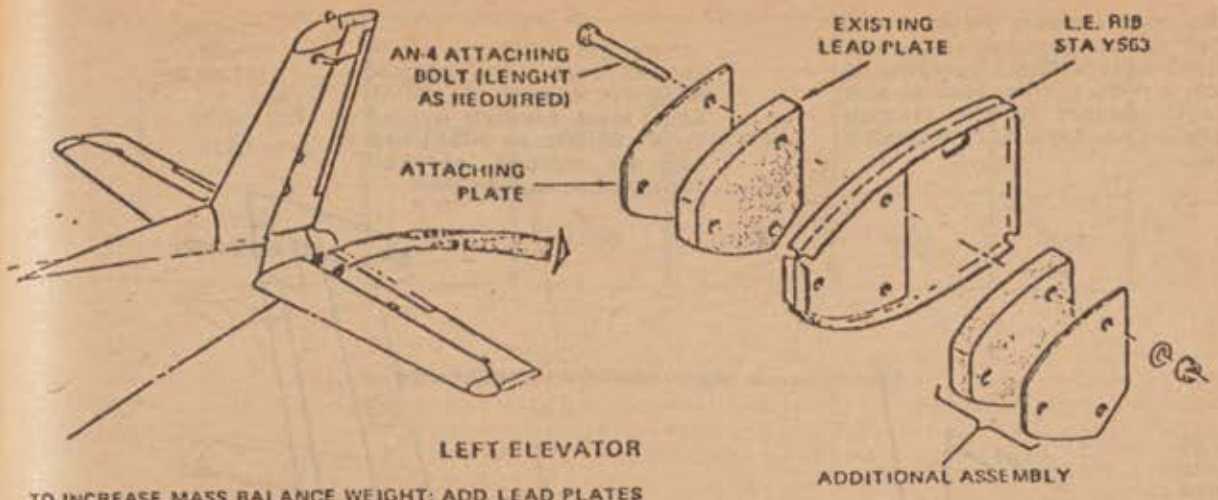


FIGURE 1 (Sheet 1 of 3)

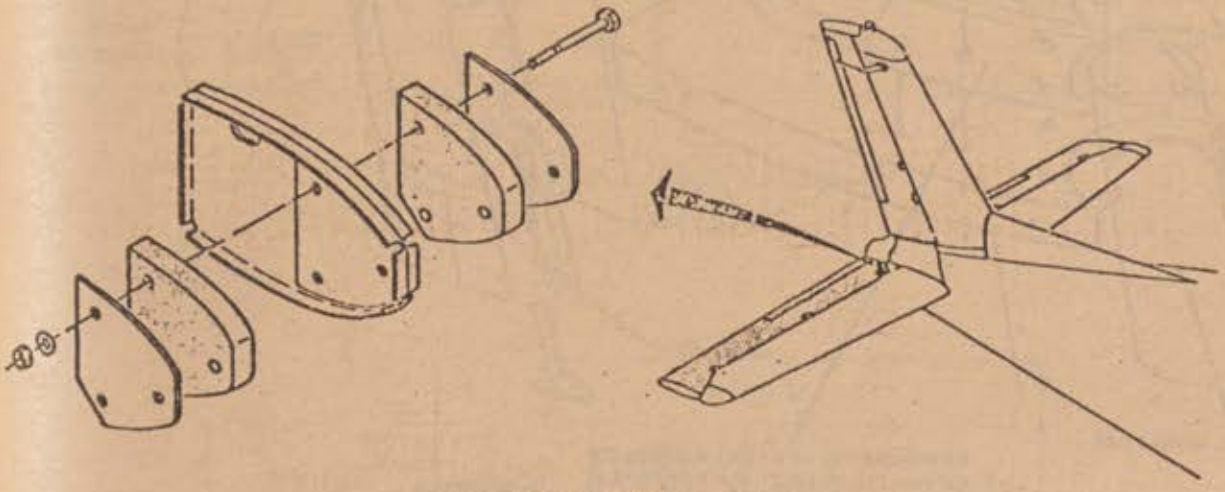


LEFT ELEVATOR

TO INCREASE MASS BALANCE WEIGHT: ADD LEAD PLATES TO THE STATION Y563 OBSERVING VALUES SPECIFIED IN TABLE 1-6A, AND NOT EXCEEDING THE W_{MAX} LIMIT OF 4000 g. IF REQUIRED ADD MASS BALANCE WEIGHTS TO THE STATION Y202.6 OBSERVING THE VALUES SPEFICIED AND THE WEIGHT W_{MAX} LIMIT TO THE STATION. MASS BALANCE WEIGHT DECREASING SHOULD BE ACCOMPLISHED AT STATION Y563.

NOTE

MASS BALANCE WEIGHT IS UNDERSTOOD AS THE MASS OF THE WHOLE ASSEMBLY IN QUESTION, THAT IS, LEAD MASS, 4130 STEEL SUPPORTING PLATES MASS AND FASTENERS MASS.



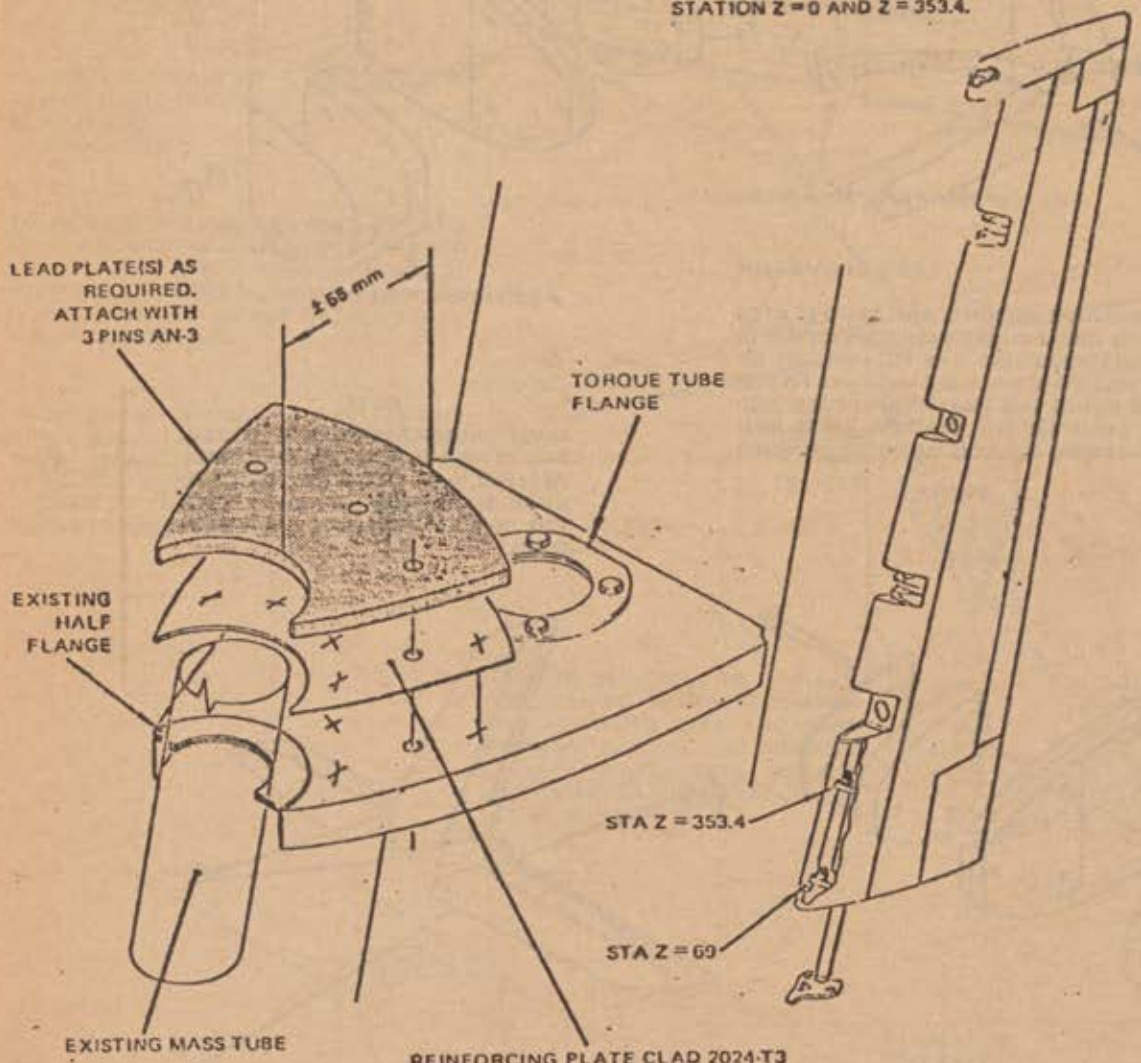
RIGHT ELEVATOR

TO INCREASE MASS BALANCE WEIGHT: ADD LEAD PLATES TO THE STATION Y202.6 ACCORDING TO THE VALUES SPECIFIED IN TABLE 1-6A, NOT EXCEEDING THE LIMIT WEIGHT OF 4000 g AT THE STATION.
MASS BALANCE WEIGHT DECREASING SHOULD ALSO BE ACCOMPLISHED AT STATION Y202.6.

FIGURE 1 (Sheet 2 of 3)

TO INCREASE MASS BALANCE WEIGHT: ADD LEAD PLATES TO THE LEADING EDGE RIBS, START ADDING MASS BALANCE WEIGHTS TO THE STATION Z = 354.0; IF REQUIRED, ADD MASS BALANCE WEIGHT TO THE STATION Z = 69.0; OBSERVING THE LIMITS SPECIFIED IN TABLE 1-6C.

TO DECREASE MASS BALANCE WEIGHT: REMOVE MATERIAL FROM MASS BALANCE WEIGHT TUBE LOCATED AT THE LOWER END OF RUDDER, BETWEEN STATION Z = 0 AND Z = 353.4.



NOTE

THE RUDDER END MASS BALANCE WEIGHT SHOULD NOT BE CHANGED.

FIGURE 1 (Sheet 3 of 3)

	LH ELEVATOR			RH ELEVATOR	
POSITION (STATION)	Y3622	Y563	Y202.6	Y202.6	Y3622
Wmax STRUCTURAL	7850	4000	4000	4000	7850

Table 1-6A. Mass-Balance Weight Values (grams)

	LH AILERON				RH AILERON		
POSITION	Y5419.0 to Y6700.8	Y4098.3 to Y5309.8	Y5309.8	Y4098.3	Y4098.3 to Y5309.8	Y5309.8	Y5419.0 to Y6700.8
Wmax STRUCTURAL	4200	4200	500	500	4200	500	4200

Table 1-6B. Mass-Balance Weight Values (grams)

	RUDDER			
POSITION	Z2320	Z0 to Z353.4	Z353.4	Z69.0
Wmax STRUCTURAL	6500	7500	700	700

Table 1-6C. Mass-Balance Weight Values (grams)

[FR Doc. 83-21071 Filed 8-3-83; 8:45 am]
BILLING CODE 4910-13-C

14 CFR Part 39

[Docket No. 82-CE-25-AD; Amdt. 39-4702]

Airworthiness Directives; Fairchild (Swearingen) Models SA226-T, SA226-TB, SA226-AT, SA226-TC, SA227-AC, SA227-AT, and SA227-TT Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD) that requires a modification to the steering system by installing an improved nose steering manifold valve, a failure indicator light, and a nose steering system hydraulic filter on Fairchild (Swearingen) Models SA226-T, SA226-TB, SA226-AT, SA226-TC, SA227-AC, SA227-AT and SA227-TT Airplanes. Nineteen incidents of nose steering malfunctions have occurred since September 1980, 14 of which were contributed to by contamination of the steering servo valve. The modifications required by the AD will reduce the sensitivity of the system to contamination and prevent these malfunctions.

DATE: Effective Date: September 8, 1983. Compliance: On or before November 1, 1983

ADDRESSES: The applicable service bulletins may be obtained from Fairchild Aircraft Corporation, P.O. Box 32586, San Antonio, Texas 78284. A copy of this information is also contained in the Rules Docket, FAA, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mark R. Schilling, Systems Engineer, Airplane Certification Branch, ASW-150, Southwest Regional Office, P.O. Box 1689, Fort Worth, Texas 76101; Telephone (817) 877-2598 or FTS 734-2598.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations (FARS) to include an AD requiring modification of the nose steering systems on all Fairchild (Swearingen) Models SA226-T, SA226-TB, SA226-AT, SA226-TC, SA227-AC, SA227-AT and SA227-TT airplanes with hydraulic nose wheel steering installed was published in the **Federal Register** on Thursday, February 24, 1983 (48 FR 7747, 7748). This was prompted by 19 incidents/accidents as a result of uncontrollable nose steering on Fairchild (Swearingen) SA226/SA227 series airplanes. In at least five incidents, there was substantial damage to airplanes. No injuries or fatalities have occurred as a result of the problem. Upon compliance with the AD, the nose wheel steering operational restrictions of the Limitations Section of the Airplane Flight Manual and placards in the airplanes that were incorporated in accordance with Fairchild (Swearingen) Service Bulletins SBA 32-001 or SBA 32-032 dated June 3, 1981, may be removed.

Interested persons have been afforded an opportunity to comment on the proposal. Twenty commenters submitted comments regarding the proposed AD. In general eleven comments agreed that the nose steering system was troublesome. Fifteen comments indicated that the AD should not prevent the airplane from being operated in the event of a nose steering failure. Of those 15, nine did not oppose the AD but wanted to be able to operate the airplane if nose steering failed. Five comments stated that the proposed AD is not necessary. Two comments stated that it is not strict enough, and three comments agreed in total with the proposed AD.

The individual comments and FAA responses to these are as follows:

One commenter supported the intent of the AD, however, wanted provisions made to allow an operator to dispatch the aircraft with nose steering inoperative. The adopted rule will be worded such that the existing Master Minimum Equipment List (MMEL) will not be changed by this AD.

One commenter suggested that nose wheel steering is not required for certification and that the proposed AD would have the effect of making steering a required system. Nose steering is not required by the certification rules. The rules require controllability on the ground, and this has been demonstrated. However, if a nose steering system is installed, it must perform its intended function and pose no hazard to the airplane. Service history has shown that the nose steering system without accomplishment of Fairchild SB 32-006, SB 32-037, or SB 32-039 can pose a hazard to the aircraft and its occupants. The number of reported incidents/accidents of the nose steering system and its failure modes, justifies mandatory modification to eliminate the hazard posed to the aircraft.

One commenter did not oppose the AD; but objected to requiring the nose steering to operate for aircraft dispatch. As indicated above, because of this and many other similar comments, FAA will change the wording of the AD to clarify that this AD will not change the MMEL.

Two commenters felt that there are valid reasons for changing the nose steering system. However, they indicated that strict compliance to the AD would place an undue hardship on operators because the airplane should not be restricted from operation due to inoperable nose gear steering. FAA does not intent to change the MMEL to restrict aircraft because nose steering is inoperative.

One commenter stated that the Fairchild Aircraft was certificated without a nose steering system and is concerned that implementation of the AD would make nose steering a go/no go item. It is not FAA's intent to make nose steering a go/no go item. FAA intends to assure that if nose steering is installed it performs its intended function without posing a hazard. The wording of the AD will be changed accordingly.

One commenter has already implemented SB 32-006 and SB 32-037 for its fleet of Fairchild Aircraft and feels that the modification works well. The commenter is concerned about requiring nose steering operable at all times and feels once the nose wheel is in the castor mode it is safe to operate. Another commenter from the same company essentially had the same comments and also mentioned that the MMEL allows aircraft operation without steering. The AD wording will be changed so that aircraft operation is not contingent upon nose steering being operational.

One commenter reported numerous failures of the nose steering system but has had no operational incidents. The commenter does not agree that unavailability of nose steering at high ground speeds may contribute to loss of aircraft control because of a dragging brake or engine in the start locks during takeoff. The commenter believes that the modification will give operators a false sense of security, be costly, and the possibility of a hardover is not eliminated, only reduced. In the documented incidents/accidents that involved nose steering malfunction, high ground speeds in conjunction with not being able to steer caused the damage to the aircraft. In the event of a dragging brake or attempted takeoff with props in start lock position, available nose steering would give a margin of safety for controllability of the airplane. This modification is not a cosmetic change that would give a false sense of security. Major changes to components and steering logic have been implemented. When weighing the consequences of a steering system failure in a critical situation, the modification is not costly and FAA is convinced, as is the manufacturer, that reliability of the system is greatly increased.

One commenter reported that they have had no problems with the nose steering system which would cause the airplane to leave the active runway. However, he has experienced numerous problems with the nose steering system, specifically with the steering potentiometer and the manifold assembly. In addition, the commenter did not believe that steering should be required to be operational at all times. Finally, the commenter believed that the AD would increase the cost of maintaining and operating the aircraft. One of the trouble components that the commenter references as causing problems will be replaced by the AD.

Also the FAA believes, as does the aircraft manufacturer, that the modified steering will be more reliable and therefore, less costly to operate.

Another commenter thought that the installation of the system filter was a good idea but didn't believe that the light or new manifold valve was necessary. The modification requires several actions, including installation of a filter, new manifold valve, annunciator light and a change in the steering logic to make the system more reliable. The FAA believes that to achieve desired improvement and reliability and to permit removal of the operational restrictions imposed by Fairchild Bulletins SBA 32-001 and SBA 32-032, all these changes must be incorporated.

A third commenter felt that the nose steering system modification was needed and that nose steering is needed for takeoffs and landings for the short airplane. The commenter also thought that the flight manuals should have tables to show how much additional runway is needed for takeoff without steering turned on. Landing performance tables in the flight manual consider no nose steering available. It has been determined that takeoff performance is not appreciably changed with or without nose steering turned on.

One commenter accomplished the modification to the nose wheel steering and has had no problems. The commenter is in agreement with the AD but believes the limitation of using the nose steering only below 10 knots should be retained. FAA finds no justification to retain the operational restriction when the nose steering system is modified. The intent of the AD is to modify the nose steering for increased safety and to remove the operational limitations.

A commenter advised that he has already modified the nose steering system to the configuration that would be required by the AD. Since this modification, nose wheel steering discrepancies have been significantly reduced. However, the commenter expressed the previously noted concern about the effect of the AD on the MMEL. The FAA response to the MMEL question has been previously stated.

Another commenter has modified part of its fleet and plans to modify the remainder of its fleet. This commenter reports numerous maintenance problems with the modified nose steering system and believes that the new system is unproven. This commenter also wants the nose wheel system addressed in the MMEL to allow operators to disarm the system. All reports FAA has received concerning other operators service history with the new steering system have been favorable. The new system is already established as a significant improvement and is considered a proven system. There have been no operational incidents with the new nose steering, and if steering is installed on the airplane, it should be the modified steering. The MMEL already allows operation of the aircraft with nose steering inoperative and the issuance of this AD as reworded will make it clear that this is still allowable.

Two commenters from the same company want a completely different nose steering system. The commenters believe that a tiller wheel type system should be used on the airplane rather than rudder pedal steering. The commenters do not believe that the modification should be required by the AD but that a completely different system should be installed. In addition, they are convinced that the AD will add to increased costs of operation. FAA cannot dictate to the manufacturer the nose steering system design. FAA can only assure that whatever is installed performs its intended function and poses no hazard. The proposed AD does that. Finally, the new nose steering system is a more reliable system and service history at this time bears this out; therefore, it should be less costly to operate and maintain.

One commenter stated that a previous AD disconnected nose steering until a replacement steering could be installed and that the aircraft was originally certificated without nose wheel steering. In addition, the commenter did not think FAA should put a restriction on a sound aircraft because it might be operated incorrectly. Therefore, the commenter did not recommend adoption of the proposed rule. If the aircraft is controllable on the ground, nose steering is not required for certification; however, if steering is installed, it must perform its intended function and pose no hazard to the aircraft. Service history has shown that hazards have been posed with the system as it exists. If an operator desires to remove the nose steering system from his airplane in lieu of accomplishing the nose steering modification and it does not pose a hazard, then it may be considered as an alternate method of complying with the AD. If, however, an operator wants to keep nose steering, FAA believes that it should be modified so it poses no hazard.

No comments were received on the cost determination. The adopted rule will also extend the July 1, 1983, compliance time to November 1, 1983, to allow the field sufficient time to accomplish the AD. Finally, the proposed amendment omitted some airplanes by serial number in the applicability statement and the final rule will include these airplanes. Therefore, the proposal is being adopted with the changes indicated above.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new AD:

Fairchild (Swearingen): Applies to the following models and serial numbers of airplanes certificated in any category:

Model SA226-T (S/N T-249 through T-275, and T-277 through T-291).

Model SA226-TB (S/N T-276 and T-292 through T-417).

Model SA226-AT (S/N AT-025 through AT-069, AT-071 through AT-074).

Model SA226-TC (S/N TC-212 through TC-419.

Any SA226 model and serial number airplane modified in accordance with Service Bulletin SB 32-016.

Model SA227-AC (S/N AC-398 through AC-599) and all models with hydraulic nose wheel steering.

Model SA227-AT (S/N AT-070, S/N AT-423 through AT-596).

Model SA227-TT (S/N TT-421 through TT-597).

Compliance: Required as indicated unless already accomplished.

To assure reliable operation of the steering system:

(a) On or before November 1, 1983:

(1) Modify the nose wheel steering systems of the affected Serial No. Model SA226-T, SA226-TB, SA226-AT and SA226-TC airplanes in accordance with Fairchild (Swearingen) Service Bulletin SB 32-037 revised July 15, 1982, or if optional tiller wheel steering is installed, in accordance with SB 32-039 dated September 9, 1982.

(2) Modify the nose wheel steering systems of the affected Serial Number Model SA227-AC, SA227-AT, and SA227-TT airplanes in accordance with Fairchild Service Bulletin SB 32-006 revised July 27, 1982.

(3) When the modifications required by paragraphs (a)(1) and (a)(2) if this AD are accomplished, remove the nose wheel steering operational restrictions in the Limitations Section of the Airplane Flight Manual and placards in the airplane that were incorporated in accordance with Fairchild Swearingen Service Bulletins SBA 32-001 or SBA 32-032 both dated June 3, 1981.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An equivalent method of compliance with this AD may be used if approved by the Manager, Airplane Certification Branch, ASW-150, Federal Aviation Administration, Southwest Regional Office, P.O. Box 1689, Fort Worth, Texas 76101.

This amendment becomes affective on September 8, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449 January 12, 1983); sec. 11.89 of the Federal Aviation Regulations (14 CFR 11.89))

Note.—The FAA has determined that this regulation only involves approximately 350 Fairchild (Swearingen) Models SA226-T, SA226-TB, and SA226-TC airplanes. Estimated one-time costs of $1,100 for parts and $700 for labor are expected to accrue for a total of $1,800 per airplane ($630,000 for the fleet).

Approximately 138 Fairchild (Swearingen) Models SA227-AC, SA227-AT, and SA227-TT airplanes are affected by this regulation. Fairchild Aircraaft Corporation reports all operators of the SA227 models have received kits for the modification; however, all have not been installed. Approximately 20 aircraft remain to be modified at a one-time cost of $700 for labor per airplane ($14,000 for remaining fleet). Therefore, I certify that this action: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedure (44 FR 11034; February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

Issued in Kansas City, Missouri, on July 22, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-21073 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 39

[Docket No. 83-CE-37-AD; Amdt. 39-4700]

Airworthiness Directives; Partenavia Costruzioni Aeronautiche S.p.A. Model P68B, P68C and P68C-TC Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 83-07-22, Amendment 39-4624, applicable to certain Partenavia Costruzioni Aeronautiche S.p.A. Model P68B, P68C, and P68C-TC airplanes. This revision deletes the Model P68 airplanes from the applicability statement. The manufacturer and the Registro Aeronautico Italiano (RAI) have determined that the Model P68 airplanes were erroneously included in the original service instuctions and RAI AD. This revision will relieve the owners of the unnecessary burden of compliance with the AD.

DATES: Effective Date: August 9, 1983. Compliance: As prescribed in the body of the AD.

ADDRESSES: Partenavia Service Bulletin No. 55, Rev. 1, RAI approved February 24, 1983, may be obtained from Partenavia Costruzioni Aeronautiche S.p.A., Via Cava, C.P. 2179, 80026 Casoria, Naples, Italy. A copy of this information is also contained in the Rules Docket, Office of the Regional Counsel, FAA, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Mr. A. Astorga, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Office, FAA, c/o American Embassy, 1000 Brussels, Belgium, Telephone 513.38.30; or Mr. Larry Werth, ACE-109, FAA, 601 East 12th Street, Kansas City, Missouri 64106, Telephone (816) 374-6932.

SUPPLEMENTARY INFORMATION: AD 83-07-22, Amendment No. 39-4624 (48 FR 15451, 15452), applicable to certain Partenavia Model P68, P68B, P68C, and P68C-TC aiplanes requires replacement of the flap selector switch. Subsequent to the issuance of this AD, the manufacturer has revised Service Bulletin No. 55 to delete the Model P68 airplanes from this requirement. The RAI also revised their AD No. 83-26/P.68-15 to delete this model. Therefore, the FAA is revising AD 83-07-22 by removing the Model P68 airplanes from the applicability statement.

Since this amendment only deletes inapplicable airplanes from the applicability statement, eliminates the expense of unnecessary work, and imposes no additional burden on any person, it is found that notice and public procedure hereon are unnecessary, and good cause exists for making this amendment effective in less than 30 days.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, AD 83-07-22, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), is amended as follows:

Revise the applicability statement to read as follows:

"**Partenavia Costruzioni Aeronautiche S.p.A.:** Applies to Model P-68B, P-68C, and P-68C-TC airplanes (all S/Ns up to S/N 255 excluding S/Ns 220, 224, 227, 228, 234, 235, 236, 239, 249, 251, 252, 253, and 254) certificated in any category."

This amendment becomes effective August 9, 1983.

(Secs. 313(a), 601 and 603 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421 and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); sec. 11.89 of the Federal Regulations (14 CFR 11.89))

Note.—The FAA has determined that this document involves an amendment that is relieving in nature and does not impose any additional burden on any persons. Therefore: (1) It is not a major rule under Executive Order 12291, and (2) it is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). Because its anticipated impact is so minimal, it does not warrant preparation of a regulatory evaluation. I certify it will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act because it is relieving in nature and because it involves few, if any, small entities.

Issued in Kansas City, Missouri, on July 22, 1983.

John E. Shaw,

Acting Director, Central Region.

[FR Doc. 83-21072 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ANM-1]

Alteration of Transition Area; Butte, Montana

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes a 700 foot transition area at Butte, Montana. Amendment 3 to the LOC/DME Rwy 15, Standard Instrument Approach Procedure (SIAP), relocated the final approach fix to provide a lower visibility requirement on the approach. This transition area will provide controlled airspace from 700 feet above the surface to encompass a 10 nautical mile procedure turn area based on the new final approach fix.

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace Technician, ANM-535, Federal Aviation Administration, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168, telephone (206) 431-2530.

SUPPLEMENTARY INFORMATION:

History

On May 9, 1983, a Notice of Proposed Rulemaking was published in the **Federal Register** (48 FR 20729) stating that the Federal Aviation Administration proposed to establish a 700' transition area at Butte, Montana. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. No comments were received objecting to the proposal.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes a 700' transition area at Butte, Montana.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A, January 3, 1983, is amended effective 0901 GMT, November 24, 1983, as follows:

Butte, Montana (New)

"That airspace extending upwards from 700 feet above the surface within a five mile radius of the Bert Mooney Airport, Butte, Montana (45°57' N, 112°30' W.) extending 9.5 miles southwest and 5 miles northeast of the Butte (I-BEY) localizer NW course 313 (330 m) extending 24.5 miles northwest of the airport."

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); (Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69))

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal.

Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Seattle, Washington, July 22, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-21070 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-22]

Designation of Transition Area; Jena, LA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will designate a transition area at Jena, LA. The intended effect of the amendment is to provide controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Jena Airport. This amendment is necessary since a nonfederal nondirectional radio beacon (NDB) will be established approximately 4 nautical miles south of the airport and a SIAP to Runway 35 will be established. Coincident with this action, the airport is changed from visual flight rules (VFR) to instrument flight rules (IFR).

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On May 2, 1983, a notice proposed rulemaking was published in the **Federal Register** (48 FR 19737) stating that the Federal Aviation Administration proposed to designate the Jena, LA, transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received without objections. Except for editorial changes, this amendment is that proposed in the notice.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71, § 71.181, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, is amended, effective 0901 G.m.t., September 29, 1983, as follows:

Jena, LA [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Jena Airport (latitude 31°40'15"N., longitude 92°09'30"W.), and within 3.5 miles each side of the 181° bearing of the Hemphill Creek NDB (latitude 31°36'20"N., longitude 92°09'33"W.) extending from the 5-mile radius area to 10.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on July 26, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-21177 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 83-ASW-24]

Alternation of Control Zone; Houston William P. Hobby Airport, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the control zone at Houston William P. Hobby Airport, TX. The intended effect of the amendment is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to William P. Hobby Airport. This amendment is necessary since there is a proposed SIAP to Runway 35 using the Hobby VOR and a review of the designated control zone revealed an extension to the control zone is required for aircraft executing a SIAP to Runway 22.

EFFECTIVE DATE: September 29, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth L. Stephenson, Airspace and Procedures Branch (ASW-535), Air

Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, telephone (817) 877-2630.

SUPPLEMENTARY INFORMATION:

History

On May 16, 1983, a notice of proposed rulemaking was published in the **Federal Register** (48 FR 21964) stating that the Federal Aviation Administration proposed to alter the Houston William P. Hobby Airport, TX, control zone. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Comments were received with one objection to the proposal.

Discussion of Comments

Mr. Felton M. Baker, owner of the Pearland Airport, objected on the basis that the revised control zone would encompass his airport and place undue restriction to aircraft operations. In concern for this objection, the SIAP for runway 35 to the William P. Hobby Airport was reviewed, and the final approach altitudes have been adjusted so that the extension to the south of the airport is not required for the protection of aircraft. Therefore, the FAA has determined that control zone extension is not required, and would resolve the objection by Mr. Baker.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, by the Administrator, Subpart F of Part 71, § 71.171, of the Federal Aviation Regulations (14 CFR Part 71) as republished in Advisory Circular AC 70-3A dated January 3, 1983, is amended, effective 0901 G.M.T., September 29, 1983, as follows:

Houston William P. Hobby Airport, TX [Revised]

Within a 5-mile radius of the William P. Hobby Airport (latitude 29°38'44"N., longitude 95°16'42"W.) and within 2 miles each side of Hobby VOR (latitude 29°39'00"N., longitude 95°16'44"W.) 056° radial extending to 5.5 miles northeast of the VOR; and within 2 miles each side of the Hobby VOR 142° radial extending to 6 miles southeast of the VOR; excluding that airspace designated as the Houston Ellington AFB, TX, control zone.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)); Sec. 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61 (c))

Note.—The FAA had determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Fort Worth, TX, on July 26, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-21180 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Parts 71 and 75

[Airspace Docket No. 83-ACE-2]

Alteration of Airways and Jet Routes; Wichita, KS; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This action corrects FR Document 83-18055 which was published in the **Federal Register** on July 7, 1983 (48 FR 31191). Errors were noted in the description of V-532 as a result of the relocation of the Wichita, KS, VORTAC. Also, the descriptions of V-132 and V-350, which were not mentioned in the final rule, have minor changes included in this correction, which were inadvertently omitted. This action amends these descriptions. Additionally, the effective date for implementation has been changed from September 29 to November 24, 1983.

EFFECTIVE DATE: November 24, 1983.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

FR Document 83-18055 was published in the **Federal Register** on July 7, 1983, that amended the descriptions of several VOR Federal Airways and Jet Routes that utilize the Wichita, KS, VORTAC in their alignment. The Wichita VORTAC has been relocated about six nautical miles west. Errors were noted in the description of V-532 and in airways not listed in the final rule which include V-132 and V-350. All of these description changes are minor in nature. In addition, the effective date published as September 29 is now amended to read November 24, 1983.

List of Subjects in 14 CFR Parts 71 and 75

VOR Federal airways, Jet routes, Aviation safety.

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me, FR Document 83-18055, as published in the **Federal Register** on July 7, 1983 (48 FR 31191), is corrected as follows:

V-532 [Amended]

By deleting the words "Wichita, KS; INT Wichita 356° and Salina, KS, 169° radials;" and substituting the words "Wichita, KS, 014° and Salina, KS, 167° radials;"

V-132 [Amended]

By deleting the words "and Chanute, KS, 294° radials;" and substituting the words "and Chanute, KS, 293° radials;"

V-350 [Amended]

By deleting the words "INT Liberal 075° and Wichita, KS, 257° radials; Wichita;" and substituting the words "Wichita, KS;"

Additionally, the effective date for implementation has been changed from September 29 to November 24, 1983.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on July 27, 1983.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 83-21262 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9121]

The Grand Union Co., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Dismissal order.

SUMMARY: Finding no violation of antitrust law, the Commission has ordered that the complaint challenging the Grand Union Company's 1978 acquisition of Colonial Stores, Inc. be dismissed.

DATES: Complaint issued Nov. 21, 1978. Final Order issued July 18, 1983.*

FOR FURTHER INFORMATION CONTACT: Harold E. Kirtz, Director, 1R, Atlanta Regional Office, Federal Trade Commission, 1718 Peachtree St., NW., Room 1000, Atlanta, GA 30367, (404) 881-4836.

SUPPLEMENTARY INFORMATION: In the Matter of The Grand Union Company, Grand Union Holdings, Inc., Cavenham (USA), Inc., Cavenham Holdings, Inc., Colonial Stores, Inc., corporations.

List of Subjects in 16 CFR Part 13

Grocery stores, Trade practices.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec. 5, 38 Stat. 719, as amended; sec. 7, 38 Stat. 731, as amended; 15 U.S.C. 45, 18)

The Final Order is as follows:

[Docket No. 9121]

Final Order

In the Matter of The Grand Union Company, Grand Union Holdings, Inc., Cavenham (USA), Inc., Cavenham Holdings, Inc., Colonial Stores, Inc., Corporations.

This matter has been heard by the Commission upon the appeal of respondents from the initial decision and upon briefs and oral argument in support of and in opposition to the appeal. For the reasons stated in the accompanying Opinion, the Commission has determined to sustain respondents' appeal. Accordingly,

It is ordered that the complaint is dismissed.

By the Commission.

Issued: July 18, 1983.

Emily H. Rock,
Secretary.

Concurring Statement of Commissioner Pertschuk in the Matter of Grand Union Co., et al., Docket No. 9121

I concur with the decision to dismiss the complaint in this matter, but I disagree with some of the reasoning in the Commission's opinion. In my view, the opinion overstates the case in asserting that retail food markets in the metropolitan areas at issue are in vigorous competitive health even though their four firm concentration ratios significantly exceed 50% in almost all the cities examined.[1] The opinion would sedate us by saying, in effect, that only a modicum of evidence is necessary to rebut the presumption that a market is not structured competitively when it is moderately concentrated. It then proceeds to find such evidence based on entry in the last few years, typically on limited scale, and on some change in market shares among the top five or six firms. The opinion takes comfort in concluding that entry barriers to retail food markets are low, not only in the metropolitan areas under examination, but perhaps "in general." (p. 49)

I do not believe that many of the metropolitan markets that Grand Union entered through its acquisition of Colonial are models of competitive vigor. Nor do I view entry into supermarket retailing—particularly on a significant scale—to be so barrier free that concentration through merger is benign, a proposition that the opinion comes just short of endorsing. Single-store entry "success stories" (p. 48) and expansion by one or more firms already in the market do not insure the overall competitive performance of supermarket retailing in particular metropolitan areas. Finally, I do not agree that the product market in retail food mergers must include "all retail grocery stores" as does the Commission's opinion. The ALJ had found a market, at least a submarket, based on supermarkets above a certain size. Although there is a certain arbitrariness in any cutoff point, the ALJ made a reasonable one and I would accept it. The record, as well as common sense, tells us that effective competition for weekly food purchases occurs among large supermarkets and it can be assessed separately from convenience stores.

The real problem with this case is not the dubious claim that all the markets at issue were competitively healthy, but that the evidence of alternative, feasible entry that Grand Union would likely have pursued, absent the acquisition, is quite ambiguous.[2] The record clearly suggests that Grand Union was interested in acquiring a chain that operated in several southeastern markets. Some candidates were smaller than Colonial, but presented the same possible antitrust problems that Colonial raised because they were market leaders or near-leaders in some southeastern SMSA's. On the other hand, Colonial was a legitimate toehold candidate in some of the cities which were the focus of complaint counsel's case. In short, we would have to assume that there were likely alternatives for Grand Union but which could not be subject to the same type of challenge raised here. While it is certainly conceivable that such alternative means of entry could exist in the case of multi-market acquisition, the record is too weak on that score to condemn the merger.[3]

Issued: July 18, 1983.

[FR Doc. 83-21189 Filed 8-3-83; 8:45 am]
BILLING CODE 6750-01-M

*Copies of the Complaint, Initial Decision and the Opinion of the Commission filed with the original documents.

[1] See table 1, p. 37. Four firm concentration ratios range from 49% to just over 72%, even with the "all grocery store sales" market adopted by the majority.

[2] The only count of the complaint that remains on appeal is the allegation that Grand Union is an actual potential entrant into some of the relevant metropolitan markets. The complaint's allegation that Grand Union chose the most anticompetitive means of entering the *entire region* was dropped on appeal.

[3] For example, while complaint counsel does make an argument that *de novo* entry was likely, this scenario, which includes construction of warehouses as well as new construction of stores, seems fairly speculative.

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16 CFR Part 13

[Docket No. 9120]

Borg-Warner Corp., et al.; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Final order.

SUMMARY: This order requires Borg-Warner, an automotive replacement parts manufacturer and its competitors, Bosch GmbH and Bosch U.S. among other things, to cease having interlocking directorates for a period of ten years. The companies are also prohibited from having on their boards, any person who is a board member of a competing company whose revenues derived from the relevant product or service market exceeds 5 million dollars; or any individual who fails to provide the statement required by the order. The order further prohibits Hans L. Merkle

from serving as director of both Borg-Warner and any Bosch company that is a competitor of Borg-Warner and requires that the companies institute a monitoring program designed to detect unlawful interlocks.

DATES: Complaint issued Nov. 7, 1978. Final Order issued June 23, 1983.*

FOR FURTHER INFORMATION CONTACT: FTC/CS-2, Ann B. Malester, Washington, D.C. 20580. (202) 254-8644.

SUPPLEMENTARY INFORMATION: In the Matter of Borg-Warner Corporation, a corporation, Robert Bosch GmbH, a limited liability company, Robert Bosch Corporation, a corporation, Hans L. Merkle, an individual, and Hans Bacher, an individual. The prohibited trade practices and/or corrective actions, as codified under 16 CFR Part 13, are as follows: Subpart—Corrective Actions and/or Requirements: § 13.533 Corrective actions and/or requirements. Subpart—Interlocking Directorates Unlawfully: § 13.1106 Interlocking directorates unlawfully.

List of Subjects in 16 CFR Part 13

Automobile parts, Trade practices.

(Sec. 6, 38 Stat. 721 (15 U.S.C. 46. Interprets or applies sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45; sec. 8, 38 Stat. 732; 49 Stat. 717; 15 U.S.C. 19))

The Final Order, including further order requiring report of compliance therewith, is as follows:

United States of America before Federal Trade Commission

Commissioners: James C. Miller III, *Chairman*, David A. Clanton, Michael Pertschuk, Patricia P. Bailey, George W. Douglas

In the matter of Borg-Warner Corporation, a corporation, Robert Bosch GmbH, a limited liability company, Robert Bosch Corporation, a corporation, Hans L. Merkle, an individual, and Hans Bacher, an individual; Docket No. 9120.

Final Order

This matter has been heard by the Commission upon the appeals of respondents and complaint counsel from the initial decision, and upon briefs and oral argument in support of and in opposition to the appeals. For the reasons stated in the accompanying opinion, the Commission has determined to deny the appeal as to respondents and as to complaint counsel. Accordingly,

It is ordered, That the findings of fact and initial decision of the Administrative Law Judge be adopted insofar as not inconsistent with the findings of fact and conclusions of law contained in the accompanying opinion.

It is further ordered, That the following order to cease and desist be, and the same hereby is, entered:

The following definitions shall apply in this order:

"Bosch Corporation" means Robert Bosch Corporation (Bosch U.S.), Robert Bosch GmbH (Bosch GmbH), their controlled subsidiaries, or the successors or assigns of either corporation.

"Competitor" means a corporation that by virtue of its business and location is in competition with the subject corporation, so that elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.

I

It is ordered, That respondent Borg-Warner and its successors and assigns shall forthwith cease and desist from having, and in the future shall not have, any individual serve as a director who

(a) serves at the same time on the board of management and/or board of directors of any Bosch Corporation as long as such corporation is a competitor in the production or sale of any product or service with Borg-Warner; or

(b) serves at the same time on the board of directors and/or board of management of any corporation as long as such corporation is a competitor of Borg-Warner in the production or sale of automotive parts for the aftermarket, and as long as the revenues of either corporation derived from the product or service market or markets in which they are competitors exceed five million dollars; or

(c) fails to submit to Borg-Warner any statement required by paragraph IV of this order.

The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

II

It is further ordered, That respondents Bosch GmbH and Bosch U.S. and their successors and assigns shall forthwith cease and desist from having, and in the future shall not have, any individual serve on their board of management or board of directors any individual who

(a) serves at the same time on the board of directors of Borg-Warner, as long as Borg-Warner is a competitor in the production or sale of any product or service with the Bosch Corporation on whose board the director sits; or

(b) serves at the same time on the board of directors of any corporation as long as such corporation is a competitor of the Bosch Corporation on whose board the director serves in the production or sale of automotive parts for the aftermarket, and as long as the revenues of either competing corporation derived from the product or service market or markets in which they are competitors exceed five million dollars; or

(c) fails to submit to Bosch GmbH or Bosch U.S. any statement required by paragraph IV of this order.

The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

III

It is further ordered, That respondent Hans L. Merkle shall forthwith cease and desist from serving, and in the future shall not serve, as a director both of Borg-Warner and of any Bosch Corporation that is a competitor of Borg-Warner. The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

IV

It is further ordered, That within thirty (30) days of the effective date of this order, and prior to each election of directors or prior to the solicitation of proxies for such election, whichever is earlier, respondents Borg-Warner, Bosch GmbH, and Bosch U.S. shall obtain a written, certified statement from each member of their board of directors or board of management (except directors whose terms expire at the next election and who are not standing for reelection) and from each nominee for a directorship or seat on the board of management (who is not then a director) showing

(a) the name and home mailing address of each director or nominee; and

(b) the name and principal office mailing address of, and a listing of each product or service produced or sold by, each corporation that the director or nominee then serves as a director or has been nominated to serve as a director at the time of the statement.

Provided, however, that in complying with the provisions of paragraph IV(b), the information to be furnished to Bosch GmbH concerning its directors may be limited to those corporations engaged in commerce within the United States and

* Copies of the Complaint, Initial Decision and the Opinion of the Commission filed with the original documents.

those products and services sold or offered for sale by such corporations within the United States.

The requirements of this paragraph shall not apply to elections of directors occurring after ten (10) years from the effective date of this final order.

Nothing in this paragraph shall be construed to relieve respondents of their obligations under paragraphs II(a) and III(a) above due to any error or omission contained in any written statement received pursuant to this paragraph.

V

It is further ordered, That within forty-five (45) days of the effective date of this final order, and annually for a period of ten (10) years thereafter, respondents Borg-Warner, Bosch GmbH, and Bosch U.S. shall file with the Commission separate, written reports setting forth in detail the manner and form in which each has complied with this order. Copies of the statements obtained pursuant to paragraph IV of this order shall be submitted to the Commission as part of the reports of compliance required by this paragraph.

VI

It is further ordered, That respondents Borg-Warner, Bosch GmbH, and Bosch U.S. shall notify the Commission at least thirty (30) days prior to any change in the corporations or in their relationships to each other such as dissolution, assignment, or sale resulting in the emergence of successor corporations, the creation or dissolution of subsidiaries, or any other change in the corporations which may affect compliance obligations arising out of this order. The requirements of this paragraph shall be effective for a period of ten (10) years from the effective date of this final order.

By the Commission, Chairman Miller and Commissioner Douglas dissenting.

Issued: June 23, 1983.

Emily H. Rock,

Secretary.

Dissenting Statement of Chairman James C. Miller III in Borg-Warner Corp., et al., Docket No. 9120*

Today the majority interprets the relevant statutory and case law as requiring ineluctably the conclusion that Section 8 of the Clayton Act is what may be be termed a "strict" *per se* statute that is unconcerned with whether the "offending" director interlock helps or harms competition, or whether the extent of competitive overlap between the interlocked firms is massive or trivial. In so holding, the majority's opinion fails even to acknowledge what Commissioner Clanton correctly characterizes as the "potentially harsh effects" of a Section 8 strict *per se* rule (Clanton Statement at 1.),[1] N much less make any effort to avoid them. The majority concludes that Congress and the courts leave this Commission no alternative but to strike down the interlock in this case because at the time the complaint issued in November 1978, Borg-Warner and Bosch U.S. were "competitors" in the sale of certain automotive aftermarket products. Section 8 condemnation must, reasons the majority, automatically ensue.

Rather than adopting the majority's strict *per se* standard, I would follow the rule of the better-reasoned cases and hold that interlocks with an insignificant or *"de minimis"* effect on competition do not violate Section 8. I would therefore remand this matter to the ALJ to consider evidence of the likely competitive effect of the interlocks challenged here. I would also remand on the issues of whether Borg-Warner's post-oral-argument sale of the overlapping assets—coupled with the resignation of the individual directors—either moots this proceeding or makes issuance of any order unnecessary.

I. A Strict Per Se Rule Under Section 8 Is Unnecessary and Unwise

I depart from the majority on several determinative issues. Most fundamentally, I cannot agree with the majority's unnecessarily expansive view that Section 8 mandates purposeful disregard of the competitive effects of the challenged interlock. I find the wording of Section 8 consistent with considering competitive effects; the legislative history internally contradictory but equally supportive of conclusions contrary to those embraced by the majority; and the case law on the critical issues sparse, conflicting, and indeterminative. Moreover, I view the interpretation of Section 8 as a strict *per se* statute to be inconsistent with sound application of antitrust policy.

A. The Language of Section 8 Is Vague and Does Not Require a Strict Per Se Result

It is a desirable attribute of our political system that commissioners—like other adjudicators—have limited power. We are constrained in our adjudications by the wording of the laws we are charged to apply and interpret. Nevertheless, to the extent the language of Congress permits, our goal in interpreting and applying the antitrust laws should be to discourage anticompetitive and inefficient practices that diminish consumer welfare on the one hand, and to encourage procompetitive and efficient practices on the other. Where the language of a statute leaves no choice but to reach an anticompetitive, inefficient, or otherwise harsh result in a pending litigation, it becomes our unhappy duty to apply the law as mandated. But it is for Congress to place us in that situation. Absent specific legislative command, we need not—and should not—presume that Congress intended to condemn the beneficial and the harmless together with the pernicious.

One irony of the majority's decision is that it renders unlawful under Section 8 of the Clayton Act the sharing by two competing firms of one director even in situations where it would be lawful under Section 7 of the same statute for the two firms to merge completely and share an entire board of directors. Further, it does so even if the interlocked firms each produce but an infinitesimal fraction of the relevant industry's output. Since these two sections were adopted simultaneously by the same Congress, I believe it abundantly clear that the Commission and the courts should avoid stretching to reach such inconsistent (indeed, surprising) results unless that is what Congress clearly intended.

To determine precisely what legislative command Congress has given the Commission and the courts in Section 8 cases, we must examine closely the disputed statutory provision. In pertinent part, Section 8 of the Clayton Act provides—as it did when enacted in 1914: [2]

> No person at the same time shall be a director in any two or more corporations, any one of which has capital, surplus, and undivided profits aggregating more than $1,000,000 . . . if such corporations are or shall have been theretofore, by virtue of their business and location of operation,

*Commissioner George W. Douglas joins in this dissenting statement.

[1] The following abbreviations are used in this opinion: Maj.Op.—Majority Slip Opinion; Bailey Op.—Separate Concurring Opinion of Commissioner Patricia Bailey; Clanton Statement—Concurring Statement of Commissioner David Clanton; ID—Initial Decision Page Number; IDF—Initial Decision Finding Number, and Tr.—Transcript of Testimony Page Number.

[2] *See United States v. Crocker National Corp.*, 656 F.2d 428, 431 n.1 (9th Cir. 1981) (comparing language of present and original § 8), *rev'd on other grounds sub nom., BankAmerica Corp. v. United States*, 51 U.S.L.W. 4685 (U.S. June 8, 1983).

competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.[3] (Emphasis added.)

The *italicized* portion is generally referred to as the "so that" clause, the focal point of the analysis of whether Section 8 embodies a *de minimis* exception or otherwise applies only to interlocks having (or likely to have) some minimal impact on competition.

On its face the "so that" clause arguably contemplates at least some consideration of competitive effects, although a number of questions can be asked concerning the precise scope of the inquiry. For example, does the clause contemplate that all competition between the interlocked firms would be eliminated by agreement (as in a merger or a market or customer division), or simply one aspect of competition (as in an agreement to fix prices or to refrain from advertising)? Must there be a total elimination of competition, a substantial reduction in competition, or a minimal or even potential impact on competition? Does the clause require that the interlocked firms have sufficient combined market power to effectuate the "elimination"? Does "elimination of competition" refer only to competition between the interlocked firms, or does it mean elimination of all competition throughout the relevant market? Is the "so that" clause not intended as a conditional at all, but rather as a mechanism for bringing the interstate commerce requirement into play? The statutory language affords no ready answer to these questions.[4]

Uncertainty as to the meaning and purpose of the "so that" clause is reflected in the legislative history of Section 8. As discussed below, many of the Senators voting on the measure found the clause vague and imprecise. (Indeed, a number of Senators rejected criminal penalties for violations of Section 8 because it lacked the certainty required of criminal laws. [5]) Moreover, the first court to consider its meaning concluded that "the clause is not crystal clear," and accordingly turned to portions of the legislative history in an attempt at clarification.[6]

Resort to legislative history is always an uncertain undertaking, to be avoided if possible. But where the language of the statute is inescapably ambiguous,[7] the courts and the Commission have been forced to this sometimes dangerous and always imperfect source of legislative intent. I am generally wary of placing great reliance upon legislative history, dependent as it is upon individual or committee (rather than majority) expressions of opinion. However, where, as here, a line of case law has developed in an unfortunate direction on the basis of an incomplete interpretation of the legislative history,[8] further resort to that history would seem justified to right the wrong.

B. The Legislative History of Section 8 Neither Requires Nor Supports a Strict Per Se Rule

The Senate and House Judiciary Committee Reports[9] provide little insight into the Congressional intent behind Section 8. Both cite an address by President Wilson to Congress inveighing against trusts in general and interlocks in particular. Neither sheds much light on the intended extent of the interlock prohibition.[10] The conference committee report is silent on the scope of Section 8 with respect to competitor interlocks in general, and on the meaning of the "so that" clause in particular.[11]

The House Report acknowledges the committee's attempt to draft Section 8 so as to implement the recommendation of President Wilson that all interlocks be prohibited.[12] It is significant that the House Report makes no direct mention of any danger to competition posed by director interlocks. Indeed, the principal goal of Section 8 that might be gleaned from the report is a desire to promote President Wilson's goal of permitting "new blood" to enter the realm of corporate management, and thereby "immensely hearten the young men coming on." [13] The report also emphasizes a perceived need to check the "concentration of wealth, money, and property" under the control of "a few individuals or great corporations." [14] One of three sets of minority views included in the report states that Section 8 is "full of difficulty and peril" for small corporations, and would affect them in far greater degree than it would larger corporations.[15] It further declares:

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[3] 15 U.S.C. § 19 (1973).

[4] Even commentators cited by Commissioner Bailey's concurrence (Bailey Op. at 12–13.) indicate the extent of the ambiguity created by the language of Section 8. Two years after Section 8 was enacted, one treatise addressed the meaning of the "so that" clause:

It would be difficult to conceive a more uncertain and shifting standard of corporate conduct than this one, by which the question of what elimination of competition between two [interlocked] corporations by agreement would constitute a violation of the antitrust laws, is made the test of the lawfulness of [a competitor interlock].

J. Harlan & L. McCandless, *The Federal Trade Commission, Its Nature and Powers* 20 (1916). Similarly, ten years after Section 8's passage another commentator wrote:

The difficulty in applying the test lay in the fact that no one could state with assurance under what circumstances the elimination of competition by agreement would constitute a violation of the anti-trust laws.

G. Henderson, *The Federal Trade Commission, A Study In Administrative Law and Procedure*, 36–39 (1924).

[5] *See* page 12 below.

[6] *United States v. Sears, Roebuck & Co.*, 111 F. Supp. 614, 617 (S.D.N.Y. 1953). The paragraph of Section 8 containing the "so that" clause is not the only unclear aspect of Section 8. *See, e.g., SCM Corp. v. FTC*, 565 F.2d 807, 809–10 (2d Cir. 1977), *cert. denied*, 449 U.S. 821 (1980) (in concluding § 8 applies to corporations as well as to individual directors, the court said, "It is true that if the language of the section is considered alone, the result is not clear"), *remanding on other grounds, Kroftco Corp., et al.*, 89 F.T.C. 46, 61–62 (1977) ("the language of Section 8 read *in vacuo* perhaps leaves some doubt as to the entities its proscription is intended to cover").

[7] *See, e.g., United States v. Universal C.I.T. Corp.*, 344 U.S. 218, 221 (1952) ("we may utilize, in construing a statute not unambiguous, all the light relevantly shed upon the words and the clause and the statute that express the purpose of Congress").

[8] *See* discussion of *United States v. Sears, Roebuck & Co.*, 111 F. Supp. 614 (S.D.N.Y. 1953) in Part I(C) below.

[9] S. Rep. No. 698, 63d Cong., 2d Sess. (1914) (hereafter "Sen. Jud. Rep."); and H.R. Rep. No. 627, 63d Cong., 2d Sess. (1914).

[10] *Accord, United States v. Sears, Roebuck & Co.*, 111 F. Supp. 614, 616 (S.D.N.Y. 1953).

Among the segments of legislative history relied upon by Commissioner Bailey's concurring opinion to support the view that Congress intended a strict *per se* test to apply is the following quotation from the Senate Judiciary Committee's Report summarizing the Clayton Bill:

Among other of these trade practices which are denounced and made unlawful may be mentioned . . . interlocking directorates.

Bailey Op. at 9, *quoting* Sen. Jud. Rep. at 1. However, the portion that is omitted from the quoted excerpt is also instructive. The full quotation is as follows:

Among other of these trade practices which are denounced and made unlawful may be mentioned *discrimination in prices* for the purpose of wrongfully injuring or destroying the business of competitors; *exclusive and tying contracts; holding companies;* and interlocking directorates. (Sen. Jud. Rep. at 1, emphasis added.)

In the version of the Clayton Bill reported out of the Senate Judiciary Committee, only two of the omitted four practices (exclusive dealing and tying arrangements) were subject to the strict *per se* illegality standard that the majority is so intent on imposing upon competitor interlocks. *See* Sen. Jud. Rep. at 54–69. Moreover, in the final version of the Clayton Bill enacted into law (as well as under current antitrust law), *none* of the four omitted practices were outlawed under a strict *per se* rule. *See Id.* at 54–56, 60–61; 15 U.S.C. §§ 13(a) (b), 14, and 18 (1976); *Tampa Electric Co. v. Nashville Co.*, 365 U.S. 320, 328–29, 333–35 (1961), and *Fortner Enterprises, Inc. v. United States*, 394 U.S. 495, 498–500 (1969) ("*Fortner I*").

Thus, to the extent the quoted passage illuminates the meaning of the "so that" clause, it can only be interpreted as cutting against any intention by Congress to adopt a strict *per se* condemnation of competitor interlocks.

[11] H.R. Rep. No. 1168, 63d Cong., 2d Sess. 13–16 (1914). *See* note 18 below.

[12] H.R. Rep. No. 627, 63d Cong., 2d Sess. 18 (1914). *But see* note 57 below.

[13] H.R. Rep. No. 627, 63d Cong., 2d Sess. 18, 20 (1914).

[14] *Id.* at 19.

[15] *Id.* (Part 2, Minority Views) at 8.

The use of interlocking directorates serves many useful purposes, and because in some instances it has been used to foster monopoly or create a restraint of trade, does not furnish a good reason why the use of interlocking directorates generally should be forbidden.[16]

However, the full House debated neither this question nor other relevant competitive issues.[17]

The full Senate did debate the *per se* issue, and the record of that debate furnishes a guide to Congressional intent that must not be overlooked. The Senate Judiciary Committee reported the Clayton bill to the Senate floor, where one of the committee members—Senator Cummins of Iowa—raised the subject of Sections 7 and 8. After stating his view of the policy embodied in the pending legislation, he read the relevant language of Section 8 as reported by the committee. This version was nearly identical to that adopted by the House,[18] and essentially the same as the present Section 8; it included both the $1 million corporate size threshold and the "so that" clause. (14,256.)[19] Senator Cummins believed those provisions were far too weak. He understood Section 8 to require proof "that a *consolidation* of the two corporations which are involved would be a violation of the antitrust law." (*Id.* emphasis added.) He went on to urge that:

It ought to be unlawful for corporations that are engaged in competitive business to have a community of directors. It ought to be unlawful for any man to act as a director upon two corporations which are or ought to be competing with each other . . . (*Id.*)

The legislative history records no challenge to Senator Cummins' interpretation of Section 8 and his assessment of its worth. However, the course of the ensuing debate reveals that a majority of the Senators differed with his policy prescription.

During the ensuing floor debate, Senator Cummins introduced what was, in effect, a strict *per se* amendment deleting both the "so that" clause and the $1 million corporate size exclusion, and extending the interlock prohibition to officers, as well as directors, of any firms "carrying on business of the same kind or competitive in character." (14,534.) Explaining his reasons for the amendment he stated that, under the original language, if an agreement "totally annihilating competition would *not* constitute a violation, then the [original] section would not apply." (14,535.) Senator Cummins maintained that the extra burden of proving that some agreement between the companies would violate existing law seriously weakened the interlock prohibition. (*Id.*) He also felt that Section 8, as reported, was a "half hearted and feeble way" to cure the perceived evil of interlocks. (*Id.*) It is difficult to see how a member of the reporting Senate committee could have taken such a position were it not clear that the original Section 8 provision was *not* a strict *per se* proscription of director interlocks.

A number of Senators spoke against the Cummins amendment, including other members of the Judiciary Committee. It is interesting that many of the reasons why strict *per se* condemnation of director interlocks is unwise antitrust policy today were advanced on the floor of the Senate almost 70 years ago. These include the dangers of: impairing legitimate procompetitive business expansions;[20] reducing the number of qualified directors available to corporations, especially to small firms;[21] discouraging investment and enterprise;[22] placing a premium on "dummy directors";[23] and increasing the difficulties confronting firms that are required to be incorporated in a state in order to do business there.[24]

Senator O'Gorman (N.Y.), another member of the Judiciary Committee, opposed the Cummins amendment as "unfortunate", arguing that the situation the amendment sought to remedy was already addressed adequately by the antitrust laws:

[In the Clayton bill] we have supplemented the Sherman Antitrust Act; we have taken every reasonable step that is necessary to destroy monopoly; and, having done all that a suggestion is now made which is wholly unnecessary and which *can offer but a modicum of benefit while inflicting injury and imposing needless restraints upon American enterprise.* It is for this reason that I shall vote against the [Cummins] amendment. (14,540.) (Emphasis added)

Senator Chilton (W. Va.), still another Judiciary Committee member, explicitly opposed the strict *per se* approach in the amendment, saying:

That which experience teaches is necessary to legitimate success and which enables the enterprising man to expand his business *should not be made unlawful per se but only when it is made or becomes the handmaiden of monopoly or the restraint of trade.* (14,539–40.) (Emphasis added.)

The arguments advanced by supporters of the Cummins amendment are also inconsistent with the Commission majority's conclusion that Section 8, as ultimately enacted, was intended as a strict *per se* statute. For example, Senators Reed (Mo.) (Judiciary Committee member) and Jones (Wash.) both supported the amendment because they favored the proposal advanced by President Wilson and the Democratic platform—that *all* interlocking directorates be prohibited. (14,539–41.) Far from providing a clearcut prohibition of all interlocks, Senator Jones viewed the provisions of Section 8 as "uncertain, indefinite, and ambiguous in terms and possible effect. We do not know what they mean." (14,542.) He further despaired that "The suggestions

[16] *Id.*

[17] 51 Cong. Rec. 9600–07 (1914). In the bill that ultimately became the Clayton Act, Sections 7 and 8 of the final Act were denominated Sections 8 and 9, respectively. Thus, the merger provision in the legislative history is Section 8, while the interlocking directorate section is Section 9. For convenience, I refer throughout this opinion to their final (and current) designation.

[18] The Senate Judiciary Committee modified the "so that" clause by changing "*an* elimination of competition" to "*the* elimination of competition." Sen. Jud. Rep. at 48, 68. The full Senate approved the change. 51 Cong. Rec. 14,030–31 (1914), as did the subsequent conference committee. H.R. Rep. No. 1168, 63d Cong., 2d Sess. 14 (1914).

[19] Unless noted otherwise, parenthetical citations in the text refer to page numbers in Volume 51, Parts 13–16 of the Congressional Record, 63d Congress, 2d Session (July 22–Oct. 24, 1914).

[20] *See* remarks of Sen. Hitchcock (Neb.) (14,535.) (expressing concern that *per se* amendment might destroy or impair great deal of legitimate business expansions, citing wholesale grocery industry); Sen. Overman (14,536.) (same as to expansion of cotton mills via new incorporations with new boards sharing common directors); Sen. Lippit (14,536.) (interlocking directorates created by geographic expansions can be procompetitive and not dangerous); and Sen. Walsh (14,536.) (same, indicating preference for less restrictive rule than Cummins proposal). Senators Overman and Walsh were members of the Judiciary Committee.

[21] *See* remarks of Sen. Lippit (R.I.) (14,538.) (directors described as scarce source of efficiency; since sufficient number of independent, qualified persons are unavailable, ban on interlocks would detract from quality of many boards and could impair efficiency of all small corporations). *See also* Halverson, *Should Interlocking Director Relationships Be Subject To Regulation And, If So, What Kind?*, 45 Antitrust L.J. 341, 346 (1976) ("The realities of today's corporate world require that interlock regulation not be so severe as to diminish further the pool of qualified individuals who are willing to serve as outside directors"; cites recent business publication as indicating "individuals on the margins of [§ 8's] scope are expressing concern about accepting positions on corporate boards where the existence of competitive overlap is merely *de minimus* [sic]"); Note, *Interlocking Directorates and Section 8 of the Clayton Act*, 44 Alb. L. Rev. 139, 155 (1979) ("Interlocks involving outside directors may yield advantages in terms of corporate productivity that outweigh any possible dangers of anticompetitive abuse, especially if there is a shortage of qualified 'expert directors' in a particular field").

[22] *See* remarks of Sen. Smith (Mich.) (14,538.) (citing numerous Michigan industries with interlocking directorates, Cummins' amendment called "a sweeping, a far-reaching, and an undesirable amendment, and it ought not be adopted").

[23] *Id.*

[24] *See* remarks of Sen. Chilton (W.Va.) (14,540.) (citing requirements in oil and coal industry, reincorporation in new states described as "beneficial process").

of the President were wise. We would have done well to follow them. We have not done so." (*Id.*)

With these words the Senate debate on the Cummins amendment ended. The amendment was defeated 15–44 (37 not voting). (14,543.) Of the 18 Judiciary Committee members,[25] 10 voted against the amendment (including the Committee's chairman) and only three voted for it (the remainder abstained). (*Id.*) The meaning of this segment of the legislative history of Section 8 is not without ambiguity. For example, it is unclear whether Senators arguing and voting against the Cummins amendment did so because they supported retention of the "so that" clause, the $1 million corporate size exception (or both), or for other reasons. But this ambiguity is sufficient to disprove the premise underlying today's majority opinion that the legislators clearly intended a strict *per se* proscription.

It is reasonably apparent from this legislative history that the Cummins amendment was rejected because a majority opposed applying a strict *per se* rule to interlocking directorates. As the Senate floor debate reveals, the committee reporting the bill did not understand that Section 8 would be construed as a strict *per se* prohibition, since a majority of Judiciary Committee members voted against the Cummins amendment. Moreover, the above-described floor debate involving the committee's membership indicates that the bill was intentionally flexible.

This legislative history reveals that the legislators were well aware of the resulting uncertainties in Section 8. Indeed, it is clear that, for a number of Senators, this uncertainty was a primary reason for the decision to remove criminal penalties from Section 8. For example, Senator Cummins concluded that he was against a criminal penalty in Sections 7 and 8 on the "ground that neither of them furnishes a rule of conduct, neither of them furnishes a standard that can be applied with that certainty that all criminal laws ought to be applied." (14,328; *see also* 14,254 and 14,325.) In the course of a debate on whether Sections 7 and 8 should be criminal provisions, Senator Chilton pointed out the danger that harsh penalties coupled with an ambiguous prohibition could create, stating, "We want to stop interlocking directorates as far as we can. But we . . . do not want to destroy or to frighten legitimate business". (14,327.)

[25] Amendments to Sherman Antitrust Law and Related Matters: Hearings on H.R. 15657 Before Subcomm. of the Senate Comm. on the Judiciary, 63d Cong., 2d Sess. (1914).

Treating Section 8 as encompassing a *de minimis* exception is not only more consistent with the specific legislative history, but also with the competitive concerns which underlay the enactment of the antitrust laws in general. For example, when the Clayton bill was reported from the House-Senate conference committee, debate ensued over whether addition of the words "may be" (substantially to lessen competition) and "or tend to" (create a monopoly) in Section 7[26] had weakened the bill. Senator Walsh (Mont.) defended these changes, noting that there is little difference between finding that competition has been damaged substantially and demonstrating that commerce restrained by any violation was more than *de minimis*. He expressed the common understanding that the Sherman Act was not intended to reach *de minimis* violations and that *de minimis* is understood in terms of competitive effect:

> The Sherman Act denounces all combinations in restraint of commerce, but no combination falls under the ban of the statute unless *commerce is restrained* to a "substantial" extent. *De minimus [sic] non curat lex.* (16,149.)[27]

In short, contrary to the Commission majority's position that "Implicit in the statute's million-dollar net worth requirement and explicit in the legislative history of Section 8 is the judgment of Congress that the size of the interlocked corporations is the crucial *de minimis* inquiry" (Maj. Op. at 23.), the legislative history of Section 8 provides ample support for the conclusion that it was designed to permit benign competitor interlocks. Numerous statements made during the Senate debate as to the intended flexibility of the statute, the uncertainties connected with enforcement, and the competitive inquiry inherent in a *de minimis* analysis, all tend to support the view that those who enacted Section 8 did not intend it to apply solely on the basis of a clearly articulated dollar cutoff point. Rather, it was intended to contain enough flexibility to preserve interlocks where they are useful and beneficial while prohibiting those likely to threaten competition.

C. The Case Law Is Mixed and Does Not Dictate a Strict Per Se Rule Under Section 8

Contrary to the impression left by the majority's opinion today, the courts have not conclusively resolved the *per se/de minimis* question. In approaching this issue, it is important to keep three facts in mind. First, as noted, the language of Section 8 itself is unclear and susceptible of alternative interpretations. Second, only a handful of courts have ever considered the issue. And third, the Supreme Court has never decided or even considered the meaning of the "so that" clause or the existence of a *de minimis* exception to Section 8.

It is also important to distinguish among *per se* illegality, the *de minimis* concept, and the $1 million corporate size exemption in Section 8. These concepts need not be mutually exclusive. The strict *per se* approach the majority endorses apparently forecloses any consideration of competitive effects. However, the better approach in construing Section 8 would be to require establishing a threshold factual predicate—that the competitive effects of the interlock at issue are likely to be non-trivial—before imposing liability, *per se* or otherwise. A *de minimis* exception simply means that if the *competitive* impact of the interlock can readily be shown to be *de minimis*—most appropriately viewed in terms of the extent and nature of the competitive overlap, not the size of the allegedly interlocked firms—no violation has occurred.

One need not do an exhaustive rule of reason or Section 7 analysis in all (or even most) cases to determine whether any such competitive overlap would be trivial. Thus, a *de minimis* exception does not vitiate the *per se* rule; the two

[26] The effect of the conference committee's changes was to insert the bracketed terms into, and delete the italic terms from, the Senate version of Section 7:

> That no corporation engaged in commerce shall acquire, directly or indirectly, the whole or any part of the stock or other share capital of another corporation engaged also in commerce, where the effect of such acquisition *is to eliminate or* [may be] substantially [to] lessen competition between the corporation whose stock is so acquired and the corporation making the acquisition, [or to restrain such commerce in any section or community,] or [tend] to create a monopoly of any line of commerce.

Sen. Jud. Rep. at 60; H.R. Rep. No. 1168, 63d Cong., 2d Sess. 3 (1914).

[27] Senator Walsh went on to cite an example of the consequences of not requiring some substantial injury to competition:

> How much reason there is to dread disastrous results from such a construction is exhibited by the decision in the *Union Pacific-Southern Pacific* case, in which the traffic affected by the combination amounted only to eighty-eight one-hundredths of 1 percent of the total tonnage of the Southern Pacific. Yet the court held that the restraint of trade was substantial enough to bring the combination under the condemnation of the law. (16,149.)

See United States v. Union Pacific Railroad Co., 226 U.S. 61, 88 (1912) ("while these roads did a great deal of business for which they did not compete and . . . the competitive business was a comparatively small part of the sum total of all traffic, state and interstate, carried over them, nevertheless such competing traffic was large in volume, amounting to many millions of dollars").

can logically co-exist. If annual industry sales could be shown to be $100 million, for example, and the two interlocked firms' combined overlapping sales were shown to be $1,000, or if overlapping sales constituted only a minute fraction of each firm's revenue, it should be reasonably clear that an exhaustive rule of reason analysis would not be required to determine that the competitive overlap was *de minimis* and that no Section 8 liability should attach. Under the majority's decision, of course, liability would exist. Finally, the *de minimis* principle does not relate to corporate size; instead, it relates to competitive effects. Section 8's $1 million corporate size limitation is therefore not properly viewed as one demarcating what constitutes *de minimis* competition.

The legislative history outlined above has not been examined closely in most Section 8 cases. Only two of the cases that have considered the "so that" clause have examined Section 8's legislative history in any detail—*United States* v. *Sears, Roebuck & Co.*[28] and *United States* v. *Crocker National Corp.*[29] Because the holding and analysis in *Sears* has formed the basis for virtually all subsequent precedent on the "so that" clause, I begin my discussion of the case law there.

The district court in *Sears* concluded generally that "a fair reading of the legislative debates leaves little room for doubt" that Congress enacted Section 8 to reach "incipient" antitrust violations.[30] However, with respect to the meaning of the "so that" clause the court concluded:

> [t]he legislative history of § 8 is inconclusive on the precise question before [the court]. It affords no evidence permitting progress from speculation toward certainty. (Emphasis added)[31]

Elsewhere, in discussing whether the "so that" clause meant an interlock was unlawful under Section 8 only if a "consolidation" or merger of the corporations would violate the antitrust laws, the *Sears* court stated:

> We can, therefore, do no more than speculate as to whether or not it was the sense of Congress that § 8 invoked only the consolidation test.[32]

The court briefly discussed the debate over Senator Cummins' amendment, and the fact that Cummins characterized the proposed Section 8 language as a restatement of the Section 7 test. The judge declined to speculate whether the Senators expressed agreement or disagreement with Senator Cummins' characterization. The vote to reject the Cummins amendment, according to the court, could have meant that the Senators believed that the Cummins amendment added nothing to the reported bill and was hence unnecessary.

As shown above, however, the floor debate tells a different story. To the Senators of the Sixty-Third Congress, the Cummins amendment seems to have presented an unwanted tightening of the law that was rejected because they did not want to prohibit competitor interlocks entirely. Moreover, it is reasonable to infer that the majority voting against the Cummins amendment did not agree with President Wilson's view that all competitive interlocks are harmful. Rather, the prevailing view seems to have been that efficiencies were available through interlocking directorates, and that only when those relationships created a danger to competition would they be prohibited by the antitrust laws. Finally, the legislative history does not establish that the Senators' desire for flexibility was satisfied by the $1 million minimum corporate size exemption. The numerous examples of procompetitive business expansions carried no such qualification.

The *Sears* court concluded that a *per se* analysis is applicable to Section 8 cases.[33] Nevertheless, the court also recognized a *de minimis* exception—as the majority concedes (Maj. Op. at 23 n.23.)—when it stated:

> Surely the [overlapping] sales of $80,000,000 do not come within the de minimus [sic] principle.[34]

This statement, made in the context of the amount of interstate commerce affected by the interlock,[35] illustrates that the first court to construe Section 8—in a decision described by the majority as "The leading case interpreting the 'so that' clause" (Maj. Op. at 26 n.26.)—was unwilling to go as far in extending the reach of Section 8 as is the majority today.

The *de minimis* exception recognized in *Sears* was applied in a 1966 district court decision involving several facts similar to this case. In *Paramount Pictures Corp. v. Baldwin-Montrose Chemical Co., Inc.*,[36] the court—citing *Sears*—held that "*De minimis competition* is not encompassed by the proscription of § 8."[37] Applying that standard, the *Paramount* court concluded that any direct competition between the defendant corporations and Paramount in the various types of entertainment products and services alleged by plaintiffs was *de minimis*, and dismissed the complaint on that basis (as well as on alternative grounds, including mootness).

In my judgment, this *de minimis* rule makes far more sense as a matter of antitrust policy than the doctrinaire approach taken by the majority today. Moreover, there is ample case support for this position. As the ALJ in this matter stated in weighing arguments for and against a *de minimis* exception, "Precedent may be found to support either position." (ID 47.) Unfortunately, as the ALJ also found,

> The record does not permit quantification with any degree of precision as to the overlap in the sale of import car parts in the relevant product lines to domestic [warehouse distributors] by Borg-Warner and Bosch U.S. (ID 46.)

Hence, I would remand this matter to the ALJ for consideration of whether the competitive overlap that formerly existed between the corporate respondents was *de minimis*. If the evidence established that it was, I would dismiss the complaint.[38]

In *United States vs. Crocker National Corporation*,[39] the other case besides *Sears* to review the legislative history of the "so that" clause in any depth, the principal issue was whether Section 8 prohibited director interlocks involving

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[28] 111 F. Supp. 614 (S.D.N.Y. 1953).

[29] 656 F.2d 428 (9th Cir. 1981), *rev'd sub nom., BankAmerica Corp.* v. *United States*, 51 U.S.L.W. 4685 (U.S. June 8, 1983).

[30] 111 F. Supp. at 616.

[31] *Id.* at 619.

[32] *Id.* at 618.

[33] *Id.* at 617, 620-21. *See* Travers, *Interlocks in Corporate Management and the Antitrust Laws*, 46 Tex. L. Rev. 819, 839-40 (1968) (noting that "prior to the first judicial construction of [§ 8 in *Sears*], considerable doubt existed whether the statutory language would permit a construction of *per se* illegality"; *Sears* court described as employing "an ingenious constitutional argument" to avoid giving the "so that" clause substantive meaning as qualification of term "competitors").

[34] 111 F. Supp. at 621.

[35] The *Sears* court appears to have recognized the *de minimis* exception as arising from the restrictions of the commerce clause. Of course, the "so that" clause discussed above provides substantial support in and of itself for a *de minimis* exception.

[36] 1966 Trade Cas. (CCH) ¶71,678 (S.D.N.Y. 1966).

[37] *Id.* at p. 82,065 (emphasis added).

[38] The *de minimis* exception recognized by both the *Sears* and *Paramount* courts—and applied by the latter court to reject a finding of Section 8 liability—is the very approach that I propose the Commission adopt under Section 8. Thus, Commissioner Bailey is incorrect in asserting that "The dissenters have found no case that takes their contrary view." (Bailey Op. at 1.) Indeed, even the majority opinion concedes that "Courts nevertheless have disagreed about whether Section 8 forbids interlocking directorates if only a *de minimis* amount of commerce is involved." (Maj. Op. at 24.)

[39] 656 F. 2d 428 (9th Cir. 1981), *rev'd on other grounds sub nom., BankAmerica Corp.* v. *United States*, 51 U.S.L.W. 4685 (U.S. June 8, 1983).

banks, bank holding companies, and insurance companies. In the course of holding the interlock to be within the ambit of Section 8 (a determination the Supreme Court subsequently rejected), the court asserted (without citation):

> The initial formulation of the bar against interlocking directorates between competing corporations rested on the premise that elimination of competition between the corporations was to be presumed from the very existence of common directors. This remained the essence of the prohibition.[40]

Several points bear mentioning in connection with this statement by the Ninth Circuit. First, the Supreme Court has recently reversed the Ninth Circuit decision in *Crocker*, concluding that Section 8 was not intended to cover interlocking directorates between banks and nonbanks (such as insurance companies).[41] Second, while the court of appeals affirmed the *per se* nature of Section 8 violations,[42] it was not faced with and did not reach the *de minimis* issue, since the parties had stipulated they were competitors and that the competition between them was "not insubstantial." Moreover, the defendant companies "waived any defense that the elimination of this competition by agreement among them would not violate the antitrust laws." [43] Further, the court in *Crocker* made passing reference to the *Paramount* court's application of the *de minimis* exception, and gave no indication that it was rejecting that approach.[44]

However, the Ninth Circuit did address the *de minimis* exception a few months earlier in *TRW, Inc.* v. *FTC*.[45] In that case, interpreting the "so that" clause for the first time,[46] the Ninth Circuit asserted that in establishing a Section 8 offense, "proof that the interlock has an actual anticompetitive effect is not required," [47] and, further, that "a *de minimis* exception is not contemplated by [Section 8]."[48]

In concluding that "The statute contains nothing that suggests a requirement of some substantial quantum of competition," [49] the Ninth Circuit appears to have discarded all other plausible interpretations of the ambiguous "so that" clause but its own.[50] In any event, the Ninth Circuit's holding in *TRW* that there was no *de minimis* exception was arguably unnecessary to its conclusion. In its own decision in *TRW* in 1979, the Commission wisely refrained from deciding the issue unnecessarily, holding simply that if there were a *de minimis* exception to Section 8, the respondents in that case failed to prove it applied to them.[51] Had the question been so clear as the majority implies today, one suspects that the Commission would have so indicated in its *TRW* decision.

The final "so that" clause case relied upon by the majority to support its strict *per se* conclusion is *Protectoseal v. Barancik*,[52] in which in its first Section 8 case the Seventh Circuit appeared to apply a *per se* standard. However, for several reasons *Protectoseal* affords little support for a *strict per se* rule. First and most important, the Seventh Circuit did not reach the *de minimis* issue, since it was alleged by the plaintiff (in a summary judgment context) that the interlocked firms together accounted for 50 percent of the market in which they competed.[53] Second, *Protectoseal* itself cited for support only the 1953 *Sears* case (recognizing a *de minimis* exception).[54] And third, the Seventh Circuit's conclusion as to the legal standard was based upon an apparent misreading of the critical language of the "so that" clause. In concluding that the language of the clause "implies that a market-wide analysis of competition is unnecessary",[55] the court of appeals was construing its own inaccurate quotation of the clause that omitted the bracketed words:

> They must be "competitors, so that the elimination of competition [by agreement] between them would constitute a violation of the provisions of any of the antitrust laws." [56]

Thus, with respect to its "market-wide analysis" holding, the *Protectoseal* court appears to have misread Section 8's "so that" clause to refer to *competition* between the interlocked competitors, rather than to competition in the relevant market being eliminated *by agreement* between them. Its resulting conclusion on the legal standard intended by Congress should be discounted accordingly.

The majority relies heavily on this uncertain precedent in rejecting respondents' contention that the "so that" clause imposes any sort of *de minimis* limitation on Section 8 (Maj. Op. at 24–27). The decision cites *TRW* and other cases that construe the clause to be satisfied if price-fixing or other *per se* arrangements among the competing interlocked firms would be illegal. (*Id.* at 26–27.) However, at the time Section 8 was enacted, the Supreme Court had not yet adopted at least some of the strict *per se* rules that the majority invokes in its interpretation of the "so that" clause. (*Id.* at 25–26.) Moreover, the majority's reliance on the *per se* rule against price fixing is arguably not consistent with the express terms of the "so that" clause, since such agreements do not result in the "elimination" of all competition between the conspirators, but only price competition.[57]

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[40] 656 F.2d at 438.

[41] *BankAmerica Corp.* v. *United States*, 51 U.S.L.W. 4685 (U.S. June 8, 1983).

[42] 656 F. 2d at 438, *citing TRW, Inc.* v. *FTC*, 647 F.2d 942, 947 (9th Cir. 1981), and *United States v. Sears Roebuck & Co.*, 111 F. Supp. 614, 616–17 (S.D.N.Y. 1953).

[43] 656 F. 2d at 433.

[44] *Id.* at 451 n.81.

[45] 647 F.2d 942 (9th Cir. 1981).

[46] *Id.* at 946.

[47] *Id.* at 947. The sole authority cited for this proposition is a 1973 decision by the Seventh Circuit in *Protectoseal Company* v. *Barancik*, 484 F.2d 585 (7th cir. 1973), discussed below, which adopted essentially a *per se* approach but did not reach the *de minimis* issue.

[48] 647 F.2d at 948.

[49] *Id.*

[50] In construing the "so that" clause to preclude a *de minimis* exception, the *TRW* court cited the 1940 *Socony-Vacuum* decision's *per se* rule against horizontal price fixing, *United States v. Socony-Vacuum Oil Co.*, 310 U.S. 150, 221–23 (1940), as somehow showing that Congress by enacting the "so that" clause in *1914* "plainly meant to reach interlocks between competitors without regard to the amount of commerce that might be restrained." 647 F.2d at 948. However, one of the two district court cases cited by the *TRW* court for this proposition was *Sears*, which itself expressly recognized a *de minimis* exception to Section 8. (The second was the district court's decision in *Crocker*, now reinstated by the Supreme Court.)

[51] *TRW, Inc., et al.*, 93 F.T.C. 325, 385–86 (1979), *aff'd in part*, 647 F.2d 942 (9th Cir. 1981).

[52] 484 F.2d 585 (7th Cir. 1973).

[53] *Id.* at 587.

[54] *Id.* at 588.

[55] *Id.* at 589.

[56] *Id.* at 588.

[57] One further indication of the inappropriateness of the majority's construction of the "so that" clause is the vertical character of the very *per se* rule of illegality that this same Commission majority recently applied in its *Russell Stover* decision. The majority restated its view in that case that a manufacturer's setting of prices for resale of its goods by distributors was a *per se* offense under the antitrust laws. The same majority's construction of Section 8 in this case would seem to make "competitors" of a manufacturer and a distributor whose contract of sale contains resale price maintenance provisions, because (to paraphrase the "so that" clause) "the elimination of [intrabrand price] competition by agreement among them would violate [one] of the provisions of the antitrust laws." *See Russell Stover Candies, Inc.*, 3 Trade Reg. Rep. (CCH) ¶ 21,933 (July 1, 1982) at p. 22,370, *appeal docketed, Russell Stover Candies, Inc. v. FTC*, Civil No. 82–2036 (8th Cir., argued April 11, 1983).

It is interesting to note that President Wilson actually urged that director interlocks between firms in buyer-seller relationships be prohibited. *See* H.R. Rep. No. 627, 63d Cong., 2d Sess. 18 (1914). However, the legislative history and subsequent case law clearly indicates that Section 8 was intended to reach only horizontal interlocks. *See, e.g., Paramount Pictures Corp. v. Baldwin-Montrose Chemical Co., Inc.*, 1966 Trade Cas. (CCH) ¶ 71,678 at p. 82,064 (S.D.N.Y. 1966) ("Only horizontal relationships are covered"); *BankAmerica Corp. v. U.S.*, 51 U.S.L.W. 4685 (U.S. June 8, 1983) at 4687 ("competing corporations" paragraph of § 8 "does not bar . . . any kind of vertical interlock"). Thus, in the vertical as well as the horizontal area, Congress was willing to depart from President Wilson's

Further, the majority and Commissioner Bailey are both incorrect in asserting that any agreement between any two or more competitors that fixes a price will inevitably violate the antitrust laws, thus satisfying the "so that" clause. (Maj. Op. at 26; Bailey Op. at 12.) The Supreme Court has made clear that, in some joint ventures and certain other situations in which competitors combine to produce a different product that individual competitors cannot market effectively, a horizontal agreement setting a price may not be a "naked" restraint of trade lacking any purpose except the stifling of competition.[58] The Court has explained that such conduct may be ancillary to a practice having redeeming competitive virtues and, in such cases, competitors' price-related agreements will be lawful under the rule of reason if, on balance, they do not restrain trade unreasonably.[59]

Thus, upon close inspection, the court decisions that have addressed Section 8 of the Clayton Act do not inevitably require imposing strict *per se* liability in this case. Although one line of case law would *permit* strict *per se* condemnation of interlocks between competing corporations, nothing in those cases *prohibits* the Commission from considering competitive effects in Section 8 cases. Moreover, a second line of cases supports the better-reasoned approach—embodied in *Paramount*—that treats likely competitive effects as an important issue under Section 8.[60] As I discuss next, sound antitrust policy dictates that the Commission has a responsibility to follow the second, more legally and economically sound approach.

D. A Strict per se Rule Under Section 8 Is Unsound Antitrust Policy

To say that Section 8 should not be construed as a strict *per se* statute is not to argue that establishing a Section 8 violation requires proof that a merger of the interlocked firms would be unlawful under Section 7 of the Clayton Act. That argument has been expressly rejected by at least two courts.[61] Moreover, in other cases in which both Section 7 and Section 8 violations were alleged, the courts have analyzed the two provisions separately.[62] I agree that had Congress intended an *identical* legal standard to be used for Sections 7 and 8, presumably it would have used identical wording in each section. It did not. However, it does not follow from this that Congress intended a strict *per se* standard under Section 8 that would preclude *any* consideration of competitive effects. To say that Congress intended that no full-blown rule of reason or Section 7 analysis be required in Section 8 cases does not lead inescapably to a rule of *per se* illegality whenever competitors share a director. Thus, I do not urge that a full rule of reason analysis is required to find a Section 8 violation. Rather, I argue simply that before an interlock between competitors is condemned, some abbreviated form of analysis sufficient to determine that the likely competitive effect of the interlock is not *de minimis* should be conducted.

Throughout its historical evolution, antitrust case law has developed varying legal standards. Viewed from one perspective, these might be thought of as falling along a continuum that includes standards ranging from *per se* illegality;[63] to *per se* illegality once certain factual predicates are proven;[64] to the truncated or so-called "quick look" rule of reason that considers whether any possible procompetitive justifications might exist and, if not, condemns the generally anticompetitive practice;[65] to the full-blown rule of reason, which considers all possible pro- and anticompetitive justifications and effects of the challenged practices;[66] and finally even to the "*per se* legality" that is judicially conferred in extraordinary cases.[67] Thus, even if one

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doctrinaire position to achieve a more sensible policy result. *See* Halverson, *Interlocking Directorates—Present Antitrust Enforcement Interest Placed in Proper Analytical Perspective*, 21 Vill. L. Rev. 393, 398 (1975–76) ("the legislation which emerged from Congress was more limited in scope than [Wilson] had envisioned. Section 8 of the Clayton Act only covered director interlocks between competitors, and thus fell far short of the objective President Wilson had in mind").

[58] *Broadcast Music, Inc. v. Columbia Broadcasting System, Inc.*, 441 U.S. 1, 23 (1979) ("joint ventures and other cooperative arrangements are . . . not usually unlawful, at least not as price-fixing schemes, where the agreement on price is necessary to market the product at all").

[59] *Id.* at 8–10, 19–24 (agreement among competing members of composers' association to grant non-exclusive blanket license to copyrighted musical compositions at fees negotiated between association and buyer-television network not "naked" restraint, but must be judged under rule of reason), *complaint dismissed on remand, CBS v. ASCAP*, 620 F.2d 930 (2d Cir. 1980) (blanket license held lawful under rule of reason), *cert. denied*, 450 U.S. 970 (1981), *reh'g denied*, 450 U.S. 1050 (1981).

[60] Commissioner Bailey's assertion that the Commission majority, in adopting a rule of strict *per se* liability, is simply following the holdings of "virtually all decided cases" (Bailey Op. at 17.) is not supportable. As explained in the text, only five court cases have ever construed the meaning of the "so that" clause as it applies to the instant matter. Of those, only *TRW* concluded there was no *de minimis* exception to the *per se* standard, while *Sears* and *Paramount* recognized such an exception. As noted above, the parties had stipulated the *de minimis* issue out of the case in *Crocker*, and the Ninth Circuit's decision was recently reversed by the Supreme Court in *BankAmerica*. Moreover, not only did the *Protectoseal* court not reach the *de minimis* question, its conclusion that no market-wide analysis of competition is necessary was apparently based upon a missreading of the language of the "so that" clause, as explained above. Thus, while two cases support the dissent's position, only one case directly supports the majority's approach.

[61] *Protectoseal Co. v. Barancik*, 484 F.2d 585, 588–89 (7th Cir. 1973); *United States v. Sears, Roebuck & Co.*, 111 F. Supp. 614, 616–20 (S.D.N.Y. 1953).

[62] *See, e.g., Kennecott Copper Corp. v. Curtiss-Wright Corp.*, 584 F.2d 1195 (2d Cir. 1978); *American Medicorp, Inc. v. Humana, Inc.*, 445 F. Supp. 573 (E.D. Pa. 1977); *United States v. Cleveland Trust Co.*, 392 F. Supp. 699 (N.D. Oh. 1974), *aff'd mem.*, 513 F.2d 633 (6th Cir. 1975).

[63] *See, e.g., Catalano, Inc. v. Target Sales, Inc.*, 446 U.S. 643 (1980) (per curiam) (agreement among competing beer wholesalers to fix credit terms by requiring retailers to pay in advance or upon delivery conclusively presumed *per se* illegal price fixing; further examination under rule of reason unnecessary).

[64] *See, e.g., Fortner Enterprises, Inc. v. United Steel Corp.*, 394 U.S. 495, 498–500 (1969) ("*Fortner I*"); and *Times-Picayune Publishing Co. v. United States*, 345 U.S. 594, 608–14 (1953) (*per se* rule against tie-ins applied only where one product is tied to a second, seller has sufficient economic power in tying product market, and not insubstantial amount of commerce in tied product market is involved). *Cf. Goldfarb v. Virginia State Bar*, 421 U.S. 773, 781–83, 786 n.16 (1975) ("naked" agreement among competing members of state bar association to adhere to minimum-fee schedule for residential real estate title searches found to be "classic illustration" of price fixing, though *per se* label not expressly invoked; in finding effect on prices "plain" and "unusually damaging", Court considered level of adherence to, and enforcement of, challenged agreement, and cited apparent anticompetitive purpose).

[65] *See, e.g., National Society of Professional Engineers v. United States*, 435 U.S. 679 (1978) (agreement among competing members of engineers' society to abide by ethics rule prohibiting discussion of prices with potential customers until after initial selection of engineer, while not price fixing as such, requires no elaborate industry analysis to demonstrate anticompetitive character; agreement held unlawful after extensive discussion—and rejection—of proffered "public safety" defense under rule of reason). *But cf. Catalano, Inc. v. Target Sales, Inc.*, 446 U.S. 643, 647 (1980) (describing agreement challenged in *Professional Engineers* as "unlawful without requiring further inquiry").

[66] *See, e.g., Broadcast Music, Inc. v. Columbia Broadcasting System, Inc.*, 441 U.S. 1 (1979) (agreement among competing members of composers' association to grant nonexclusive blanket license to copyrighted musical compositions at fees negotiated between association and buyer-television network not "naked" restraint lacking any purpose except stifling competition, thus *per se* rule not invoked; citing factors including integration of various services within blanket licensing system—resulting in "substantial lowering of costs"—Court remands for "a more discriminating examination under the rule of reason"), *complaint dismissed on remand, CBS v. ASCAP*, 620 F.2d 930, 935–38 (2d Cir. 1980) (court finds blanket license lawful under rule of reason, citing customers' election to use such licenses "in preference to realistically available marketing alternatives", copyright owners' "unimpaired independence to set up competitive prices for *individual* licenses" and risk-free availability of blanket license renewal should individual negotiations fail), *cert. denied, CBS v. ASCAP*, 450 U.S. 970 (1981), *reh'g denied*, 450 U.S. 1050 (1981).

[67] *See Flood v. Kuhn*, 407 U.S. 258 (1972) (professional baseball held not intended by Congress to be included as "trade or commerce" within meaning of Sherman Act; agreements among

were to accept the majority's conclusion that "a *detailed* examination of size of industries, size of corporations, percentage of sales, or volumes of commerce is not properly a part of an adjudicative case under Section 8" (Maj.Op. at 23 n.23, emphasis added), antitrust precedent furnishes ample flexibility for the abbreviated competitive analysis—short of the full rule of reason standard—that I would adopt under Section 8.

Even assuming the majority today chooses to apply a rule of strict *per se* illegality as a matter of antitrust policy, rather than because it feels required to do so, its actions do not meet the requisite standard for applying a *per se* rule. That test was recently reiterated by the Supreme Court in the 1979 *Broadcast Music* case:

> More generally, in characterizing [the challenged] conduct under the *per se* rule, our inquiry must focus on whether the effect and, here because it tends to show effect, . . . the purpose of the practice are to threaten the proper operation of our predominantly free market economy—that is, whether the practice facially appears to be one that would *always or almost always tend to restrict competition and decrease output, and in what portion of the market, or instead one designed to "increase economic efficiency and render markets more, rather than less, competitive."* (Emphasis added, citation omitted.)[68]

Measured against this standard, the majority's conclusion as to the *per se* illegality of director interlocks between competing firms regardless of the *de minimis* competitive impact the interlock might involve can only be viewed as an aberration from the Supreme Court's own approach. There simply is no basis in antitrust policy for the majority's strict *per se* rule.[69]

Perhaps the potential dangers created by the majority's unnecessary ruling today will be limited to some extent by the relative infrequency of Section 8 challenges.[70] However, the majority's holding that Section 8 is a strict *per se* statute that admits of no form of *de minimis* exception—coupled with its expansion of the definition of interlocked corporations to include foreign parents of interlocked domestic firms—may well encourage the filing of more such actions. To the extent such lawsuits attack procompetitive or competitively neutral interlocks, today's decision may well harm competition more than it promotes it.

In its recent *Ethyl* decision, the same Commission majority asserted that the new antitrust cause of action created in that case could be invoked only by the Commission itself under Section 5 of the FTC Act, and was thus not susceptible of misuse by private litigants.[71] The same cannot be said of the majority's action today. While I generally agree with Commissioner Clanton's suggestion that one means by which the Commission could seek to avoid the policy concerns raised by a Section 8 strict *per se* rule is through the adoption of a *de minimis* exception in prosecutorial guidelines (Clanton Statement at 2.), no such constraint would apply to private litigants bringing Section 8 actions.[72] When competitive effects are made virtually irrelevant in Section 8 cases—as they will be if the rule adopted by the Commission's decision is followed by the appellate courts—there is no check to assure that prosecution of private actions will promote the public interest. This factor assumes added importance when one considers that private Section 8 lawsuits are often initiated for purposes having no relation to any alleged injury to competition.[73] Perhaps the clearest

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baseball clubs to adopt uniform player contract embodying "reserve system" therefore exempt from Act's coverage).

[68] *Broadcast Music, Inc. v. Columbia Broadcasting System, Inc.*, 441 U.S. 1, 19–20 (1979), *citing United States v. United States Gypsum Co.*, 438 U.S. 422, 436 n.13, 441 n.16 (1978). *See also* notes 58 and 66 above. *See also Northern Pacific Railway Co. v. United States*, 356 U.S. 1, 5 (1958) ("there are certain agreements which because of their pernicious effect on competition and lack of any redeeming virtue are conclusively presumed to be unreasonable and therefore illegal without elaborate inquiry as to the precise harm they have caused or the business excuse for their use").

[69] *See, e.g.*, Wilson, *Unlocking Interlocks: The On-Again Off-Again Saga of Section 8 of the Clayton Act*, 45 Antitrust L.J. 317, 329 (1976) (62 years of § 8 enforcement "has produced no hard evidence of an actual trade restraint", and comprehensive FTC study and numerous Congressional hearings "have likewise turned up no actual abuses caused by director interlocks"; to the contrary, "all interlocks are not inherently evil," and "Many interlocks—especially those involving directors with a financial background—may provide more benefits than risks of abuse"); Halverson, *Interlocking Directorates—Present Antitrust Enforcement Interest Placed in Proper Analytical Perspective*, 21 Vill. L. Rev. 393, 393–94 (1975–76) ("corporate interlocks and their effects on competition are perhaps the least understood relationships in the history of antitrust law enforcement", and "efforts to understand the actual effects of these [interlock] relationships and their impact, if any, on competition have been largely unsuccessful"); Travers, *Interlocks in Corporate Management and the Antitrust Laws*, 46 Tex. L. Rev. 819, 834 (1968) ("very little is known about the actual effects of interlocks"); Note, *Interlocking Directorates and Section 8 of the Clayton Act*, 44 Alb. L. Rev. 139, 154–55 (1979) ("interlocks are not necessarily inherently evil", and "no study has ever produced concrete evidence that interlocks actually have resulted in anticompetitive abuses"); Staff of Antitrust Subcomm. of House Comm. on the Judiciary, 89th Cong., 1st Sess., Interlocks In Corporate Management 6 (Comm. Print 1965) ("as of this time, there are virtually no factual analyses of how interlocking business organizations deal with particular transactions and the social and economic impact of such transactions"). *See also* Clanton Statement at 1 ("Because of these [significant] changes [in the corporate world since 1914] it has been argued that an overly strict application of Section 8 may limit the pool of qualified directors without any compensating benefits to competition, since it is unlikely that directors of multibillion dollar corporations are involved in routine business decisions where only a few million dollars of competitive overlap are involved").

Commissioner Bailey's concurrence refers to a 1978 congressional staff study that purportedly details the potential adverse effects of interlocks in general. (Bailey Op. at 15.) However, most of the effects hypothesized in the quoted paragraph have nothing to do with competition. Moreover, the staff report concedes that "there has been no effort to look at the broad array of interlocks as they may affect one or more industries or markets, or the Nation's economy in general." Interlocking Directorates Among the Major U.S. Corporations, 95th Cong., 2d Sess. 10–11 (Comm. Print 1978). Further, not only does the 1978 staff report fail to cite a single study finding actual anticompetitive effects resulting from competitor interlocks, but it expressly disclaims reaching any such conclusions itself, stating:

> *"This report does not make any allegations as to the predatory use of specific interlocks for . . . anticompetitive purposes."* (*Id.* at 27, emphasis added.)

[70] *See, e.g., United States v. W. T. Grant Co.*, 345 U.S. 629, 630 (1953) (39 years following Clayton Act's passage until Supreme Court decides first of its two § 8 cases); *Protectoseal Co. v. Barancik*, 484 F.2d 585, 586–87 (7th Cir. 1973) (7th Circuit considers its first § 8 case 59 years after Clayton Act enacted).

[71] *Ethyl Corp. et al.*, 3 Trade Reg. Rep. (CCH) ¶ 22,003 (Mar. 22, 1983) at p. 22,560, *appeals docketed*, No. 83–4102 (duPont) (2d Cir. May 25, 1983) and No. 83–4106 (Ethyl) (2d Cir. May 27, 1983). *But see id.*, Miller, Chairman, dissenting at p. 22,566 (noting danger that private litigants would attempt to graft unilateral "facilitating practices" theory onto Sherman Act via tacit collusion or conspiracy theories).

[72] *See BankAmerica Corp. v. United States*, 51 U.S.L.W. 4685 (U.S. June 8, 1983) at 4688 (rejecting Government's argument that expanding § 8 scope to prohibit bank-nonbank interlocks would not upset business world's longstanding reliance on earlier, narrower interpretation of § 8 because of Government's intent to grant "amnesty" to directors who resign within reasonable time; Court notes "such persons face possible civil liability . . . against which the Government cannot . . . render them immune").

[73] *See, e.g., American Bakeries Co. v. Gourmet Bakers, Inc.*, 515 F. Supp. 977, 979 (D. Md. 1981) (as part of hostile proxy contest, Clayton § 8 action brought against insurgent candidate for directorship in plaintiff company); *Kennecott Copper Corp. v. Curtiss-Wright Corp.*, 584 F.2d 1195, 1197–98 (2d Cir. 1978) (as part of proxy fight, plaintiff firm brought Clayton §§ 7 and 8 and securities suit to prevent defendant firm—having acquired minority shareholder interest in plaintiff—from electing directors to plaintiff's board and compelling plaintiff to sell unrelated, recently-acquired business); *American Medicorp, Inc. v. Humana, Inc.*, 445 F. Supp. 573, 577–78 (E.D. Pa. 1977) (plaintiff firm brought suit under Clayton § 8, other antitrust laws, and securities laws, to enjoin hostile tender offer by defendant corporation); *In Re Penn Central Securities Litigation*, 367 F. Supp. 1158, 1162–66 (E.D. Pa. 1973) (plaintiff minority shareholders brought class action and stockholders derivative suit under securities and antitrust laws—including § 8—against numerous related firms, their directors, and others, to halt defendant parent corporation's alleged allocation of territories and markets among its subsidiaries).

illustration of such misuse of Section 8 is the lawsuit brought as part of a struggle for control over the board of directors of Paramount Pictures in the mid-1960's. Following the breakdown of a compromise entered to avoid a proxy fight, the plaintiff corporation brought suit pursuant to Sections 7 and 8 of the Clayton Act to secure removal of two dissident shareholder-directors. As the district court stated in that case:

> The purpose of this suit was not to protect the plaintiff or the public against a violation of the Clayton Act, but rather to serve the interest of the majority of Paramount's board of directors in securing the removal of the two dissident directors.[74]

Presumably, the majority's answer to this potential for private mischief is that Congress weighed that possibility and assumed the risk when it determined in 1914 to make Section 8 a *per se* statute, and it "has declined thus far to alter the *per se* rule for finding a violation under Section 8." (*See* Maj. Op. at 25.) As the above discussion of legislative history makes clear, however, this argument lacks sufficient merit to justify the imprudent antitrust policy established today.

Section 8 will only be a strict *per se* statute if the Commission and the courts interpret it as such. Congress did not make it so, and the relevant case law is divided. Since a strict *per se* interpretation is inconsistent with sound antitrust policy[75] (I do not understand the majority to argue otherwise), I believe the commission should opt for the more flexible view. Under that preferred approach, adjudicators may and should—in some fashion—consider the degree of competitive overlap and the likely threat to competition before condemning a director interlock under the imprecise prohibitions of Section 8 of the Clayton Act.[76]

II. The Former Horizontal Overlap Between Borg-Warner and Bosch Appears To Have Been Minimal

One of the most important facts to consider in assessing the majority's conclusions in this specific matter is that the competitive overlap at issue no longer exists. No direct overlap ever existed between Borg-Warner and Bosch GmbH. The only overlap was between the latter's domestic subsidiary, Bosch U.S., and Borg-Warner. However, in July 1981—almost two years ago—Borg-Warner sold all of its automotive aftermarket operations to The Echlin Manufacturing Company.[77] Since Borg-Warner's withdrawal from the relevant product lines occurred over a year after the initial decision in this matter, the ALJ's conclusions concerning liability and the need for injunctive relief did not consider this important fact. (It should also be noted that not even Bosch U.S. continues to sell the relevant product lines; shortly before completion of trial in this matter production of those parts was taken over by a different subsidiary of Bosch GmbH.[78]

Putting Borg-Warner's withdrawal aside for the moment, whatever possible threat to competition may have arisen from the overlaps thought to have existed at the time the complaint in this matter was issued, it is clear that the extent of those alleged overlaps dwindled considerably over the course of this litigation. The complaint alleges that Borg-Warner and Bosch competed in at least nine specified distinct product lines.[79] At trial, complaint counsel offered no evidence at all as to two of those lines.[80] The ALJ found insufficient evidence on which to base a finding of competition in three other lines.[81] In addition, the majority upholds (correctly, I believe) the ALJ's finding of insufficient evidence to establish the parent-subsidiary control requisite for a Section 8 violation in yet another line.[82] (Maj. Op. at 21 n.22.) The majority holds that "Borg-Warner was a competitor of Bosch U.S. in sales of ignition parts, wire and cable products, and carburetor tune-up kits with application on foreign cars." (*Id.* at 16.) Thus, the majority concedes that it can now identify only a relatively narrow product line grouping in which the two domestic corporate respondents competed prior to Borg-Warner's complete withdrawal from all relevant product lines almost two years ago. (*Id.* at 31.) This fact is important not only for its relevance to the question of the need for injunctive relief (discussed in Part IV below); it would also be relevant to any competitive analysis of the challenged interlock—an analysis the majority refuses to undertake even in cursory fashion.

I do not take issue with the majority's finding that Borg-Warner and Bosch U.S. formerly competed in the manufacture and sale of some segment of automotive replacement parts. (Maj. Op. at 16.) The record here is susceptible of several alternative definitions for the boundaries of that segment. But assuming the majority has identified correctly the product group in which competition formerly existed, there is scant information in the record—as the ALJ concluded (ID 46.)—from which we might attempt to infer the extent of that competitive overlap. The ALJ found that in 1979 Borg-Warner had worldwide sales of approximately $3 billion. (IDF 3, *citing* Tr. 1063–64.) While the majority was unable to find accurate figures in the record, it accepts the ALJ's estimation that in 1978 Borg-Warner made approximately $900,000 in sales in what the majority finds to be the overlapping product line. (Maj. Op. at 5

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[74] *Paramount Pictures Corp. v. Baldwin-Montrose Chemical Co., Inc.*, 1966 Trade Cas. (CCH) ¶ 71,678 at p. 82,068 (S.D.N.Y. 1966).

[75] As indicated above, the majority's strict *per se* prohibition of interlocks may actually restrain beneficial competition by disregarding potentially procompetitive reasons for employing director interlocks. Thus, the majority's approach may impair the efficiency of corporations in various ways, including: reducing the number of qualified director candidates, especially in fields where there is a shortage of qualified experts; prohibiting smaller corporations from taking advantage of expertise that may be more readily available to their larger competitors; increasing the difficulty confronting firms required by state law to be incorporated in a state to conduct business there; and making it more difficult to enter new industries in which an incumbent firm shares a director with the prospective entrant.

[76] As the majority concedes (Maj. Op. at 24 n.25.), this position also finds support among the commentators. *See, e.g.*, Wilson, *Unlocking the Interlocks: The On-Again Off-Again Saga of Section 8 of the Clayton Act*, 45 Antitrust L.J. 317, 324 (1976) (noting "Throughout antitrust, courts have recognized a general concept of de minimis," and citing *Paramount Pictures* as "the leading opinion on the applicability of the general de minimis concept" to § 8); Halverson, *Should Interlocking Director Relationships Be Subject to Regulation And, If so, What Kind?*, 45 Antitrust L.J. 341, 350 (1976) (citing *Paramount Pictures*, recommends adoption of a policy "pursuant to which antitrust officials would seek to dissolve only those interlocks which involve companies with a significant competitive overlap"; conversely, "where the competitive overlap is de minimus [sic], the risk of competitive abuse is minute and does not justify the expenditure of the public's funds"); Note, *Interlocking Directorates and Section 8 of the Clayton Act*, 44 Alb. L. Rev. 139, 145–46 (1979) (characterizing § 8 as a *per se* prohibition only of interlocks satisfying other statutory requirements, including that "the competition must not be *de minimus* [sic]", which "insures that the competitive overlap between the interlocked corporations is significant enough to threaten anticompetitive abuses"). *Cf.* Travers, *Interlocks in Corporate Management and the Antitrust Laws*, 46 Tex. L. Rev. 819, 846 (1968) (suggests no *de minimis* exception be recognized, conceding this approach would probably lead courts to hold interlocked firms were not "competitors" where actual overlap is insignificant; concludes: "An explicit de minimis exception has the advantage of permitting the courts a greater degree of candor and is more likely to produce consistent doctrine").

[77] *See The Echlin Mfg. Co., et al.*, Docket No. 9157 (Complaint ¶ 11) (July 23, 1981).

[78] Letter from Joseph A. McManus, Esq., to ALJ von Brand, *ex parte* (Feb. 4, 1980) at 1.

[79] Automotive "ignition parts, wire and cable, carburetors, carburetor kits, automotive test equipment, automotive air conditioner compressors," and certain non-automotive product lines, "such as hydraulic valves, hydraulic gear pumps and motors." (Complaint ¶ 12) (Nov. 7, 1978).

[80] Carburetors and automotive test equipment. (ID 2 n.1.)

[81] Hydraulic valves, gear pumps, and motors. (ID 49–52.)

[82] Automotive air conditioning compressors. (ID 52.)

n.4.) Thus, the best that can be said is that Borg-Warner's *1978* overlapping sales were three one-hundredths of one percent of its overall *1979* sales.

With respect to Bosch U.S., the majority finds that 1978 sales by its automotive aftermarket division were $72 million (*Id.* at 5.), and the ALJ's findings indicate overall 1978 Bosch U.S. corporate sales were approximately $172.54 million. (IDF 47.) Conceding record evidence on the point to be "somewhat sketchy", the majority concludes that the best estimate of Bosch U.S.'s sales in the overlapping product group was $5.4 million (*Id.* at 5–6 and n. 6), or 7.5 percent of that one division's 1978 sales and only about 3.1 percent of overalll Bosch U.S. corporate sales. As the majority concedes, these $900,000 and $5.4 million sales figures "are relatively small fractions of the total business of these corporations." (Maj. Op. at 31.)

Thus, our best (albeit imperfect) estimate of combined, overlapping sales for 1978 is approximately $6.3 million. Unfortunately, there is no evidence in this record concerning what percentage of the overall U.S. automotive aftermarket in this overlapping "product group" this estimated $6.3 million in combined sales accounts for. It might be one-tenth of one percent, 10 percent, or 50 percent. The majority simply doesn't care which is the case. Because two competing firms with an infinitesimal combined market share could theoretically enter a (hopelessly futile) *per se* unlawful agreement to fix prices or divide markets, the majority believes Section 8 requires condemnation of this challenged interlock arrangement. (*See Id.* at 26.)

However, even setting aside the majority's incorrect conclusions concerning the legislative history of Section 8, there remain—as Commissioner Clanton concedes—"important policy concerns about condemning technical, inadvertent or trivial violations of Section 8." (Clanton Statement at 1.) In my judgment, the Commission should ascertain whether the former director interlock between firms with $6.3 million in overlapping sales falls into the category of "trivial" or *de minimis* matters.[83] Although the majority asserts that the $6.3 million figure is "clearly not *de minimis*" (Maj. Op. at 23 n.23), I do not find that conclusion so obvious, especially when the more appropriate focus upon competitive significance (rather than dollar amounts) is considered. The ALJ described the record before us as "narrowly based", and concluded that it "does not permit an evaluation of the competitive effects of the [challenged interlock] arrangements." (ID 58.) Because the present record affords insufficient evidence to assess whether the challenged interlock created a danger to competition between either the interlocked firms, or among all firms in the industry, I would remand to the ALJ to receive evidence and make findings on these critical issues.

III. The Sale of the Overlapping Assets—Combined With the Resignation of the Interlocked Directors—Appears To Moot This Proceeding

I agree with the majority that the resignation of the individual respondents Merkle and Bacher following issuance of the Commission's complaint, in and of itself, does not, as a legal matter, automatically moot this case. (Maj. Op. at 29–30.) The Supreme Court so held in *United States v. W. T. Grant Company.*[84] However, as one district court explained in dismissing a Section 8 case for mootness on this basis, "it is within the discretion of [the adjudicator] to determine that under all the circumstances it does [moot the Section 8 claims]." [85] In *W. T. Grant* the Supreme Court elaborated further that even where director resignations do not moot the proceedings,

> The case may nevertheless be moot if the defendant can demonstrate that "there is no reasonable expectation that the wrong will be repeated." The burden is a heavy one.[86]

Respondent Bacher's death has removed the possibility that any Section 8 violation will recur with respect to him. However, this leaves the question of whether Borg-Warner's post-complaint sale of its automotive parts division to Echlin—taken together with the resignation of respondent Merkle—removes any "reasonable expectation that the wrong will be repeated," at least as to Borg-Warner.

In two Section 8 cases, the resignation of the interlocked directors, together with the post-complaint sale or discontinuance of the overlapping product line by one of the interlocked firms, has been held to moot the Section 8 suit. In *Paramount Pictures Corp. v. Baldwin-Montrose Chemical Co., Inc.*,[87] the district court found that the post-complaint sale of stock in one of the interlocked corporations, coupled with the resignation of one of the two interlocked directors, "has rendered moot any claim of violation of § 8." [88] Similarly, in *United States v. Cleveland Trust Company*,[89] the district court granted a motion by a corporate defendant (Pneumo-Dynamics Corporation) to dismiss a Section 8 claim on the ground that the post-complaint sale of its assets in the relevant product market had rendered the Section 8 case moot *as to that defendant.* Following a discussion of *Paramount* the court stated:

> Pneumo has effectively divested itself of all interests in the machine tool industry, and does not retain the necessary facilities to resume such operations in the future. *It is no longer possible, therefore, for Pneumo to eliminate competition in that industry by means of an agreement with [the other interlocked corporate defendants]* resulting in a violation of any of the provisions of the antitrust laws. *At best, it is conjectural whether Pneumo will ever be able to do this at some future date.* This aspect of the Government's section 8 case, accordingly, has become moot. (Emphasis added) [90]

As indicated, the court did not dismiss the Section 8 case as moot as to the other corporate defendants. Nevertheless, this precedent appears to support a legal conclusion that this proceeding is now moot with respect to Borg-Warner.

As in *Paramount* and *Cleveland Trust*, Borg-Warner no longer manufactures the product line in which the challenged overlap existed. Its "divestiture" of its auto parts division might in normal circumstances be sufficient under *Paramount* and *Cleveland Trust* to moot

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[83] *Cf. Protectoseal Co. v. Barancik*, 484 F.2d 585, 587 (7th Cir. 1973) (plaintiff alleged combined market shares of competing, interlocked firms exceeded 50 percent of competing product line alleged in complaint); *United States, v. Crocker National Corp.*, 656 F.2d 428, 433 (9th Cir. 1981) (parties stipulated that three defendant banks—among largest in U.S.—had outstanding real estate loans of $6.5 billion and competed with and shared directors with four of largest insurance companies having $32 billion in such loans outstanding), *rev'd on other grounds sub nom., BankAmerica Corp. v. United States*, 51 U.S. 4685 (U.S. June 8, 1983).

[84] 345 U.S. 629, 630–32 (1953). *See also Kraftco Corp., et al.*, 89 F.T.C. 46, 65–66 (1977), *remanded as to relief sub nom., SCM Corp. v. FTC*, 565 F.2d 807 (2d Cir. 1977), *identical order reissued on remand, Kraftco Corp., et al.*, 92 F.T.C. 416, 419 (1978), *Aff'd sub nom., SCM Corp. v. FTC*, 612 F.2d 707 (2d Cir.), *cert. denied*, 449 U.S. 821 (1980); *United States v. Newmont Mining Corp.*, 34 F.R.D. 504, 505 (S.D.N.Y. 1964).

[85] *In Re Penn Central Securities Litigation*, 367 F. Supp. 1158, 1168 (E.D. Pa. 1973), *citing United States v. W. T. Grant Co.* 345 U.S. 629 (1953) (resignation of four interlocking directors, coupled with finding of no Sherman Act § 1 violation, held to render § 8 claims moot); *cf. United States v. Newmont Mining Corp.*, 34 F.R.D. 504, 507–08 (S.D.N.Y. 1964) (on facts of case—including multiple alleged interlocks—director resignations did not entitle defendants to *summary judgment* on mootness issue).

[86] 345 U.S. at 633, *citing United States v. Aluminum Co. of America*, 148 F.2d 416, 448 (2d Cir. 1945).

[87] 1966 Trade Cas. (CCH) ¶ 71,678 (S.D.N.Y. 1966).

[88] *Id.* at p. 82,060.

[89] 392 F. Supp. 899 (N.D. Oh. 1974).

[90] *Id.* at 709–10.

any competition concerns that might have resulted from a director interlock. But here there is an additional wrinkle: the Commission challenged that sale on antitrust grounds, and issued a complaint against not only the acquiring firm (Echlin), but the seller—Borg-Warner—as well.[91] The majority raises the specter that, should the sale to Echlin ultimately be found unlawful, it is possible that the relief ordered may involve Borg-Warner's reacquisition of its former auto parts unit. (Maj. Op. at 33–34.)

I view the probability of a Commission order having that effect to be, in the words of *Cleveland Trust*, conjectural at best. (In so concluding, of course, I express no view whatever on the merits in the *Echlin* matter or on the form of relief that might be appropriate should liability be found there.) Borg-Warner will only reacquire its former auto parts division *if* the Commission finds the sale challenged in the *Echlin* matter to be unlawful and *if* it orders or approves the reacquisition. If the competitive danger was *de minimus* or non-existent, then the danger the interlock might recur as a result of relief the Commission might impose if it finds liability in the *Echlin* matter would seem inconsequential. However, as noted above, the record affords the Commission no basis on which to determine whether the competitive effect of the former interlock was anything more than *de minimus*.

Thus, I am inclined to conclude that, at least as to respondent Borg-Warner, the possibility of the challenged overlap recurring is so remote and speculative that it fails to meet the legal standard that the majority recognizes (Maj. Op. at 29–30, 34.): that there is no "cognizable danger" that the challenged interlock (or any other interlock in this market between these two respondents) will recur. I would include this possible mootness among those issues that I believe should be remanded to the ALJ. However, regardless of whether the above factors are sufficient to dictate a legal conclusion of mootness as to Borg-Warner, as the following section explains they may well be adequate to remove any necessity for issuance of injunctive relief against any of the respondents.

IV. Issuance of an Order Appears Unnecessary on the Facts in This Record

As is clear from Commissioner Clanton's concurring statement, even assuming a Clayton Act violation and a lack of mootness, the case for issuing an order here is less than overwhelming. Commissioner Clanton finds it a "close call", citing the relatively small dollar overlap between Borg-Warner and Bosch, and Borg Warner's sale of its auto parts division to Echlin. (Clanton Statement at 1.) While respondents' apparent lack of any systematic screening program tips the balance toward the need for an order in Commissioner Clanton's mind (*Id.*), I believe the other factors discussed above are probably sufficient to negate any public interest in issuance of the order promulgated by the majority today. Thus, even were there a sufficient basis to find Borg-Warner, Bosch, and the individual respondents liable on this sparse record, I doubt it is necessary to issue an order against any of the respondents.[92]

Clearly, under Section 8 (as under other regulatory laws), "there is no *per se* rule requiring the issuance of an injunction upon the showing of a past violation."[93] As the Second Circuit stated, "it is for the FTC to weigh these considerations [relevant to the likelihood of a recurrent violation]."[94] Indeed, the first of only two Supreme Court decisions ever to consider Section 8 liability—*United States v. W. T. Grant Co.*—affirmed a district court's refusal to award injunctive relief, despite its finding of Section 8 violations that were not mooted by the interlocked director's resignation.[95] This result came even though the defendant director had been found liable for three separate interlocks involving six corporations upon whose boards he sat.[96] In reaching this result, the Supreme Court held that the party moving for injunctive relief

> * * * Must satisfy the court that relief is needed. The necessary determination is that there exists some cognizable danger of recurrent violation, something more than the mere possibility which serves to keep the case alive. * * * To be considered are the bona fides of the expressed intent to comply, the effectiveness of the discontinuance and, in some cases, the character of the past violations.[97]

As the Second Circuit recently instructed the Commission in *SCM Corporation* v. *FTC*, the burden is on *complaint counsel* to show injunctive relief is necessary, *not* on respondent to show it is unnecessary.[98] I am not satisfied that this record makes the requisite showing. The sale of Borg-Warner's auto parts unit, coupled with the resignation of Messrs. Merkle and Bacher and the latter's subsequent death, are, in my judgment, persuasive evidence of "the effectiveness of the discontinuance" of the challenged interlock. Several Section 8 cases on this very issue lend strong support to this conclusion. Thus, even assuming Section 8 liability and a lack of mootness, several courts have relied upon some combination of director resignation and sale of the overlapping assets as a sufficient basis for invoking judicial discretion to deny injunctive relief.[99]

Two courts of appeals have recently clarified that this is not simply another argument that the case should be dismissed for mootness. As the Second Circuit explained in *SCM:*

> [M]ootness and denying a request for injunctive relief . . . are analytically distinguishable [concepts] and a court could find that a case is not moot and yet deny injunctive relief.[100]

The Ninth Circuit also addressed this point in *TRW:*

> The difference between the standard governing mootness and that regarding the need for prospective relief thus is one between a "mere possibility" and a "cognizable danger"of recurrent violation. More significantly, the Commission complaint counsel bears the burden of showing the need

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[91] *Echlin Mfg. Co., et al.*, Docket No. 9157 (July 23, 1981).

[92] *Cf. Ethyl Corp., et al.*, 3 Trade Reg. Rep. (CCH) ¶ 22,003 at 22,553–58 (Mar. 22, 1983) (though all four respondents found liable under § 5, Commission order covers only two), *appeals docketed*, No. 83–4102 (duPont) (2d Cir. May 25, 1983) and No. 83–4106 (Ethyl) (2d Cir. May 27, 1983).

[93] *SCM Corp. v. FTC*, 565 F.2d 807, 813 n. 18 (2d Cir. 1977), *cert. denied*, 449 U.S. 821 (1980), *quoting SEC. v. Bausch & Lomb, Inc.*, 565 F.2d 8, 18 (2d Cir. 1977).

[94] 565 F. 2d at 813 n. 18.

[95] *United States v. W. T. Grant Co.*, 345 U.S. 629, 633–36 (1953).

[96] *Id.* at 630, 633–34.

[97] *Id.* at 633.

[98] *SCM Corp. v. FTC*, 565 F.2d 807, 812–13 (2d. Cir. 1977), *cert. denied*, 449 U.S. 821 (1980).

[99] *See, e.g., TRW, Inc. v. FTC*, 647 F.2d 942, 954 (9th Cir. 1981) (although case not moot, court cites factors including non-blatant nature of § 8 violation and discontinuance of directorship before FTC investigation in holding Commission erred in issuing cease and desist orders against corporate respondent and interlocked former director); *Paramount Pictures Corp. v. Baldwin-Montrose Chemical Co., Inc.*, 1966 Trade Cas. (CCH) ¶ 71,678 (S.D.N.Y. 1966) (assuming, arguendo, § 8 violation had occurred, in exercise of discretion court declines to issue order against defendants, citing sale of overlapped assets and resignation of interlocked directors in concluding plaintiff failed to show "cognizable danger of recurrent violation"); *see also SCM Corp. v. FTC*, 565 F.2d 807 (2d Cir. 1977), *cert. denied*, 449 U.S. 821 (1980) (finding Commission used incorrect legal standard in deciding interlocked director's post-complaint resignation did not make injunctive relief unnecessary).

[100] *SCM Corp. v. FTC*, 565 F.2d 807, 812 (2d Cir. 1977), *cert. denied*, 449 U.S. 821 (1980), *citing United States v. Newmont Mining Corp.*, 34 F.R.D. 504 (S.D.N.Y. 1964).

for injunctive relief while the burden of proving mootness rests on the respondent.[101]

Moreover, this same Commission majority exercised this identical discretionary authority in its recent *Ethyl* decision.[102]

Even if one were to accept (which I do not) the majority's proposition that its strict *per se* construction of Section 8 was either intended by Congress or mandated by the language of the statute, that respondents have violated that strict *per se* rule, and that it is irrelevant whether the extent and nature of the competitive overlap was *de minimis*, I would still oppose issuance of an order on this record as it now stands. The majority has, in essence, ruled evidence of the existence or extent of pro- or anticompetitive effects irrelevant as to Section 8 liability. However, I do not interpret this holding to mean that such evidence cannot be considered on the appropriateness and necessity of injunctive relief. Given the other factors discussed above that militate against issuance of an order here, it is unfortunate that the record is silent on the one issue that might tip the balance clearly in one direction or the other.

We simply do not know what the competitive effect of the challenged interlock was, how any such effect would be mitigated by the sale of the overlapping product line, or what the effect of the majority's order is likely to be. Hence, I believe we should remand this matter to the ALJ to receive this and other evidence relating to the necessity of injunctive relief. If such evidence shows a danger of a recurring interlock that may pose a threat to competition, an order could then issue. If, however, such additional evidence disclosed no danger of recurrence, or that any such danger would likely have either a trivial or non-existent anticompetitive impact, then I believe no order should issue. Given the harsh rule of liability adopted today and its uncertain ramifications, I believe such a course would be prudent and appropriate here, especially in light of the Commission's important enforcement responsibilities and its duty to assure that its actions are consistent with the public interest.

[101] 647 F.2d 942, 954 (9th Cir. 1981), *citing SCM Corp. v. FTC*, 565 F.2d 807, 812–13 (2d Cir. 1977), *cert. denied*, 449 U.S. 821 (1980).

[102] *See Ethyl Corp., et al.*, 3 Trade Reg. Rep. (CCH) ¶ 22,003 (Mar. 22, 1983) at p. 22,557–58 (imminent and complete withdrawal of one respondent from four-firm industry held not to moot proceeding as to it; withdrawing firm found liable, but not subject to final order entered against two of four respondents), *Appeals docketed*, No. 83–4102 (duPont) (2d Cir. May 25, 1983) and No. 83–4106 (Ethyl) (2d Cir. May 27, 1983).

V. Conclusion

The majority has adopted an unnecessarily harsh construction of Clayton Act Section 8 to condemn an indirect director interlock that no longer exists, that very probably can only recur if the Commission requires or permits it, and that—on the basis of this meager record—appears trivial in scope. The majority has done so without any consideration of whether either the challenged interlock or the remedy imposed will help or harm competition. This decision perpetuates an improvident standard of liability under Section 8, notwithstanding that the language of the statute, its legislative history, the relevant judicial precedent, and the facts of this particular case all furnish ample room to reach a contrary result that would promote sound antitrust policy.

It appears that, for a majority of this Commission, *de minimis curat lex*.

Issued: June 23, 1983.

Separate Statement of Commissioner Clanton

While I concur in the Commission's decision, I would like to offer some additional comments on the *de minimis* issue.

The fundamental difficulty with applying Section 8 of the Clayton Act in a rote *per se* fashion is that the corporate world has changed significantly since 1914. The $1 million statutory threshold today encompasses the activities of thousands of small businesses, firms that presumably were not subject to the Act at the time it was passed. In addition, a substantial and increasing number of major corporations are conglomerates or are, by necessity, widely diversified. Because of these changes, it has been argued that an overly strict application of Section 8 may limit the pool of qualified directors without any compensating benefits to competition, since it is unlikely that directors of multibillion dollar corporations are involved in routine business decisions where only a few million dollars of competitive overlap are involved. For these reasons, among others, it is urged that a *de minimis* exception should be recognized in Section 8.

The Commission's opinion ably discusses the relevant legal precedent on this subject and, I believe, correctly concludes that, as a matter of law, there is no dollar floor, other than the statutory minimum of $1 million, below which liability will not attach. Nevertheless, the dissent raises important policy concerns about condemning technical, inadvertent or trivial violations of Section 8 because of the *per se* operation of the statute and the necessity for an order in the instant case.

It is a close call whether an order should issue in this case because of the relatively small dollar overlap and Borg Warner's sale of its Automotive Parts Division to Echlin Manufacturing Corporation. My principal reason for supporting a limited order is the apparent lack of any systematic screening program for identifying future interlocks, thus leaving the potential for violations to recur. While in some circumstances a more appropriate remedy might be to simply require respondents to set up an effective compliance program, the modest prohibition on interlocks in the automotive parts business embodied in this order seems appropriate given the history of this case. This approach is also consistent with the direction of the courts—to closely scrutinize the scope of relief in interlock cases in order to temper the potentially harsh effects of a *per se* application of the statute. *See, e.g., TRW, Inc.* v. *F.T.C.*, 647 F.2d 942 (9th Cir. 1981).

However, while I endorse continued judicial restraint in the selection of appropriate remedies in Section 8 cases, the Commission has the present ability to address the *de minimis* issue in other contexts as well. The $5 million threshold established in this Order, in an effort to mitigate the potential risk of civil penalties for technical violations, represents a responsible *de minimis* standard that should be articulated by the Commission in prosecutorial guidelines. I believe that an enforcement policy of this nature is consistent with the statutory scheme and modern-corporate reality and would go a long way to address many of the valid concerns raised by the dissent. Moreover, in view of the debate about the legislative history of this statute and the substantial changes that have taken place in the corporate world in the last six decades, it may be timely for Congress to revisit this issue to provide enforcement agencies and the business community with its contemporary judgment concerning the import of Section 8.

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Separate Concurring Statement of Commissioner Patricia P. Bailey in Borg-Warner Corporation, et al.; Docket No. 9120

The dissenters in this case argue that antitrust liability under Section 8 of the Clayton Act should require some assessment of the competitive effects of

challenged interlocking directorates between competing corporations. Applicable case law has held that Section 8 has *per se* application once the elements set out in the statute have been established. The dissenters have found no case that takes their contrary view, which they argue is more consistent with their understanding of sound antitrust policy. At the very least, the dissenters state, Section 8 admits of a *de minimis* commerce exception to liability, and that the better line of case law on the subject supports such an interpretation. Because the dissenters would apply a different legal standard than the one endorsed in this case, they would dismiss this proceeding or remand it for some assessment of competitive effects.[1]

I would have had nothing to add to the Commission's decision in this matter but for the fact that the dissenters argue that a competitive effects test is grounded in the legislative history of Section 8, and that the precedents are in error because they turn on a misunderstanding or misreading of that history. On the contrary, the legislative material relied upon by the dissenters constitutes a single shard of the history of this statute, and a fuller consideration of this history provides ample basis for the uniform judicial approach to liability that has been taken by the courts and by the Commission in this case.

Thirty years ago, Judge Weinfeld, in *United States* v. *Sears, Roebuck & Co.*,[2] laid out what has been termed a *"per se"* approach to Section 8 of the Clayton Act.[3] Section 8 prohibits interlocking directorates among two or more corporations engaged in commerce, any one of which has more than $1 million in capital, surplus, and undivided profits, "if such corporations are, or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws."[4] Judge Weinfeld in *Sears* reasoned that Section 8 analysis need not determine whether a hypothetical merger between the interlocked corporations would violate the antitrust laws under the rule of reason, because price fixing was also an "elimination of competition" which would be a *per se* antitrust violation if undertaken by the interlocked corporations.[5]

The court in *Sears* observed that the legislative history of Section 8 was "inconclusive" in determining the meaning of the "so that" clause.[6] A thorough reexamination of the legislative history reveals that Congress considered and failed to enact several proposals that would have made the statutory language of Section 8 either more stringent or more like Section 7; that House and Senate Reports noted the breadth of the bill and its design to deal with antitrust violations in their incipiency; that the proposal and rejection of the so-called Cummins amendment was an ambiguous reflection on the intent of Congress; that commentators shortly after the passage of Section 8 noted succinctly the problem of interpreting the "so that" clause; and that investigations and staff reports by subsequent Congresses have reaffirmed the need to check the potential abuses of interlocking directorates. Finally, and most telling, courts confronted by the very questions raised in the dissenting opinion here have examined the whole of the available record on Congressional intentions with respect to Section 8 and applied a strict theory of liability.

A. Early Bills

Section 8 was passed in response to concern from several significant sources about the prevalence of interlocked directors. As early as 1908, the platform of one major political party called for legislation "preventing a duplication of directors among competing corporations."[7] The investigations by the so-called Pujo committee in 1913 revealed the extent of interlocking directorates among banks and other financial institutions.[8] The publication by Louis D. Brandeis of a series of articles in a popular periodical also provided significant support for restrictions on such interlocks.[9] As the Supreme Court has recently noted, "Interlocks between large corporations were seen in the public debate as *per se* antogonistic to the public interest; many, including President Wilson, called for legislation that would, among other things ban all kinds of interlocks."[10]

Several bills were introduced in Congress between 1908 and 1914 to restrict interlocking directorates by one means or another.[11] Some of these bills proposed a ban on interlocking directorates of any sort.[12] Others

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[1] The dissenters do not explain the evidentiary elements of their competitive effects test for Section 8, except to say that it falls somewhere in between the *per se* and full-blown rule of reason tests that lie at opposite ends of the antitrust scale. Such a conjectural standard would be left presumably to future courts to define, without much guidance from the language of the statute itself.

[2] 111 F. Supp. 614 (S.D.N.Y. 1953)

[3] *See id.* at 620–21.

[4] 15 U.S.C. § 19.

[5] *See United States* v. *Sears, Roebuck & Co.*, 111 F. Supp. at 616–17, 619–21.

[6] *Id.* at 619.

[7] *See* National Party Platforms 1840–1968, at 146 (K. Porter & D. Johnson eds. 1970) (Democratic party platform of 1908). In 1908, the Republican party platform called for amendments to the Sherman Act in order that "its effectiveness may be strengthened." *Id.* at 146. The three major political parties in 1912 continued to call for amendments to the antitrust laws. The Democratic platform favored declaration by law of the conditions under which corporations could engage in interstate commerce, which included the prevention of interlocking directorates. *Id.* at 169. The Republicans continued support for "legislation supplementary" to the antitrust laws, *id.* at 184, and the Progressive party joined the Republicans in supporting creation of a Federal Trade Commission to promote antitrust enforcement. *See id.* (Republicans declare "there is much that may be committed to a Federal Trade Commission"); *id.* at 178 (Progressives support "strong Federal administrative commission of high standing, which shall maintain permanent active supervision over industrial corporations").

[8] House Comm. on Banking and Currency, Investigation of Concentration of Control of Money and Credit, H. Rep. No. 1593, 62d Cong., 3d Sess. (1913).

[9] Brandeis, *Breaking the Money Trusts*, Harpers Weekly, Nov. 22, 1913, to Jan. 14, 1914. In the course of debate on the Clayton Act one Congressman, citing the Brandeis articles and the Pujo report, summarized the extent of the problem of interlocking directorates as regarded even one corporation: Here is what the Pujo Committee found in regard to the members of the firm of J. P. Morgan & Co., and the directors of their controlled trust companies and of the First National and the National City Bank. They hold: One hundred and eighteen directorships in 34 banks and trust companies . . .; thirty directorships in 10 insurance companies. . . . one hundred and five directorships in 32 transportation systems. . . .; sixty-three directorships in 24 producing and trading corporations. . . .; twenty-five directorships in 12 public-utility corporations. . . . In all, 314 directorships in 112 corporations having aggregate resources or capitalization of $22,245,000,000. 51 Cong. Rec. 9186 (1914) (statement of Mr. Helvering).

[10] *BankAmerica Corp.* V. *United States*, 51 U.S.L.W. 4685, 4687 (U.S. June 8, 1983).

[11] Some bills contemplated a statutory ban on interlocking directorates. *See, e.g.*, H.R. 14946, § 5, 63d Cong., 2d Sess. (1914); H.R. 7762, § 1, 63d Cong. 1st Sess. (1913); H.R. 12835, § 2, 62d Cong., 1st Sess. (1911). Others contemplated requiring by federal or state charter that corporations engaged in interstate commerce not have interlocked directors. *See, e.g.*, S. 4647, § 8, 63d Cong., 2d Sess. (1914); S. 1138, § 1(d), 63d Cong., 1st Sess. (1913); S. 4747, § 1(d), 62d Cong., 2d Sess. (1912). Other bills simply prohibited corporations with certain characteristics, which included interlocking directorates, from engaging in interstate commerce. *See, e.g.*, S. 1617, 63d Cong., 1st Sess. (1913); S. 5486, § 5(10), 62d Cong., 2d Sess. (1912); S. 1377, § 1, 62d Cong., 1st Sess. (1911). Other contemplated definition and proscription of "unfair trade practices," including interlocking directorates. *See, e.g.*, H.R. 15652, § 21(g), 63d Cong., 2d Sess. (1914); H.R. 9300, § 3, 63d Cong., 1st Sess. (1913). Still other bills proposed that a federal trade commission take action against objectionable interlocks. *See, e.g.*, H.R. 14799, 63d Cong., 2d Sess. (1914).

[12] *See, e.g.*, H.R. 7762, § 1, 63d Cong., 1st Sess. (1913) (outright prohibition); H.R. 1773, § 64, 63d Cong., 1st Sess. (1913) (prohibiting certain directors from serving as directors in more than four corporations).

proposed simply that interlocks between competing corporations be prevented, and provided formulations of "competition" that were even less specific than the language of what became Section 8. Typical bills prevented interlocks if the corporations were "in any competing business,"[13] in "substantially the same kind of business,"[14] "engaged in the same business,"[15] "carrying on a competitive business or a business of the same general character,"[16] and "competitors or [were] so situated that they naturally should be competitors."[17]

At the opposite extreme, some bills contained language that specifically mandated a measurement of the competitive effects of interlocked directorates. In certain bills declaring unfair competition unlawful, unfair competition was defined to include "the destruction of competition through the use of interlocking directorates."[18] These bills also would have authorized the proposed trade commission to terminate the "substantially monopolistic power" of a corporation that was based primarily on "artificial bases," which included "the destruction of competition through the use of interlocking directorates."[19]

It is apparent, therefore, that Congress had under consideration several bills that would make the prohibition against interlocking directorates even more clear cut than the proposal that was enacted, but that is also had under consideration proposals to make a measurement of competitive effects of such interlocks more explicit. It chose neither route. The Clayton bill was managed through a course that rejected both extremes. This fact, perhaps, accounts for Judge Weinfeld's observation on the inconclusiveness of the legislative history.

B. House and Senate Hearings

Part of the difficulty in interpreting the intent of Congress as to Section 8 is that the specific language of the Clayton bill was never the subject of debate in committee hearings. In the House Judiciary Committee hearings, there was considerable debate on a tentative bill that contained a "conclusive presumption" that director interlocks between competing corporations were unlawful. In the Senate committee hearings, there was substantial debate on a proposed amendment to the trade commission bill that would have required a measurement of "substantially competitive conditions." Neither of these proposals became law.

During hearings before both the House Judiciary Committee [20] and the Senate Interstate Commerce Committee,[21] members of Congress and those testifying had before them a bill labeled "No. 3—Committee Print—Tentative Bill," which was circulated by Representative Clayton and Senator Newlands.[22] The bill's language was more explicit than that of the bill that finally emerged from committee:

> Sec. 4. That if, after two years from the date of the approval of this Act, any two or more corporations, engaged in whole or in part in interstate or foreign commerce, have a common director or directors, the fact of such common director or directors shall be conclusive evidence that there exists no real competition between such corporations; and if such corporations shall have been theretofore, or are, or shall have been, by virtue of their business and location of operation natural competitors, such elimination of competition thus conclusively presumed shall constitute a combination between the said corporations in restraint of interstate or foreign commerce. . . .[23]

In the Senate, however, Senator Newland had introduced and circulated for comment at the Interstate Commerce Committee hearings another bill which he entitled, "Amendment in the Nature of a Substitute to S. 4160," the trade commission bill.[24] Discussion on interlocking directorates at the Senate hearings centered on the language in this bill, which provided as follows:

> Section 9. That no corporation shall engage in commerce, if, upon its board of directors or other managing board or among its officers, there is any person who is a member of the board of directors or other managing board, or one of the officers of another corporation engaged in commerce and carrying on a competitive business: *Provided, however,* That no suit or action, civil or criminal, shall be instituted to enforce this section against any corporation having such community of directors or officers which, within one year after the passage hereof, files with the commission, or, if a common carrier, with the Interstate Commerce Commission, a petition alleging that the business of the corporations involved is *not in fact competitive, or that if competitive in any degree the community of directors or officers, or both does not destroy or impair substantially competitive conditions as to such corporations* (emphasis added).

Neither this clear rule-of-reason language nor the clear irrebutable presumption language of the other tentative bill became part of H.R. 15657, which ultimately became the Clayton Act.

C. The Clayton Bill: House and Senate Reports and Debates

Representative Clayton introduced H.R. 15657, Section 9 of which was the interlocking directorates provision that became Section 8 of the Clayton Act, ten days after the House Judiciary Committee concluded its hearings on the trust legislation.[25] The bill was the subject of this committee's House Report No. 627, which quoted President Wilson's pronouncements against interlocking directorates and cited Section 9 extensively, but which was quite unspecific in its description of the meaning and effect of this provision.[26]

The minority views in this report are somewhat more enlightening as to the committee members' perception of Section 9's meaning. In particular, Congressman Graham of Pennsylvania, who lauded the principle of this provision, inveighed against its scope and its failure to measure competitive effects:

> This provision, however, makes the bare possibility of "elimination of competition" the test of illegality, instead of the actuality of "eliminating or lessening of competition," which is the test adopted in the provision relating to holding companies [currently Section 7. Congressman Graham here continues his earlier criticism of the "eliminating or lessening of competition" language of Section 7].
>
> The phase "so that an elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws" affords no protection, but exposes all directors in more than one corporation

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[13] *See, e.g.*, S. 1138, § 1(d), 63d Cong., 1st Sess. (1913); H.R. 11168, § 1(g) 63d Cong., 2d Sess. (1913) ("similar or competing business"); H.R. 9783, § 9, 63d Cong., 2d Sess. (1913) ("corporations . . . engaged in any line of business which compete with one another").

[14] *See, e.g.*, H.R. 28852, § 1(c), 62d Cong., 3d Sess. (1913) ("substntially competing business or in any business of substantially the same kind").

[15] *See, e.g.*, H.R. 2488, § 1(C)(2), 63d Cong., 1st Sess. (1913); *See also* S. 4647, § 8, 63d Cong., 2d Sess. (1914) ("same or similar kind of interstate commerce").

[16] *See, e.g.*, S. 1617, 63d Cong., 1st Sess. (1913).

[17] *See, e.g.*, H.R. 12809, § 3, 62d Cong., 1st Sess. (1911).

[18] *See, e.g.*, H.R. 15652, § 21(g), 63d Cong., 2d Sess. (1914); H.R. 14799, § 11(g), 63d Cong., 2d Sess. (1914).

[19] *See, e.g.*, H.R. 15652, § 28(g), 63d Cong., 2d Sess. (1914); H.R. 14799, § 18(g), 63d Cong., 2d Sess. (1914).

[20] *Hearings Before the House Comm. on the Judiciary on Trust Legislation*, 63d Cong., 2d Sess. (1914) [hereinafter cited as *1914 House Hearings*].

[21] *Hearings Before the Senate Committee on Interstate Commerce on Bills Relating to Trust Legislation*, 63d Cong., 2d Sess. (1914) [hereinafter cited as *1914 Senate Hearings*].

[22] The bill is reprinted in *1914 House Hearings*, *supra* note 20, at 1577–79; *1914 Senate Hearings*, *supra* note 21, at 70; 2 E. Kintner, The Legislative History of the Federal Antitrust Laws and Related Statutes 1077–78 (1978).

[23] *Id.* § 4.

[24] This bill is reprinted in *1914 Senate Hearings*, *supra* note 21, at 237.

[25] The Committee concluded its hearings on April 4, 1914; Rep. Clayton introduced H.R. 15657 on April 14, 1914.

[26] *See* H.R. Rep. No. 627, pt. 1, at 17–20.

engaged in interstate commerce to the peril of violating the law, because the proposed bill will be a part of the antitrust laws of the United States, and in it the "elimination of competition," or the liability to eliminate or lessen competition, instead of the creation of a monopoly or a restraint of trade, would become the governing test by which directors would be judged.

Under existing laws, wherever interlocking directorates exist this fact can be shown, and if the interlocking tends to establish a monopoly or creates a monopoly or a restraint of trade, it can readily be reached and corrected and the evil removed. Neither the possibilities nor the actualities of "elimination of competition" ought to be substituted for "monopoly" or "restraint of trade" as the test of illegality.

This section will be full of difficulty and peril for small corporations, and will affect them in far greater degree than it will larger ones, against which the legislation is presumed to be aimed.[27]

Representative Graham's comments seem to have anticipated the specific direction that the courts would take in interpreting this provision of the Clayton Act, most notably the interpretation of the court in *United States v. Sears, Roebuck & Co.*[28]

The Senate Report on H.R. 15657 provided little explanation of this provision, but merely stated that the Senate Judiciary Committee was not proposing to change or amend in any respect the specific provision concerning interlocking directorates of industrial corporations.[29] The Committee did state, however, that the general purposes of the bill included preventing antitrust violations in their incipiency:

Broadly stated, the bill, in its treatment of unlawful restraints and monopolies, seeks to prohibit and make unlawful certain trade practices which, as a rule, singly and in themselves, are not covered by the act of July 2, 1890, or other existing antitrust acts, and thus, by making these practices illegal, to arrest the creation of trusts, conspiracies, and monopolies in their incipiency and before consummation. Among other of these trade practices which are denounced and made unlawful may be mentioned . . . interlocking directorates.[30]

The House passed H.R. 15657 on June 5, 1914, with little relevant discussion of Section 9 on the House floor. After the Senate Judiciary Committee reported out the bill with the recommended amendments on July 22, 1914, the debate of the full Senate included a rather lengthy discussion of the meaning of Section 9. Senator Cummins had proposed an amendment of Section 9 that would have made it read as follows:

It shall be unlawful for any person to be, at the same time, a member of the board of directors, or other managing board, or an officer in two or more corporations, either of which is engaged in commerce, and which corporations are carrying on business of the same kind or competitive in character . . . .[31]

Senator Cummins' proposed language paralleled that of a bill he had introduced the previous year, which would have prevented corporations from engaging in interstate commerce if "there is, upon its board of directors or other managing board, any person who is upon the board of directors or other managing board of any other corporation carrying on a competitive business or a business of the same general character . . . ." [32]

Senator Cummins' remarks indicated his concern that the proposed language of Section 9 in the bill under debate added nothing to the existing antitrust laws. The most specific of his comments were as follows:

That means, practically, that if a consolidation of the corporations would be a violation of the antitrust law, then interlocking directors are made unlawful . . . .

If we have to prove that consolidation of the two corporations which are involved would be a violation of the antitrust law, we do not need any additional regulation of this sort. I want the regulation to go much farther and declare that if they are engaged in competition, if they are doing the same kind of business—and I am quite willing to take some form of language that expresses that idea—then there must not be this community of directors . . . .[33]

There was no specific discussion of the correctness of Senator Cummins' view. The debate that ensued simply reiterated the same objections that had been raised in committee hearings about the propriety of barring interlocking directorates at all: there were benefits to be gained from interlocking directorates.[34] The court in Sears and a commentator [35] on that case took the view that Cummins' remarks could not be regarded as an expression of the Senate's understanding of the interlocking directorate provision:

Senator Cummins was in the role of an advocate. His individual expression of views, clearly calculated to give weight to his contention as to the inadequacies of the proposed § 8 and gain support for his amendment, may not be considered as representative of the understanding of the members of the House and Senate as to the meaning of the "so that" clause.[36]

The meaning of the statutory language and the substantive significance of the rejection of Senator Cummins' proposed amendment seems far from clear from the record of the debates.

The Senate passed H.R. 15657 on September 3, 1914. Because of the amendments made to the bill by the Senate, the bill was the subject of conference committee consideration; the conference committee submitted its report on September 25. The Senate passed the Clayton Act on October 5, 1914; the House did the same on October 8. The report and the debates on the compromise bill did not deal with the problem of the "so that" clause.

D. The Problem of the Statutory Language as Seen by the Early Commentators

The language of the "so that" clause of Section 8 remained virtually the same from its introduction by Congressman Clayton until its enactment into law. As enacted, the provision prevented interlocking directorates among any two or more corporations

if such corporations are, or shall have been theretofore, by virtue of their business and location of operation, competitors, so that the elimination of competition by agreement between them would constitute a violation of any of the provisions of any of the antitrust laws.[37]

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[27] Id., pt. 2, at 8 (minority views of Mr. Graham).

[28] 111 F. Supp. 614 (S.D.N.Y. 1953).

[29] S. Rep. No. 698, 63d Cong., 2d Sess. 48 (1914). The Committee did make one technical change to the language of Section 9, without explanation: "so that an elimination of competition by agreement between them . " became "so that *the* elimination of competition by agreement between them."

[30] *Id.* at 1.

[31] Amendment to H.R. 15657 by Mr. Cummins (Aug. 25, 1914), *reprinted in* 51 Cong. Rec. 14,534 (Sept. 1, 1914).

[32] S. 1617, § 3(a), 63d Cong., 1st Sess. (1913).

[33] 51 Cong. Rec. 14,256.

[34] *See, e.g.*, 51 Cong. Rec. 14,535 (remarks of Mr. Hitchcock) (men of experience can help establish businesses in new areas); *id.* at 14,537 (remarks of Mr. Overman) (directors with special skill are useful to more than one corporation); *id.* at 14,538 (remarks of Mr. Smith, Mich.) ("dummy directors" can evade statutory provisions).

[35] *See* Note, Clayton Act Prohibition of Interlocking Directorates in Industrial or Commercial Corporations, 54 Colum. L. Rev. 130, 131 (1954) (dispassionate interpretation unlikely in individual expression supporting substitute measure).

[36] United States v. Sears, Roebuck & Co., 111 F Supp. 614, 619 (S.D.N.Y. 1953). The court in *Sears* conducted a rather extended examination of the meaning of the legislative history, and noted that no committee report supported Sen. Cummins' reading. *id.* at 618; no member of the Senate stated his agreement or disagreement which Sen. Cummins' belief that consolidation was the only means by which competiton might be eliminated within the meaning of § 8. *id.*; and that it was as likely as not that Cummings' interpretation was not in accord with the understanding of the other Senators, that they did not see the difficulty that he saw, and that they, therefore, rejected his amendment because they saw no need for it. *Id.*

[37] Clayton Act § 8, ch. 323, 38 State. 730 (1914), *current version at* 15 U.S.C. § 19.

The obvious problem in this language is that a violation of the antitrust laws may occur in two basic ways involving different analytic principles: it may occur by merger or other arrangement which is analyzed through a projection of probable competitive effects; or it may occur by price fixing, which is analyzed under what has become known as the *per se* approach. Thus, if two firms fixed prices, such an "elimination of competition" between them would always constitute a violation of the antitrust laws; these same two firms, however, might very well not violate any of the provisions of any of the antitrust laws if they were to "eliminate competition" by merger.

Commentators recognized the problem shortly after passage of the statute. Then-attorney John Marshall Harlan, in a 1916 treatise, gave this description of the statute's meaning:

> [T]he exception to the rule forbidding interlocking directorates as to corporations within the operation of the Clayton Law, other than banks, is very indefinite and uncertain. . . . This obviously makes the lawfulness of interlocking directorates created by two such corporations, depend finally upon an interpretation of the antitrust laws. If the two corporations, being otherwise within the terms of the Clayton Law, are competitors so that elimination of competition between them by agreement would violate any provision of the antitrust laws, they may not lawfully have interlocking directorates. Otherwise they may. It would be difficult to conceive a more uncertain and shifting standard of corporate conduct than this one, by which the question of what elimination of competition between two corporations by agreement would constitute a violation of the antitrust laws, is made the test of the lawfulness of an interlocking directorate between such corporations.[38]

An even more succinct description of the problem in Section 8 is contained in a classic 1924 treatise on the young Federal Trade Commission:

> The difficulty in applying the test lay in the fact that no one could state with assurance under what circumstance the elimination of competition by agreement would constitute a violation of the antitrust laws. It seemed to have been generally conceded, as we have seen, that if the agreement by which competition was eliminated comprised a transfer of property, and was made with a view to effecting economies, it was legal. There were dicta, on the other hand, that a bare agreement not to compete, without merger or sale, was illegal under any circumstances. Yet under the rule of reason, the test of illegality was the test of unreasonableness at common law, and by the weight of authority an agreement limiting competition between two concerns was not illegal at common law if they controlled between them so small a part of the field that it remained as a whole freely competitive. Since these agreements did not restrain the promissor entirely from carrying on his business, but merely limited "the mode or manner in which a trade is carried on," they were considered to be merely partial restraints, and to be lawful if reasonable and for good consideration. Yet in view of the dicta in the *Addyston Pipe* and *Dr. Miles Medical Company* cases, and of the emphatic opinion of the Chief Justice, it was not at all clear that this view of the common law would be carried over into the interpretation of the Sherman Law. It is unfortunate, to say the least, that the draftsmen of a statute designed to give clarity and definition to the law of restraints and monopolies, should have permitted the lawfulness of a common directorship to turn upon this highly controversial question.[39]

The ultimate result of this controversy, of course, was one that these commentors perhaps could not have fully appreciated: a rule-of-reason approach for some antitrust violations and a *per se* approach for others. The place of Section 8 liability within this spectrum of views was thus initially open to debate, but, as will be seen, the courts addressed these analytic questions in subsequent years. One answer they gave was that the "agreement" between interlocked directorates could be one contemplated by the price-fixing prohibitions of the Sherman Act—the only other antitrust law extant when the Section 8 language was written. And expressly, as the Commission observes in its opinion here, courts rejected the Section 7 analytic analogy on the basis of a reading of the complete history of both statutes. Moreover, the courts have added that no actual Sherman Act agreement need be demonstrated, since potential violations of the law could be curbed in their incipiency through an outright ban on interlocking directorates between competing corporations.[40] In a nutshell, the courts have taken the view that the statute simply means what it says: if an agreement between interlocked directors would violate *any* of the antitrust laws, the interlock is unlawful.

E. Subsequent Congressional Consideration

Two major studies [41] of interlocking directorates have been undertaken in Congress since 1914, neither of which addressed the problem of the statutory language of Section 8, but both of which affirm a strict congressional attitude towards statutory liability.

The first, a study conducted by the staff of the Antitrust Subcommittee of the House Judiciary Committee in 1965, noted the *Sears* case and stated that it "establishes the test that is applicable when the ["so that" clause] is defined."[42] This report also explained the scope of Section 8 as follows:

> The statute does not require a demonstration that competition in fact has been adversely affected. This provision seeks to avert a reduction in competition that exists between relatively large corporations. It is narrow in scope and is based on the virtually inescapable conclusion that meetings of directors under the conditions prohibited necessarily would impair the vigor of competition.[43]

The second congressional study was conducted by the staff of the Subcommittee on Reports, Accounting, and Management of the Senate Committee on Governmental Affairs.[44] The study described in detail the drawbacks and benefits of corporate interlocks,[45] and in its conclusion noted as follows:

> Such interlocking directorates among the Nation's very largest corporations may provide mechanisms for stabilizing prices, controlling supply and restraining competition. They can have a profound effect on business attempts to influence Government policies. They can impact on corporate decisions as to the type and quality of products and services to be marketed in the United States and overseas. They can influence company policies with respect to employee rights, compensation and job conditions. They can bear on corporate policies with respect to environmental and social issues and possibly, control the shape and direction of the Nation's economy.[46]

E. Applicable Judicial Precedent

As noted as the outset, Judge Weinfeld in the *Sears* case squarely faced the problem of the legislative history of Section 8, and found ample justification in that history to conclude that the purposes of the statute and the statutory language were susceptible of a "*per se*" approach. He reasoned that the "so that" clause was not a requirement

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[38] J. Harlan & L. McCandless, The Federal Trade Commission: Its Nature and Powers 20 (1916).

[39] G. Henderson, The Federal Trade Commission 38–39 (1924) (footnotes omitted).

[40] Such a broad proscription was applicable only to corporations other than banks and common carriers, which the Congress chose to regulate in a distinctly different manner. *See* BankAmerica Corp. v. United States, 51 U.S.L.W. 4685 (U.S. June 8, 1983).

[41] These do not include a study prepared by the Federal Trade Commission for Congress in 1950. *See* Report of the Federal Trade Commission on Interlocking Directorates, H.R. Doc. No. 652, 81st Cong., 2d Sess. (1950).

[42] Staff of the Antitrust Subcomm. of the House Comm. on the Judiciary, Interlocks in Corporate Management 59 (Comm. Print 1965).

[43] *Id.* at 26.

[44] Interlocking Directorates Among the Major U.S. Corporations, 95th Cong., 2d Sess. (Comm. Print 1978).

[45] *See Id.* at 3–9.

[46] *Id.* at 280–81.

that an anticompetive agreement between interlocked directorates be proved or that anticompetitive effects of an interlocking directorate be demonstrated. He emphasized instead the "preventative [sic] nature of Section 8".

> While the government does not charge that any such agreement has here been made or is contemplated, a director serving in a dual capacity might, if he felt the interests of an interlocking corporation so required, either initiate or support a course of action resulting in price fixing or division of territories or a combination of his competing corporations as against a third competitive corporation. The fact that this has not happened up to the present does not mean it may not happen hereafter.[47]

Judge (now Justice) Stevens, writing for the Court of Appeals for the Seventh Circuit in 1973 in *Protectoseal Co.* v. *Barancik*, 484 F. 2d 585 (7th Cir. 1973), embraced the reasoning of Judge Weinfeld. Likewise, the Court of Appeals for the Ninth Circuit endorsed the *Sears* standard in its recognition of the prophylactic nature of the statute:

> The purpose of Section 8 was "to nip in the bud incipient antitrust violations by removing the opportunity or temptation for such violations through interlocking directorates." [48]

This line of authority is one described by the dissenters as "sparse, conflicting, and indeterminative." In contrast, I believe the Commission's decision on liability in this case is grounded on solid precedent, itself based on a careful consideration of the legislative history of this statute. There is, to be sure, evidence in this history of a diversity of contending views, but the statute reflects a deliberate choice of strict antitrust liability amply ratified by subsequent judicial examination of the chosen statutory proscription. "We are bound to respect that choice; we are not to rewrite the statute based on our notions of appropriate policy." *BankAmerica Corp.* v. *United States*, 51 U.S.L.W. 4685, 4690 (U.S. June 8, 1983).

F. The de Minimis Commerce Issue

The dissenting opinion suspends its skepticism of judicial precedent in its reliance on a 1966 decision, *Paramount Pictures Corp.* v. *Baldwin Montrose Chemical Co., Inc.*, 1966 Trade Cas. (CCH) ¶71,678 (S.D.N.Y. 1966). That district court decision, which the Commission has acknowledged in its opinion, recognizes a *de minimis* exception.[49]

It seems odd to me that if it can be concluded that Section 8 has *per se* applicability, it can be conceded on the basis of any remaining legislative history that there adheres to the statute a *de minimis* commerce exception in addition to the express requirement that corporate respondents have at least $1 million in sales.

But the Commission did not have to bootstrap itself into its rejection of a *de minimis* commerce exception to liability in this case. In *TRW, Inc.* v. *FTC*, 647 F. 2d 942 (9th Cir. 1981), the court expressly disavowed such a defense. The dissenters argue only that the Ninth Circuit's judgment "was not necessary to the decision of the case," because the FTC opinion under review took the view that the *de minimis* competition issue did not really arise where the overlapping levels of commerce were as high as $1 million and $7 million. Of course, in the present case, the overlapping levels of commerce are $.9 to 1.1 million and $5.4 million, which fall into the same category as *TRW* (or, for that matter, *Protectoseal*, where the overlapping commerce did not exceed $1.5 million on either leg of the overlap). However, the court in *TRW* did not engage in a gratuitous disquisition on the law in this area; respondent TRW had argued on appeal that a *de minimis* defense applied to Section 8—an argument that the court rejected directly, but which the dissenters seek to resurrect here. The Commission, on the other hand, is merely following the precedent set (quite recently, in this instance) in its own *TRW* case—as indeed, it would be anomalous if it did not.

Conclusion

The dissent in this case argues for a sea change in the law applicable to interlocking directorates between competing corporations that would depart from the strict liability standard existing heretofore. The Commission has chosen in its opinion to eschew the dissenters' wish list, based on their convictions of appropriate antitrust policy, and to follow instead the well-posted road laid out by Section 8, its complete legislative history, subsequent congressional sentiment, and virtually all decided cases.

Issued: June 23, 1983.

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[47] *United States* v. *Sears, Roebuck & Co., 111 F. Supp. 614, 620 (S.D.N.Y. 1953).*

[48] *TRW, Inc.* v. *FTC*, 647 F. 2d 942, 946-47 (9th Cir. 1981), *citing United States* v. *Crocker National Corp.*, 422 F. Supp. 686, 703 (N.D. Cal. 1976).

[49] The Commission's opinion and the dissenters add the *Sears* case to *Paramount* as one recognizing a *de minimis* exception. In *Sears*, however, the court's treatment of "the *de minimis* principle" appears directed more to whether there was sufficient interstate commerce upon which federal jurisdiction could constitutionally be grounded. The dissenters acknowledge this point.

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16 CFR Part 305

Rules for Using Energy Costs and Consumption Information Used in Labeling and Advertising of Consumer Appliances Under the Energy Policy and Conservation Act; Ranges of Comparability for Furnaces

AGENCY: Federal Trade Commission.

ACTION: Rule related notice.

SUMMARY: Under the Federal Trade Commission's Appliance Labeling Rule, each required label or fact sheet for a covered appliance must show a range, or scale, indicating the range of energy costs or efficiencies for all models of a size or capacity comparable to the labeled model. These ranges show the highest and lowest energy costs or efficiencies for the various size or capacity groupings of the appliances covered by the rule. The Commission publishes the ranges annually in the **Federal Register** if the upper or lower limits of the range change by 15 percent or more from the previously published range. If the Commission does not publish a revised range, it must publish a notice that the prior range is still applicable for the next year.

The ranges of energy efficiencies for furnaces have not changed by as much as 15 percent since the last publication. Therefore, the ranges published on March 25, 1980 and April 17, 1980 remain in effect until new ranges are published.

EFFECTIVE DATE: August 4, 1983.

FOR FURTHER INFORMATION CONTACT: James Mills, 202-376-2891, or Lucerne D. Winfrey, 202-376-2805, Attorneys, Division of Enforcement, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: Section 324 of the Energy Policy and Conservation Act of 1975 (EPCA)[1] required the Federal Trade Commission to consider labeling rules for the disclosure of estimated annual energy cost or alternative energy consumption information for at least thirteen categories of appliances: (1) Refrigerators and refrigerator-freezers; (2) freezers; (3) dishwashers; (4) clothes dryers; (5) water heaters; (6) room air conditioners; (7) home heating equipment, not including furnaces; (8) television sets; (9) kitchen ranges and ovens; (10) clothes washers; (11) humidifiers and dehumidifiers; (12)

[1] Pub. L. 94-163, 89 Stat. 871 (Dec. 22, 1975).

central air conditioners; and (13) furnaces. Under the statute, the Department of Energy (DOE) is responsible for developing test procedures that measure how much energy the appliances use. In addition, DOE is required to determine the representative average cost a consumer pays for the different types of energy available.

On November 19, 1979, the Commission issued a final rule [2] covering seven of the thirteen appliance categories: Refrigerators and refrigerator-freezers, freezers, dishwashers, water heaters, clothes washers, room air conditioners and furnaces.

The rule requires that energy efficiency ratings or energy costs and related information be disclosed on labels, fact sheets and in retail sales catalogs for all covered products manufactured on or after May 19, 1980. Certain point-of-sale promotional materials must disclose the availability of energy cost or energy efficiency rating information. The required disclosures and all claims concerning energy consumption made in writing or in broadcast advertisements must be based on the results of the DOE test procedures.

Pursuant to § 305.8 of the rule, manufacturers submitted reports to the Commission by January 21, 1980. These reports contained the estimated annual cost or energy efficiency rating, derived from tests performed to the DOE test procedures, for all models of the seven categories of appliances. The reports also contained the model, the number of tests performed on each model, and the capacity of each model. From the information, the Commission compiled and published [3] ranges of comparability for each product, as required by § 305.10 of the rule.

Section 305.8(b) of the rule requires that manufacturers, after filing this initial report, shall report the same information annually be specified dates for each product type.[4] If an analysis of the new data indicates that the upper or lower limits of any of the ranges have changed by more than 15%, the Commission must, under § 305.10 of the rule, publish a revised version of the new range or ranges. Otherwise, the Commission must publish a statement that the prior range or ranges remain in effect for the next year.

The annual reports for furnaces have been received and analyzed and it has been determined that neither the upper nor lower limits of the ranges for this product category have changed by 15% or more since the initial publication of the ranges on March 25, 1980 and April 17, 1980.[5]

In consideration of the foregoing, the present ranges for furnaces will remain in effect for the next year.

List of Subjects in 16 CFR Part 305

Advertising, Energy conservation, Household appliances, Labeling, Reporting and recordkeeping requirements.

Authority: Sec. 324, Energy Policy and Conservation Act (Pub. L. 94–163) (1975), as amended by the National Energy Conservation Policy Act (Pub. L. 95–619) (1978) (42 U.S.C. 6294); Sec. 553, Administrative Procedure Act (5 U.S.C. 553).

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-21184 Filed 8-3-83; 8:45 am]

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[2] 44 FR 66466, 16 CFR Part 305 (November 19, 1979).

[3] 45 FR 13398 (March 3, 1980), 45 FR 19520 (March 25, 1980), 45 FR 26036 (April 17, 1980), 46 FR 3829 (January 16, 1981).

[4] Reports for clothes washers are due by March 1; reports for water heaters, room air conditioners and furnaces are due by May 1; reports for dishwashers are due by June 1; reports for refrigerators, refrigerator-freezers and freezers are due by August 1.

[5] 45 FR 19520, 45 FR 26036.

INTERNATIONAL TRADE COMMISSION

19 CFR Part 210

Procedures for Investigations Involving Requests for Temporary Relief—Investigations of Unfair Practices in Import Trade

AGENCY: International Trade Commission.

ACTION: Final rules.

SUMMARY: These rules amend Part 210 of the Commission's *Rules of Practice and Procedure*. Part 210 governs procedures to be followed in investigations of unfair acts and unfair methods of competition under section 337 of the Tariff Act of 1930, 19 U.S.C. 1337. The amendments clarify and modify the procedures for investigations involving requests for temporary relief pursuant to 19 U.S.C. 1337 (e) and (f).

Under prior Commission practice (19 CFR 210.20 (a)(2) and (a)(10)), the complainant set forth its request for temporary relief and any factual allegations underlying the claim in the complaint. The request and accompanying factual allegations were reviewed by the Commission prior to institution of the investigation. If the request and allegations were deemed sufficient under 19 CFR 210.11(a), the Commission defined the scope of the investigation to include a request for temporary relief pursuant to 19 CFR 210.12. After institution, the investigation was assigned to a presiding officer, who conducted any hearings required.

The amended rules change the prior practice by requiring the complainant to set forth the request for temporary relief and supporting allegations in a motion submitted concurrently with the complaint. The rules further provide for the filing of a formal response to the motion by any parties opposed to the issuance of temporary relief. As the amended rules make clear, the presiding officer assigned to the case, rather than the Commission, will review the sufficiency of the claim and allegations, and decide what action is appropriate.

EFFECTIVE DATE: August 4, 1983.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C., telephone 202–523–0311.

SUPPLEMENTARY INFORMATION: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties. Under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), the Commission has the authority to conduct investigations of alleged unfair acts and unfair methods of competition in import trade. Pursuant to § 337(e), the Commission may order the temporary exclusion of the articles under investigation, except under bond. 19 U.S.C. 1337 (e) and (f). The purpose of these amendments is to modify the procedures for section 337 investigations involving requests for temporary relief. The amendments are intended to formalize the procedures for resolving the issues presented and to provide respondents with a formal opportunity to respond to a request for temporary relief prior to any adjudicatory hearings.

Under prior Commission practice, the complainant set forth any allegations underlying its request for temporary relief in a complaint filed with the Commission under 19 CFR 210.20(a). Prior to institution of the investigation, the Commission reviewed the complaint, including any allegations regarding temporary relief, pursuant to 19 CFR 210.11(a). In certain instances, at complainant's request, the Commission

upon institution requested that the presiding officer issue an initial determination on temporary relief by a specific date.

After the Commission voted to institute an investigation, the Secretary to the Commission served the respondents with the complaint and notice of investigation (19 CFR 210.13). The respondents then had twenty (20) days from the date of service to respond to the allegations of the complaint, including any allegations regarding temporary relief. After the complaint, response, and discovery (if any), the presiding officer conducted a temporary relief hearing and issued an initial determination pursuant to § 210.53(b) of the Commission's rules. 47 FR 25134 (to be codified at 19 CFR 210.53(b)).

The amendments are intended to remedy problems that arose under prior Commission practice. At the institution stage, the Commission did not know either how many respondents would be contesting the allegations in the complaint or the substance and complexity of respondents' defenses. Thus, the Commission had to rely exclusively on complainant's allegations in evaluating the sufficiency of any statements regarding temporary relief. This was a particular problem when the Commission was being asked to order an initial determination on temporary relief by a specific date, since the respondents' views as to temporary relief and the presiding officers' availability to schedule a hearing were unknown. Thus, the Commission believes that the more appropriate procedure is to permit respondents to file a formal reply prior to consideration of the sufficiency of any allegations regarding temporary relief or any decision as to a hearing date. The presiding officer will review the motion and response, and will then be in a position to resolve any conflict in the positions of the parties.

Rule 210.20 is amended in paragraph (a)(10) which concerns requests for relief contained in the complaint. The paragraph is amended to include a reference to the new procedure by which requests for temporary relief must be made by way of separate motion as provided for in new § 210.24(e).

Rule 210.24, which concerns motions, is amended with the addition of a new provision to be codified at 19 CFR 210.24(e). This provision deals with motions for temporary relief and responses thereto. Under § 210.24(e)(1) a complaint must be accompanied by a motion for temporary relief, a memorandum of points and authorities, and supporting affidavits. The motion must set forth specific facts relating to (1) complainant's likelihood of success on the merits; (2) immediate and substantial harm to the domestic industry; (3) harm, if any, to the proposed respondents; and (4) the effect, if any, on the public interest as enuciated in section 337 (e) and (f) and 19 CFR 210.14. The Commission considers these four factors in evaluating requests for temporary relief. *See, e.g., Certain Apparatus for the Continuous Production of Copper Rod,* Inv. No. 337–TA–89, USITC Pub. No. 1132, April 1981, at 4.

Rule 210.24(e)(2) allows for motions for temporary relief to be filed after the institution of an investigation. Such a motion has the same requirements as a motion accompanying the complaint with the exception that a later motion has the additional requirement of showing extraordinary changed circumstances of which the moving party was not and could not have been aware at the time the complaint was filed.

Rule 210.24(e)(3) provides for responses to motions for temporary relief. This provision permits any party to file a response to the temporary relief motion. The response must set forth specific facts relating to (1) complainant's likelihood of success on the merits; (2) immediate and substantial harm to the domestic industry; (3) harm, if any, to the proposed respondents; and (4) the effect, if any, on the public interest. Time for responses to motions accompanying the complaint is twenty (20) days, the same time allowed for responses to the complaint itself. Motions brought after the institution of an investigation shall have a response time of ten (10) days after service of the motion, the same response time as for other motions. The presiding officer is given authority to alter response times according to the needs of particular circumstances. Responses must be accompanied by the same types of supporting materials, except that affidavits are required only where feasible.

Rule 210.13 which concerns service of the complaint has been amended to reference service of any accompanying motion for temporary relief.

Rule 210.14 which concerns Commission actions, public interest factor, and bonding has been amended to permit the presiding officer to consider and make appropriate findings in the initial determination regarding the effect, if any, that the issuance of the requested temporary relief would have on the public interest.

The Commission expects a complainant to come forward with specific facts supporting its entitlement to temporary relief. When there is no genuine issue of material fact and a party is entitled to summary determination as a matter of law, the Commission intends that the motion be summarily determined in accordance with 19 CFR 210.50.

The complainant carries the burden of establishing its entitlement to temporary relief. Similarlyy, the respondent, whenever possible, must present by affidavit facts essential to justify its opposition.

The Commission recognizes that in certain instances, parties may be unable to present certain essential facts in order to support or contest motions for temporary relief. In such instances, the presiding officer may permit discovery or make such other order as is just under the circumstances. Nevertheless, where the facts are readily available without discovery, the reasons given for the need for discovery are insufficient, or there is an appearance of improper or unjustified delay, the presiding officer may rule upon a motion without further discovery.

In accordance with the Regulatory Flexibility Act, it is hereby certified that these final rules will not have a significant economic impact on a substantial number of small entities. Adoption of these rules will make it less costly and time-consuming for all private parties, including small entities, to participate in Commission section 337 proceedings.

These rules were published as interim rules in the **Federal Register** of May 11, 1983 (48 FR 21112). Comments on the interim rules were requested by June 10, 1983. No comments were received. These final rules are identical to the interim rules published on May 11, 1983.

List of Subjects in 19 CFR Part 210

Administrative practice and procedure, Customs duties and inspection, Imports, Investigation.

PART 210—[AMENDED]

Part 210 is amended as set forth below:

Section 210.13 which concerns service of the complaint is revised as follow:

§ 210.13 Service of Complaint.

Each respondent named in the complaint, and other respondents as later discovered, shall be served by the Commission with a copy of the complaint and any accompanying motion for temporary relief, and notice instituting the investigation. The Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and such

other departments and agencies as the Commission considers appropriate, shall also be served with a copy of the complaint and any accompanying motion for temporary relief, and notice instituting the investigation. Service shall be effected upon institution of the investigation or as soon as possible after respondents are discovered.

Section 210.14(b) is revised as follows:

§ 210.14 [Amended]

* * * * *

(b) Unless otherwise ordered by the Commission or permitted by this subsection, the presiding officer shall not take evidence or other information or hear arguments from the parties and other interested persons with respect to the subject matter of paragraphs (a)(1), (a)(2), (a)(3), and (a)(4) of this section. However, with regard to settlements by agreement or consent order under § 210.51 (c) and (d), the parties may file statements regarding the impact of the proposed settlement on the public interest, and the presiding officer may in his discretion hear argument, although no discovery may be taken with respect to issues relating solely to the public interest. Thereafter, the presiding officer shall consider and make appropriate findings in the initial determination regarding the effect of the proposed settlement on the public health and welfare, competitive conditions in the U.S. economy, the production of like or directly competitive articles in the United States and U.S. consumers. With respect to initial determinations concerning temporary relief issued pursuant to § 210.53(b), the parties may file statements regarding the impact of the requested temporary relief on the public interest, and the presiding officer may hear argument regarding the public interest and thereafter in his initial determination make appropriate findings regarding the effect, if any, that the issuance of the requested temporary relief would have on the public interest, although no discovery may be taken with respect to issues relating solely to the public interest.

Section 210.20(a)(10) is revised as follows:

§ 210.20 [Amended]

(a) * * *

(10) Contain a request for relief sought. When the complaint contains a request for temporary relief pursuant to 19 U.S.C. 1337 (e) or (f) a separate motion for temporary relief shall accompany the complaint in accordance with § 210.24(e) of this part.

* * * * *

In § 210.24, a new paragraph (e) is added to read as follows:

§ 210.24 [Amended]

* * * * *

(e) *Motion for Temporary Relief.* Requests for temporary relief pursuant to 19 U.S.C. 1337 (e) or (f) shall be made through a motion under § 210.24(e) (1) or (2) of this part.

(1) *Motion accompanying complaint.* A complaint requesting temporary relief pursuant to § 210.20(a)(10) of this part shall be accompanied by a motion which sets forth complainant's request for temporary relief. The motion shall contain a detailed statement of specific facts bearing on:

(i) Complainant's probability of success on the merits;

(ii) Immediate and substantial harm to the domestic industry in the absence of the requested temporary relief;

(iii) Harm, if any, to the proposed respondents if the requested temporary relief is granted; and

(iv) The effect, if any, that the issuance of the requested temporary relief would have on the public interest.

The motion shall contain in addition a memorandum of points and authorities in support of the motion and affidavits executed by persons with knowledge of the facts specified in the motion. A motion for temporary relief accompanying a complaint shall be deemed filed on the date that the Commission institutes an investigation and shall be served with the complaint and notice of investigation in accordance with § 210.13 of this part.

(2) *Motions filed after institution of the investigation.* A motion for temporary relief may be filed after the institution of an investigation by the Commission. Such a motion shall contain a statement of specific facts, memorandum of points and authorities, and affidavits as required in § 210.24(e)(1), and a showing that extraordinary changed circumstances exist warranting temporary relief and that the moving party was not and with due diligence could not have been aware of the extraordinary changed circumstances at the time the complaint was filed.

(3) *Response to motion for temporary relief.* Any party may file a response to a motion for temporary relief. Responses shall be filed within twenty (20) days after the service of a motion accompanying the complaint and ten (10) days after service of a motion filed after the institution of an investigation, unless otherwise ordered by the presiding officer. The response shall contain:

(i) A statement which sets forth with particularity any objection to the motion for temporary relief;

(ii) A statement which sets forth with specificity facts bearing on:

(A) complainant's probability of success on the merits;

(B) immediate and substantial harm, if any, to the domestic industry in the absence of the requested temporary relief;

(C) harm, if any, to the proposed respondents if the requested temporary relief is granted; and

(D) the efect, if any, that the issuance of the requested temporary relief would have on the public interest.

(iii) A memorandum of points and authorities in opposition to the motion;

(iv) affidavits, where possible, executed by persons with knowledge of the facts specified in the response.

Issued: July 26, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21054 Filed 8-3-83; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

Truck Size Policy Statement; Modifications of Certain Interim Designated Highways; Correction

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Correction to modification of policy statement.

SUMMARY: This document corrects the interim designated highway network for the State of Idaho that appeared at pages 31589 and 31590 in the Federal Register of Friday, July 8, 1983 (48 FR 31589).

FOR FURTHER INFORMATION CONTACT: Mr. Sheldon G. Strickland, Office of Highway Planning, (202) 426-0153, or Mr. David C. Oliver, Office of the Chief Counsel, (202) 426-0825, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are 7:30 a.m. to 4:00 p.m. e.t., Monday through Friday, except legal holidays.

In FR Doc. 83-18489 appearing on page 31589 in the issue of Friday, July 8, 1983, correct the Idaho route designations to read as set forth below.

(23 U.S.C. 315; 49 CFR 1.48)

Issued on July 27, 1983.

R. A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

Appendix.—Other Qualified Highways

IDAHO

Posted route No.	From—	To—
ID 16	ID 44	Emmett.
ID 19	Wilder	Caldwell.
US 2	Sandpoint	Dover.
US 20	Oregon St. Line	I-84 Near Boise.
US 20	Mountain Home	Montana St. Line.
ID 22	ID 33	Dubois.
ID 24	Rupert	Shoshone.
ID 25	Jerome	I-84 Rupert.
US 26	Bliss	Blackfoot.
ID 27	Oakley	Paul.
ID 28	Mud Lake	Salmon.
US 30	US 95	I-84.
US 30	Nampa	I-84.
US 30	Bliss	Burley.
US 30	McCammon	Wyoming St. Line.
ID 33	US 20	Wyoming St. Line.
ID 34	Utah St. Line	Conda.
ID 39	American Falls	Blackfoot.
ID 40	I-15	Downey.
ID 41	I-90	Newport.
ID 44	I-84	Boise.
ID 46	Wendell	US 20.
ID 48	Roberts	Rigby.
ID 50	US 30	ID 25.
ID 51	Nevada St. Line	Mountain Home.
ID 53	Washington St. Line	US 95.
ID 55	Marsing	Eagle.
ID 64	Craigmont	Nez Perce.
ID 67	Mountain Home AFB	Mountain Home.
ID 74	US 93	Twin Falls.
ID 75	Shoshone	Ketchum.
ID 77	Declo	I-84.
ID 78	Marsing	ID 51.
ID 79	Jerome	South.
ID 81	Malta	Burley.
ID 87	US 20	Montana St. Line.
US 89	Utah St. Line	Montpelier.
US 91	Utah St. Line	I-15.
US 91	Pocatello	I-15 Bus.
US 93	Nevada St. Line	Shoshone.
US 95	Homedale	Wieser.
US 95	Grangeville	Moscow.
US 95	Coeur d'Alene	Bonners Ferry.
I-15 Bus	I-15	Idaho Falls.
I-84 Bus	I-84	Mountain Home.

[FR Doc. 83-21187 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 205, 207, 213, 221, 232 and 244

[Docket No. R-83-1065]

Mortgage and Loan Insurance Programs Under the National Housing Act; Creation of Inferior Liens to Secure Governmental Loans

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

ACTION: Interim rule.

SUMMARY: This rule amends certain of HUD's multifamily and related mortgage insurance regulations to facilitate the use of grants or loans by Federal, State, and local governmental agencies or instrumentalities in connection with the development of projects with FHA mortgage insurance. Specifically, the rule would permit liens inferior to the insured mortgage where needed to secure the Federal, State, or local loan. The rule also provides that, where the proceeds of such a loan or grant are to be used as "front money" to assure completion of the project and the payment of expenses incident to its construction, "front money" deposit requirements for these purposes may be satisfied by a letter of credit or an agreement among the relevant parties rather than by cash, and insured mortgage proceeds may be advanced to cover these expenses before full disbursement of the loan or grant proceeds.

DATES: Effective Date: October 10, 1983. Comments must be received by October 3, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Communications should refer to the above docket number and title. A copy of each communication submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Linda D. Cheatham, Director, Multifamily Technical Support Division, Office of Multifamily Housing Development, 451 Seventh Street, SW., Washington, D.C. 20410; (202) 426-7113. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: This rule makes several changes in the regulations contained in 24 CFR Chapter II, Subchapter B, that govern certain multifamily and nonresidential mortgage insurance programs under the National Housing Act. The changes are designed to facilitate the use of grants and loans by Federal, State, and local governmental agencies or instrumentalities in connection with the development of projects whose mortgages are insured under those authorities. Affected programs include those under Part 205, Mortgage Insurance for Land Development (Title X); Part 207, Multifamily Housing Mortgage Insurance; Part 213, Cooperative Housing Mortgage Insurance; Part 220, Urban Renewal Mortgage Insurance and Insured Improvement Loans; Part 221, Low Cost and Moderate Income Mortgage Insurance; Part 231, Housing Mortgage Insurance for the Elderly; Part 232, Nursing Homes and Intermediate Care Facilities Mortgage Insurance; Part 234, Condominium Ownership Mortgage Insurance; and Part 244, Mortgage Insurance for Group Practice Facilities (Title XI).

First, the regulations are amended as appropriate to permit liens inferior to the lien of the insured mortgage if they are given in favor of the Federal, State, or local governmental agency or instrumentality under circumstances approved by HUD. Section 221.520(b) presently permits inferior liens if they are given in favor of an agency of the United States. The interim rule extends this policy to other sections of the regulations, and expands it to permit inferior liens to be given in favor of State and local governments. The rule, however, limits the source of funds for repayment of the indebtedness secured by the lien to surplus cash or residual receipts. This limitation is intended to make clear that repayment of this indebtedness cannot be included as part of a project's operating expenses.

Second, the rule relaxes the "front money" requirements in the regulations, if it is provided by a grant or loan from a government instrumentality. "Front money" is the money needed, in addition to the mortgage proceeds, to ensure completion of a project, and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the construction of the project. Under the existing regulations, "front money" must be fully disbursed before the disbursement of any project mortgage proceeds. The interim rule revises those regulations so that "front money," if it is provided by a government grant or loan, does not have to be advanced before the distribution of the mortgage proceeds.

This change is intended to facilitate the use of government financing in connection with FHA projects and to help reduce the overall costs to Federal, State, and local government of providing loan or grant funds. Loans and grants made by local governments are provided in large measure from this Department's Community Development Block Grant (CDBG) and Urban Development Action Grant (UDAG) programs. To the extent these—as well as State or local programs—are funded through government borrowing, interest expenses are incurred. By delaying the time that the proceeds of these grants and loans must be disbursed, these expenses can be minimized.

Where a governmental grant or loan is to be used as "front money," the rule would relax the regulatory requirement that the "front money" be in cash. Instead, the rule permits mortgagees to accept an agreement among HUD, the governmental agency or instrumentality, the mortgagee, and the mortgagor. (See § 207.19(c)(7)). Among other things, the agreement requires the mortgagor to post either a cash escrow or a letter of credit equal to no less than 10 percent of the grant or loan proceeds, to be used in the event the government instrumentality fails to advance the grant or loan proceeds in a timely manner.

Finally, the rule specifies that the mortgagee of record may not be the issuer of a letter of credit used in connection with the insurance of advances for the programs covered by the rule without the prior written consent to the Commissioner. Currently, HUD permits mortgagees to issue letters of credit to themselves where the mortgagee has obtained a waiver from HUD of the provisions of the Mortgagee's Certificate which forbid this arrangement. The rule continues this practice, but expressly provides for its use in the regulations.

The Secretary has determined that because this rule is expected to have a beneficial effect and because the procedures permitted by the rule are expected to result in little, if any, increased risk to the FHA Insurance Fund, good cause exists for making this rule effective as soon after publication as possible. However, public comments are invited and will be considered in the adoption of a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order on Federal Regulation issued by the President on February 17, 1981. The rule does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United-States enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is a cost-saving measure with little, if any, adverse impact on small entities.

The Catalog of Federal Domestic Assistance program numbers are 14.112, 14.116, 14.125, 14.126, 14.127, 14.129, 14.134, 14.135, 14.137, 14.138, and 14.139.

This rule was listed as item H–45–81 in the Department's Semiannual Agenda of Regulations published on April 25, 1983 (48 FR 18060) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects

24 CFR Part 205

Community facilities, Land development.

24 CFR Part 207

Mortgage insurance, mobile homes.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Projects, Cooperatives.

24 CFR Part 232

Fire prevention, Health facilities, Loan programs–Health, Loan programs–Housing and community development, Mortgage insurance, Nursing homes, Intermediate care facilities.

24 CFR Part 244

Health facilities, Mortgage insurance.

Accordingly, the Department amends Chapter II of Title 24 CFR Parts 205, 207, 213, 221, 232 and 244 as follows:

PART 205—MORTGAGE INSURANCE FOR LAND DEVELOPMENT (TITLE X)

1. In § 205.87 paragraphs (a) (2) and (c) are revised to read as follows:

§ 205.87 Equity requirements.

(a) *Funds and finances—insured advances.* If the commitment provides for insurance of advances during construction, the following requirements shall be met:

* * * * *

(2) Before initial endorsement, the mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the project. The cash shall be held by the mortgagee under an appropriate agreement approved by the Commissioner requiring all such cash to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any mortgage money. If all or part of the funds required under this paragraph are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of such grant or loan funds, to pay the cost of such work, material or other charges and expenses. However, if any portion of these funds is to be provided by the mortgagor, that portion must be disbursed in full before the disbursement of the mortgage proceeds.

* * * * *

(c) *Letter of credit or agreement.* The mortgagee may accept, in lieu of a cash deposit required by paragraphs (a)(1) and (3) of this section, an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. If all or part of the funds required under paragraph (a)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the mortgagee may accept for the portion so provided, in lieu of the cash deposit required by paragraph (a)(2), either an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution or an agreement, as described in § 207.19(c)(7), which shall be entered into by HUD, the governmental agency or instrumentality, the mortgagor and the mortgagee. The mortgagee of record may not be the issuer of any letter of credit referred to in this paragraph without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance under the letter of credit.

PART 207—MULTIFAMILY HOUSING MORTGAGE INSURANCE

2. In § 207.9, the existing paragraph is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 207.9 Covenant against liens.

* * * * *

(b) The covenant required under paragraph (a) of this section shall not apply where a lien inferior to the lien of the insured mortgage is given in favor of a Federal, State or local governmental agency or instrumentality under such circumstances as may be approved by the Commissioner, provided the source of funds for repayment of the inferior lien is limited to surplus cash or residual receipts.

3. In § 207.19, paragraphs (c)(2) and (c)(7) are revised to read as follows:

§ 207.19 Required supervision of private mortgagors.

* * * * *

(c) * * *

(2) Before initial endorsement, the mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the construction of the project. Such cash shall be held by the mortgagee in a special account or by an acceptable depository designated by the mortgagee under an appropriate agreement approved by the Commissioner requiring all such cash to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any mortgage money. If all or part of the funds required under this paragraph are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of such grant or loan funds, to pay the cost of work, material or other charges and expenses. However, if any portion of these funds is to be provided by the mortgagor, that portion must be disbursed in full before the disbursement of the mortgage proceeds.

* * * * *

(7) The mortgagee may accept, in lieu of a cash deposit required by paragraphs (c) (1), (3), (4) and (6) of this section, an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. If all or part of the funds required under paragraph (c)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the mortgagee may accept for the portion so provided, in lieu of the cash deposit required by paragraph (c)(2), either an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution, or an agreement which shall be entered into by HUD, the governmental agency or instrumentality, the mortgagor and the mortgagee. The agreement referred to in the preceding sentence shall provide that:

(i) HUD retains the right to approve construction advances after giving full consideration to any reported noncompliance by the governmental agency or instrumentality so long as HUD, as insurer of the first mortgage, determines that the project is proceeding in compliance with HUD-approved plans and specifications;

(ii) HUD will have the sole authority to resolve any significant disputes arising out of the inspection process and out of the disbursement of grant or loan proceeds;

(iii) The mortgagee will concurrently supply HUD and the governmental agency or instrumentality with copies of Form FHA 2448, Contractor's Requisition, and Form FHA 2403, Application for Insurance of Advances of Mortgage Proceeds;

(iv) The governmental agency or instrumentality will process the advance promptly and without adjustment;

(v) The governmental agency or instrumentality will receive a copy of the HUD-approved requisition for its records. Any adjustments required to the agency's or instrumentality's advance will be made in the following month;

(vii) The governmental agency or instrumentality will render or cause to be rendered a legal opinion that the agreement referred to in this paragraph and the grant or loan commitment is legally binding on the present and all future administrations; and

(viii) The mortgagor shall post either a cash escrow or an unconditional irrevocable letter of credit equal to no less than 10 percent of the grant or loan proceeds. The escrow or letter of credit shall be held by the mortgagee and drawn upon in the event the governmental agency or instrumentality fails to advance the grant or loan proceeds in a timely manner. Control of the funds in this escrow will be set forth in a separate escrow agreement.

The mortgagee of record may not be the issuer of any letter of credit referred to in this paragraph without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance under the letter of credit.

4. In § 207.23, paragraph (b) is revised to read as follows:

§ 207.23 Eligibility of property.

* * * * *

(b) The property constituting security for the mortgage must be held by an eligible mortgagor as herein defined and must, at the time the mortgage is insured, be free and clear of all liens other than that of such mortgage, except that the property may be subject to an inferior lien made or held by a Federal, State or local governmental agency or instrumentality as provided in § 207.9(b).

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

5. In § 213.12, the existing paragraph is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

§ 213.12 Convenant against liens.

* * * * *

(b) The convenant required under paragraph (a) of this section shall not apply where a lien inferior to the lien of the insured mortgage is given in favor of a Federal, State or local governmental agency or instrumentality under such circumstances as may be approved by the Commissioner, provided the source of funds for repayment of the inferior lien is limited to surplus cash or residual receipts.

6. In § 213.7, paragraphs (a) and (g) are revised to read as follows:

§ 213.27 Assurance of completion.

(a) Before initial endorsement, the mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the construction of the project. Such cash shall be held by the mortgagee in a special account or by an acceptable depository designated by the mortgagee under an appropriate agreement approved by the Commissioner requiring all such cash to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any mortgage money. If all or part of the funds required under this paragraph are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality,

mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of such grant or loan funds, to pay the cost of work, material or other charges and expenses. However, if any portion of these funds is to be provided by the mortgagor, that portion must be disbursed in full before the disbursement of mortgage proceeds.

* * * * *

(g) The mortgagee may accept, in lieu of a cash deposit requied by paragraphs (b), (c) and (e) of this section, an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. If all or part of the funds required under paragraph (a) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the mortgagee may accept for the portion so provided, in lieu of a cash deposit required by paragraph (a), either an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution or an agreement, as described in § 207.19(c)(7), which shall be entered into by HUD, the governmental agency or instrumentality, the mortgagor and the mortgagee. The mortgagee of record may not be the issuer of any letter of credit referred to in this paragraph without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance under the letter of credit.

PART 221—LOW COST AND MODERATE INCOME MORTGAGE INSURANCE

7. In § 221.520, paragraph (b) is revised to read as follows:

§ 221.520 Covenant against liens.

* * * * *

(b) The covenant required under paragraph (a) of this section shall not apply where a lien inferior to the lien of the insured mortgage is given in favor of a Federal, State or local governmental agency or instrumentality under such circumstances as may be approved by the Commissioner, provided the source of funds for repayment of the inferior lien is limited to surplus cash or residual receipts.

8. In § 221.540, paragraph (b) and (e) are revised to read as follows:

§ 221.540 Financial requirements.

* * * * *

(b) Before initial endorsement, the mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the construction of the project. Such cash shall be held by the mortgagee in a special account or by an acceptable depository designated by the mortgagee under an appropriate agreement approved by the Commissioner requiring all such cash to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any mortgage money. If all or part of the funds required under this paragraph are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of such grant or loan funds, to pay the cost of work, material or other charges and expenses. However, if any portion of these funds is to be provided by the mortgagor, that portion must be disbursed in full before the disbursement of the mortgage proceeds.

* * * * *

(e) The mortgagee may accept, in lieu of a cash deposit required by paragraphs (a), (c) and (d) of this section, an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. If all or part of the funds required under paragraph (b) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the mortgagee may accept for the portion so provided, in lieu of a cash deposit required by paragraph (b), either an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution or an agreement, as described in § 207.19(c)(7), which shall be entered into by HUD, the governmental agency or instrumentality, the mortgagor and the mortgagee. The mortgagee of record may not be the issuer of any letter of credit referred to in this paragraph without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance under the letter of credit.

9. In § 221.544, paragraph (b) is revised to read as follows:

§ 221.544 Eligibility of property.

* * * * *

(b) The property constituting security for the mortgage must be held by an eligible mortgagor as herein defined and must at the time the mortgage is insured be free and clear of all liens other than that of such mortgage, except that the property may be subject to an inferior lien, made or held by a Federal, State or local governmental agency or instrumentality as provided in § 221.520(b).

PART 232—NURSING HOMES AND INTERMEDIATE CARE FACILITIES MORTGAGE INSURANCE

10. In § 232.61, paragraphs (b)(2) and (d) are revised to read as follows:

§ 232.61 Equity requirements.

* * * * *

(b) * * *

(2) Before initial endorsement, the mortgagor shall deposit with the mortgagee cash deemed by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the construction of the project. The cash shall be held by the mortgagee under an appropriate agreement approved by the Commissioner requiring all such cash to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any mortgage money. If all or part of the funds required under this paragraph are to be provided through a grant or loan from a Federal, State, or local governmental agency or instrumentality, mortgage proceeds may, with the prior approval of the Commissioner, be advanced before the full disbursement of such grant or loan funds to pay the cost of work, material, or other charges and expenses. However, if any portion of these funds is to be provided by the mortgagor, that portion must be disbursed in full before the disbursement of the mortgage proceeds.

* * * * *

(d) *Letter of credit or agreement.* The mortgagee may accept, in lieu of a cash deposit required by paragraphs (a), (b)(1) and (b)(3) of this section, an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution. If all or part of the funds required under paragraph (b)(2) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the mortgagee may accept for the portion so provided, in lieu of a cash deposit required by paragraph (b)(2), either an unconditional irrevocable letter of credit issued to the mortgagee by a banking institution or an agreement, as described in § 207.19(c)(7), which shall be entered into by HUD, the governmental agency or instrumentality, the mortgagor and the mortgagee. The mortgagee of record may not be the issuer of any letter of credit referred to in this paragraph without the prior written consent of the Commissioner. If a demand under a letter of credit referred to in this paragraph is not immediately met, the mortgagee shall forthwith provide cash equivalent to the undrawn balance under the letter of credit.

11. In § 232.545, the existing paragraph is redesignated paragraph (a) and a new paragraph (b) is added to read as follows:

§ 232.545 Covenant against liens.

* * * * *

(b) The covenant required under paragraph (a) of this section shall not apply where a lien inferior to the lien of the insured mortgage is given in favor of a Federal, State or local governmental agency or instrumentality under such circumstances as may be approved by the Commissioner, provided the source of funds for repayment of the inferior lien is limited to surplus cash or residual receipts.

PART 244—MORTGAGE INSURANCE FOR GROUP PRACTICE FACILITIES (TITLE XI)

12. In § 244.85, paragraph (b) is revised to read as follows:

§ 244.85 Funds and finances—deposits and letters of credit.

* * * * *

(b) *Letter of credit.* Where a letter of credit is acceptable to the Commissioner in lieu of deposit of cash or securities, the letter of credit shall be unconditional and irrevocable. The letter of credit shall be issued to the mortgagee by a banking institution. The mortgagee of record may not be the issuer of the letter of credit without the prior written consent of the Commissioner. The mortgagee shall be responsible to the Commissioner for collection under the letter of credit. In the event a demand for payment under the letter of credit is not immediately met, the mortgagee shall forthwith provide a cash deposit equivalent to the undrawn balance of the letter of credit.

13. In § 244.90, paragraphs (a)(1) and (c) are revised to read as follows:

§ 244.90 Funds and finances—insured advances—general requirements.

(a) * * *

(1) An amount determined by the Commissioner to be sufficient, when added to the proceeds of the insured mortgage, to assure completion of the project and to pay the initial service charge, the carrying charges, and the legal and organizational expenses incident to the project. The deposit shall be in cash and shall be held by the mortgagee under an appropriate agreement approved by the Commissioner requiring all the cash to be disbursed for work and material on the physical improvements, and for other charges and expenses to be paid when due, before the advance of any mortgage money. If all or part of the funds required under this paragraph are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, mortgage proceeds may, with the prior written approval of the Commissioner, be advanced before the full disbursement of the mortgage proceeds.

* * * * *

(c) *Letter of credit or agreement.* The mortgagee may accept, in lieu of a cash deposit required by paragraph (a)(2) of this section, a letter of credit as provided in § 244.85(b). If the funds required under paragraph (a)(1) of this section are to be provided through a grant or loan from a Federal, State or local governmental agency or instrumentality, the mortgagee may accept, in lieu of a cash deposit required by paragraph (a)(1), either a letter of credit as provided in § 244.85(b) or an agreement, as described in § 207.19(c)(7), which shall be entered into by HUD, the governmental agency or instrumentality, the mortgagor and the mortgagee.

Authority: Section 211, National Housing Act (12 U.S.C. 1715b).

Dated: July 8, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-20952 Filed 8-3-83; 8:45 am]

BILLING CODE 4210-27-M

24 CFR Part 220

[Docket No. R-83-1088]

Mortgage Insurance and Insured Improvement Loans for Urban Renewal and Concentrated Development Areas; Eligibility Requirements

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

ACTION: Interim rule.

SUMMARY: HUD is amending its regulations to extend the eligibility criteria for Section 220 mortgage insurance. The amendment implements a statutory change which authorized the use of this mortgage insurance program in areas, designated by the Secretary, where concentrated housing, physical development, and public service activities are being carried out in a coordinated manner pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation. The interim rule amends the Section 220 single family and multifamily mortgage insurance regulations to reflect this change and to describe the matters that are to be addressed in the locally developed strategy for neighborhood improvement, conservation or preservation.

DATES: *Effective date:* October 10, 1983. Comments must be received by: October 3, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Bornscheuer, Insured Loan Processing Branch, Multifamily Housing Development, Room 6132, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6500; or John J. Coonts, Director, Single Family Development Division, Room 9270, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6720. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Section 311 of the Housing and Community Development Act of 1980 amended Section 220 of the National Housing Act to expand the range of areas in which the Secretary is authorized to insure mortgages under Section 220. These amendments to Part 220 implement those statutory changes with respect to both the Section 220 single family and multifamily mortgage insurance programs.

Section 220 was specifically designed to aid in the elimination of slums and blighted conditions and to prevent the deterioration of residential property by financing the construction or rehabilitation of projects and dwellings located in a federally approved urban renewal or code enforcement area or in an urban area undergoing rehabilitation as a result of a disaster. Currently, most urban renewal and code enforcement programs have been either substantially completed or closed out. Since the eligibility of the Section 220 program is limited to urban renewal and code enforcement areas under the current regulations, the proposed amendment would restore Section 220 as a viable development financing mechanism in areas designated by the Secretary where coordinated revitalization or conservation activities are undertaken.

Sections 220.5 and 220.502 have been amended to authorize the Secretary to insure mortgages under Section 220 in areas in which concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner. Those sections, as amended, also describe the elements of the locally developed strategy for neighborhood improvement, conservation, or preservation. The strategy must:

(1) Provide for a combination of physical improvements, necessary public facilities and services, housing programs, private investment and citizen self-help activities appropriate to the needs of the area;

(2) Coordinate public and private development efforts;

(3) Provide sufficient resources to produce substantial long-term improvements in the area within a reasonable period of time, taking into account the severity of the area's problems.

The field office will accept a request from local governments for designation of an area as an eligible area under § 220.5(e). The field offices' designation will be based on a determination that the locally developed strategy for neighborhood improvement, conservation or preservation meets the standards set out in these sections.

Conforming amendments have been made to §§ 220.10, 220.20 and 220.506.

Expanding the Secretary's authority to permit this financing mechanism in designated areas should result in an increase in the number of unsubsidized, FHA-insured projects and single family dwellings in these areas, thereby better serving moderate-to-middle income families. Additionally, insurance for project commercial and community facilities would be more broadly available. The existence of adequate means to finance housing for moderate-to-middle income families and commercial and community facilities serving a broader clientele is important to the overall success of local neighborhood revitalization efforts.

The Secretary has determined that it is in the public interest for this rule to become effective without prior public comment since this rule expands the availability of Section 220 mortgage insurance which is clearly beneficial to the affected public. However, public comments are invited and will be considered in the adopting of a final rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of the Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to Section 605(b) (the Regulatory Flexibility Act, 5 U.S.C. 601), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule makes changes which should be beneficial to all program participants including small entities.

This rule is listed at 48 FR 18060 as Item H–47–81 in the Department's Semiannual Agenda of Regulations published on April 25, 1983, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

(Catalog of Federal Domestic Assistance program number is 14.139)

List of Subjects in 24 CFR Part 220

Home improvements, Mortgage insurance, Urban renewal, Rental housing, Loan programs: housing and community development projects.

Accordingly, 24 CFR Part 220 is amended as follows:

1. In 24 CFR Chapter II, Part 220 is amended by revising the heading to read as follows:

PART 220—MORTGAGE INSURANCE AND INSURED IMPROVEMENT LOANS FOR URBAN RENEWAL AND CONCENTRATED DEVELOPMENT AREAS

2. In § 220.5, paragraph (b) is revised, paragraph (d) is amended by removing the period at the end of the text and by adding in its place a semicolon and the word "or" and a new paragraph (e) is added, to read as follows:

§ 220.5 Location of property.

* * * * *

(b) An urban renewal area (as defined in Title I of the Housing Act of 1949, as amended), or

* * * * *

(e) An area in which concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation. The locally developed strategy shall:

(1) Provide for a combination of physical improvements, necessary public facilities and services, housing programs, private investment and citizen self-help activities appropriate to the needs of the area;

(2) Coordinate public and private development efforts; and

(3) Provide sufficient resources to produce substantial long-term improvements in the area within a reasonable period of time, taking into account the severity of the area's problems.

3. Section 220.10 is revised to read as follows:

§ 220.10 Certificate by Secretary to Commissioner or Designation by Secretary.

(a) *Urban renewal area.* No mortgage may be insured in an area described in § 220.5 (a), (b) or (c) until a redevelopment or urban renewal plan has been approved for the area by the governing body of the locality involved and by the Secretary for Housing and Urban Development, and the Secretary has certified to the Commissioner that:

(1) The redevelopment plan or the urban renewal plan conforms to a general plan for the locality as a whole, and

(2) There exists the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan, or

(3) There exists an urban renewal plan as required for projects assisted under section 111 of the Housing Act of 1949, as amended, which plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements, and there exists the necessary authority and financial capacity to insure completion of such urban renewal plan.

(b) *Area with concentrated activities.* No mortgage may be insured in an area described in § 220.5(e) until the Secretary has designated the area as meeting the requirements of that section.

4. Section 220.20 is revised to read as follows:

§ 220.20 Dwelling units on property.

At the time the mortgage is insured, there shall be located on the mortgaged property a dwelling designed principally for residential use by not more than 11 families. Such dwellings may be connected with other dwellings by a party wall or otherwise. Any such dwelling located in an area described in § 220.5 (a), (b) or (c) shall be constructed or rehabilitated in accordance with an urban renewal plan approved by the Secretary.

5. In § 220.502, paragraph (d) is amended by removing the period at the end of the text and by adding in its place a semicolon and the word "or" and a new paragraph (e) is added to read as follows:

§ 220.502 Location of property.

* * * * *

(e) An area in which concentrated housing, physical development, and public service activities are being or will be carried out in a coordinated manner, pursuant to a locally developed strategy for neighborhood improvement, conservation or preservation. The locally developed strategy shall:

(1) Provide for a combination of physical improvements, necessary public facilities and services, housing programs, private investment and citizen self-help activities appropriate to the needs of the area;

(2) Coordinate public and private development efforts;

(3) Provide sufficient resources to produce substantial long-term improvements in the area within a reasonable period of time, taking into account the severity of the area's problems.

6. Section 220.503 is amended to read as follows:

§ 220.503 Certificate by Secretary to Commissioner or Designation by Secretary.

(a) *Urban renewal area.* No mortgage may be insured in an area described in § 220.502 (a), (b) or (c) until a redevelopment or urban renewal plan has been approved for the area by the governing body of the locality involved and by the Secretary of Housing and Urban Development, and the Secretary has certified to the Commissioner that:

(1) The redevelopment plan or the urban renewal plan conforms to a general plan for the locality as a whole, and

(2) There exists the necessary authority and financial capacity to assure the completion of such redevelopment or urban renewal plan, or

(3) There exists an urban renewal plan as required for projects assisted under section 111 of the Housing Act of 1949, as amended, which plan conforms to definite local objectives respecting appropriate land uses, improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements, and there exists the necessary authority and financial capacity to insure completion of such urban renewal plan.

(b) *Area with concentrated activities.* No mortgage may be insured in an area described in § 220.502(e) until the Secretary has designated the area as meeting the requirements of that section.

§ 220.506 [Amended]

7. In § 220.506, paragraph (d) is amended to read as follows:

* * * * *

(d) *Property Facilities.* The project shall be predominantly residential. It may include such nondwelling facilities as the Commissioner determines will contribute to the economic feasibility of the project and will be desirable and consistent with the urban renewal plan or, where appropriate, with the locally developed strategy for neighborhood improvement, conservation, or preservation. In approving such facilities, the Commissioner shall give due consideration to the possible effect of the project on other business enterprises in the community.

Authority: Section 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)); Section 220 of the National Housing Act (12 U.S.C. 1715k), as amended by Section 311 of the Housing and Community Development Act of 1980.

Dated: July 8, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-20953 Filed 8-3-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 9

[T.D. ATF-137; Ref: Notice No. 445]

Dry Creek Valley Viticultural Area

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Final rule, Treasury decision.

SUMMARY: This final rule establishes a viticultural area in Sonoma County, California, to be known as "Dry Creek Valley." This final rule is the result of a petition submitted by the Dry Creek Valley Association, Inc., an organization of grape/wine industry members in the viticultural area. The Bureau of Alcohol, Tobacco and Firearms (ATF) believes the establishment of this viticultural area and the subsequent use of the name Dry Creek Valley as an appellation of origin on labels and in advertisements will allow wineries to better designate the derivation of their wines and will enable consumers to better identify and differentiate the wines they may purchase.

EFFECTIVE DATE: September 6, 1983

FOR FURTHER INFORMATION CONTACT: Ed Reisman, Specialist; FAA, Wine and Beer Branch; Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION

Background

On August 23, 1978, ATF published Treasury Decision ATF-53 (43 FR 37672, 54624) revising regulations in Part 4, Title 27, CFR. These regulations provide for the establishment of definite

viticultural areas. They also allow the name of an approved viticultural area to be used as an appellation of origin on wine labels and in wine advertisements. On October 2, 1979, ATF published Treasury Decision ATF-60 (44 FR 56692) which amended Title 27, CFR, by adding a new Part 9 entitled "American Viticultural Areas." This part lists all American viticultural areas approved for use as appellations of origin.

An American viticultural area is defined in §§ 4.25a(e)(1) and 9.11 as a delimited grape-growing region distinguishable by geographical features. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. Under the procedures for proposing a viticultural area outlined in §§ 4.25a(e)(2) and 9.3(b), a petition must contain historical or current evidence that the proposed area is—

(a) Locally and/or nationally known by the name specified;

(b) Encompassed by appropriate boundaries; and

(c) Distinguishable by geographical features (climate, soil, elevation, physical features, etc.) which distinguish its viticultural features from surrounding areas.

ATF was petitioned by an organization of grape/wine industry members, the Dry Creek Valley Association, Inc., to establish a viticultural area in north central Sonoma County, California, to be known as "Dry Creek Valley." In response to the petition, ATF published in the **Federal Register** on January 12, 1983, a notice of proposed rulemaking (Notice No. 445, 48 FR 1315) concerning the establishment of the Dry Creek Valley viticultural area and solicited written comments from the public.

Comments

No comments were received during the comment period. ATF has received no information from any source indicating opposition to the establishment of the Dry Creek Valley viticultural area.

Dry Creek Valley Viticultural Area

(a) *General description.* The viticultural area is located in north central Sonoma County, California, northwest of the town of Healdsburg, in an arm of the Russian River Valley. This valley arm is 16 miles long and 2 miles wide at the widest point. It extends from the Dry Creek/Russian River confluence south of Healdsburg to the Warm Springs Creek/Dry Creek confluence east of the Warm Springs Dam. Approximately 20,500 acres (32 square miles) of the 80,000 acres (125 square miles) encompassed consists of the valley area. The remaining area consists of uplands immediately surrounding and to the west of the valley area.

(b) *Grape-growing.* There are approximately 5,000 acres planted to grapes. This acreage is situated primarily in the valley area. However, several vineyards recently developed in the upland areas are included in this figure. Grapes, primarily of the Zinfandel variety, have been grown in the area since the 1800's. Currently, there are 21 bonded wineries in this viticultural area.

(c) *Name.* The name Dry Creek Valley was documented by the petitioner as long being associated, both locally and nationally, with the area specified in the petition. The name is taken from Dry Creek, a tributary of the Russian River, the primary waterway in the viticultural area. Historically, the valley traversed by Dry Creek and the surrounding upland area have been referred to by the name Dry Creek Valley. This is substantiated by excerpts of articles from local and national publications written by 19th Century and contemporary authors. After evaluating the evidence, ATF believes the name Dry Creek Valley is the most appropriate name for the viticultural area.

(d) *Geographaical features.* The viticultural area is distinguishable from surrounding areas on the basis of geographical features. It is generally wetter, warmer, and has a longer growing season than the main Russian River Valley to the south. As a result of the moderating effect of fog on temperature, it is generally cooler than the area to the north. The valley area encompassed is distinguished on three sides by contact between the geologically younger alluvial material of the valley with the older indurated rock of the surrounding uplands. The uplands to the west of the valley extend to the watershed limits of the Dry Creek drainage area. Although the adjacent Alexander Valley to the east is viticulturally similar to Dry Creek Valley, these valleys are separated by uplands. The uplands are composed of a geologically unique, gravelly material known as Dry Creek Conglomerate which is found no where else in Sonoma County. After evaluating the evidence, ATF believes the above discussed geographical features, singly and in combination, serve to distinguish the Dry Creek Valley viticultural area from surrounding areas.

(e) *Boundaries.* The boundaries proposed by the petitioner are adopted. They differ slightly from those boundaries stated in the notice of proposed rulemaking because the petition was amended. ATF believes these boundaries delineate a grape-growing region distinguishable by geographical features that is known locally and nationally by the name Dry Creek Valley.

Miscellaneous

ATF is approving this area as being viticulturally distinct from surrounding areas. By approving the area, wine producers are allowed to claim a distinction on labels and in advertisements as to the origin of the grapes. Any commercial advantage gained can only be substantiated by consumer acceptance of Dry Creek Valley wines.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this final rule because no requirement to collect information is imposed.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this final rule because it will not have a significant economic impact on a substantial number of small entities. This final rule will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. This final rule is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of Section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this final rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this final rule is not a "major rule" within the meaning of Executive Order 12291 since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete

with foreign-based enterprises in domestic or export markets.

Disclosure

A copy of the petition and appropriate maps with the boundaries of the viticultural area marked are available for public inspection during normal business hours at the following location:

ATF Reading Room, Office of Public Affairs and Disclosure, Room 4405, Federal Building, 1200 Pennsylvania Avenue, NW., Washington, D.C.

Drafting Information

The author of this document is Ed Reisman, Specialist; FAA, Wine and Beer Branch; Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 9

Administrative practice and procedure, Consumer protection, Viticultural areas, Wine.

Authority

Accordingly, under the authority contained in Section 5 of the Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)), 27 CFR Part 9 is amended as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9, Subpart C, is amended by adding the title of § 9.64, reading as follows:

Subpart C—Approved American Viticultural Areas

Sec.

* * * * *

9.64 Dry Creek Valley.

Paragraph 2. Subpart C is amended by adding § 9.64, reading as follows:

Subpart C—Approved American Viticultural Areas

* * * * *

§ 9.64 Dry Creek Valley.

(a) *Name.* The name of the viticultural area described in this section is "Dry Creek Valley."

(b) *Approved maps.* The appropriate maps for determining the boundaries of the Dry Creek Valley viticultural area are six U.S.G.S. topographic maps. They are—

(1) "Geyserville Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1975);

(2) "Jimtown Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1975);

(3) "Healdsburg Quadrangle, California—Sonoma County," 7.5 minute series, 1955 (Photorevised 1980);

(4) "Guerneville Quadrangle, California—Sonoma County," 7.5 minute series, 1955;

(5) "Cazadero Quadrangle, California—Sonoma County," 7.5 minute series, 1978; and

(6) "Warm Springs Dam Quadrangle (formerly 'Skaggs Springs Quadrangle'), California—Sonoma County," 7.5 minute series, 1978.

(c) *Boundaries.* The Dry Creek Valley viticultural area is located in north central Sonoma County, California. From the beginning point lying at the intersection of latitude line 38 degrees 45 minutes and the east line of Section 4, Township 10 North (T. 10 N.), Range 10 West (R. 10 W.) on the "Geyserville Quadrangle" map, the boundary runs—

(1) Southeasterly in a straight line to the northeast corner of Section 9, T. 10 N., R. 10 W.;

(2) Then southerly along the east line of Section 9 to the southeast corner thereof;

(3) Then S. 74 degrees, E. 2,800 feet in a straight line to the northeasterly tip of a small unnamed lake;

(4) Then N. 57 degrees, E. 2,300 feet in a straight line to the southeast corner of Section 10, T. 10 N., R. 10 W.;

(5) Then S. 16 degrees, E. 1,800 feet in a straight line to the point on a peak identified as having an elevation of 664 feet;

(6) Then S. 55 degrees, E. 7,900 feet in a straight line to the most northerly point on the northeasterly line of "Olive Hill" cemetery lying on the easterly side of Canyon Road;

(7) Then southeasterly along the northeasterly line of "Olive Hill" cemetery to the most easterly point thereon;

(8) Then S. 2 degrees, E. 3,100 feet in a straight line to the point in the westerly fork of Wood Creek lying at the westerly terminus of a dirt road;

(9) Then southerly 3,000 feet along the west fork of Wood Creek to the point lying 400 feet north of the point on a peak identified as having an elevation of 781 feet;

(10) Then southerly 400 feet in a straight line to the point on a peak identified as having an elevation of 781 feet;

(11) Then S. 50½ degrees, E. 15,500 feet in a straight line to the point lying at the intersection of Lytton Creek and the township line common to T. 9 N. and T. 10 N. in R. 9 W.;

(12) Then southerly along the meanders of Lytton Creek to the point of intersection with Lytton Springs Road in T. 9 N., R. 9 W.;

(13) Then easterly along Lytton Springs Road to the point of intersection with U.S. Highway 101 (a.k.a. Redwood Highway) on the "Jimtown Quadrangle" map;

(14) Then southerly along U.S. Highway 101 to the point of intersection with an unnamed light duty road (known locally as Chiquita Road) on the "Geyserville Quadrangle" map;

(15) Then easterly along the unnamed light duty road to the point of intersection with an unnamed heavy duty road (known locally as Healdsburg Avenue) on the "Jimtown Quadrangle" map;

(16) Then southerly along the unnamed heavy duty road through the town of Healdsburg to the point of intersection with the Russian River on the "Healdsburg Quadrangle" map;

(17) Then southerly along the meanders of the Russian River to the confluence of Dry Creek;

(18) Then west-southwesterly 1,300 feet in a straight line to an unnamed light duty road (known locally as Foreman Lane);

(19) Then westerly along the unnamed light duty road, crossing West Dry Creek Road and passing Felta School, to the point of intersection with Felta Creek on the "Guerneville Quadrangle" map;

(20) Then southwesterly 18,000 feet along the meanders of Felta Creek to the point lying at the intersection of three springs in T. 8 N., R. 10 W., approximately 300 feet east from the word "Springs";

(21) Then S. 58 degrees, W. 15,000 feet in a straight line to the southwest corner of Section 9, T. 8 N., R. 10 W.;

(22) Then northerly along the west line of Sections 9 and 4, T. 8 N., R. 10 W., continuing along the west line of Section 33, T. 9 N., R. 10 W. to the northwest corner thereof;

(23) Then westerly along the south line of Sections 29 and 30, T. 9 N., R. 10 W. to the southwest corner of Section 30 on the "Cazadero Quadrangle" map;

(24) Then northerly along the west line of Sections 30 and 19, T. 9 N., R. 10 W. to the northwest corner of Section 19;

(25) Then westerly along the south line of Section 13, T. 9 N., R. 11 W. to the southwest corner thereof;

(26) Then southwesterly 14,200 feet in a straight line to the northeast corner of Section 20, T. 9 N., R. 11 W.;

(27) Then westerly along the north line of Section 20 to the northwest corner thereof;

(28) Then northerly along the east line of Sections 18, 7, and 6, T. 9 N., R. 11 W., continuing along the east line of Sections 31, 30, 19, 18, 7, and 6, T. 10 N., R. 11 W. to the point of intersection with

latitude line 38 degrees 45 minutes on the "Warm Springs Dam Quadrangle" map; and

(29) Then easterly along latitude line 38 degrees 45 minutes to the point of beginning on the "Geyserville Quadrangle" map.

Signed: July 27, 1983.

Stephen E. Higgins,

Director.

Approved: July 18, 1983.

David Z. Bates,

Deputy Assistant Secretary (Operations).

[FR Doc. 83-21195 Filed 8-3-83; 8:45 am]

BILLING CODE 4810-31-M

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27 CFR Part 178

[T.D. ATF-138]

Designation of the Director With Certain Authorities in 27 CFR Part 178

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Treasury decision, final rule.

SUMMARY: This rule revises two sections of 27 CFR Part 178—Commerce in Firearms and Ammunition to replace the designation of the Regional regulatory administrator with the designation of the Director as the official with authority to make determinations as to whether a firearm is a curio or relic and to authorize the transfer of destructive devices, machine guns, and certain other firearms in interstate and foreign commerce.

EFFECTIVE DATE: These amendments become effective August 4, 1983.

FOR FURTHER INFORMATION CONTACT: Robert G. Hardt, Procedures Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7602).

SUPPLEMENTARY INFORMATION:

Background

The regulations contained in Part 178 of Title 27 relate to commerce in firearms and ammunition, including the procedural and substantive requirements relative to the interstate and foreign commerce in firearms and ammunition and the conduct of business or activity by licensees.

27 CFR 178.26 provides that a licensed collector may obtain a determination as to whether a particular firearm or ammunition is a curio or relic by submitting a written request for a ruling to the Regional regulatory administrator. Requests must be accompanied by a complete and accurate description of the firearm or ammunition, and such photographs, diagrams, or drawings necessary to enable a determination to be made; the submission of the firearm or ammunition for examination may also be required. Because of the technical nature of those determinations, and to ensure the uniformity of the responses, requests submitted to the Regional regulatory administrator for curio and relic determination are forwarded to Bureau Headquarters for examination by technical specialists and are approved by the Director or his delegate.

27 CFR 178.28 provides that the Regional regulatory administrator may authorize a person to transport in interstate or foreign commerce any destructive device, machine gun, or short-barreled rifle or shotgun if such transportation is reasonably necessary and is consistent with public safety and applicable State and local law. These requests are also routinely forwarded by the Regional regulatory administrators to Bureau Headquarters. Again, this assures that requests are responded to in a uniform manner and enables technical specialists to determine if a threat to public safety or a disabling State or local law exists.

Revising §§ 178.26 and 178.28 to designate the Director as the official with the authorities cited above will eliminate unnecessary steps in responding to requests submitted to the regional offices and will bring the sections into conformity with other similar provisions of the regulations.

Accordingly, 27 CFR 178.26 and 178.28 are revised to remove all references to the "Regional regulatory administrator," and to insert in place the title of "Director."

Administrative Procedure Act

Because the changes incorporated by this final rule are merely rules of agency organization, procedure, or practice and do not affect the rights of the public, it is hereby found to be unnecessary to issue this Treasury decision with notice and public procedure thereon under 5 U.S.C. 553(b) or subject to the effective date limitation of 5 U.S.C. 533(d).

Executive Order 12291

It has been determined that this final rule is not classified as a "major rule" within the meaning of Executive Order 12291, 46 FR 13193 (1981), because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to a final regulatory flexibility analysis (5 U.S.C. 604) are not applicable to this document, because it was not required to be preceded by a notice of proposed rulemaking under 5 U.S.C. 553. These regulations will not have a significant economic impact or compliance burden on a substantial number of small entities.

Drafting Information

The principal author of this Treasury decision is Robert G. Hardt of the Procedures Branch, Bureau of Alcohol, Tobacco and Firearms.

List of Subjects in 27 CFR Part 178

Administrative practice and procedure, Arms and munitions, Authority delegations, Customs delegations, Customs duties and inspection, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeitures, Transportation.

Authority and Issuance

Accordingly, under the authority contained in 18 U.S.C. 926 (82 Stat. 1214), the Director amends 27 CFR Part 178 as follows:

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Subpart C—Administrative and Miscellaneous Provisions

Paragraph 1. Section 178.26 is amended to remove the title "Regional regulatory administrator" wherever found and to insert in its place the title of "Director." As revised, § 178.26 reads as follows:

§178.26 Curio and relic determination.

A licensed collector who desires to obtain a determination whether a particular firearm or ammunition is a curio or relic shall submit a written request, in duplicate, for a ruling thereon to the Director. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm or ammunition, and such photographs, diagrams, or drawings as may be necessary to enable the Director to make his determination. The Director may require the submission to him, or to an officer designated by him, of the

firearm or ammunition for examination and evaluation. If the submission of the firearm or ammunition is impractical, the licensed collector shall so advise the Director and designate the place where the firearm or ammunition will be available for examination and evaluation.

Paragraph 2. Section 178.28 is amended to remove in the first sentence of paragraph (a) the words "The Regional regulatory administrator for the internal revenue region in which a person resides may authorize that * * *" and insert in its place the words "The Director may authorize a * * *"; and to remove elsewhere in paragraph (a) and in paragraph (b) the title "Regional regulatory administrator" and to insert in its place the title of "Director." As revised, § 178.28 (a) and (b) read as follows:

§ 178.28 Transportation of destructive devices and certain firearms.

(a) The Director may authorize a person to transport in interstate or foreign commerce any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle, if he finds that such transportation is reasonably necessary and is consistent with public safety and applicable State and local law. A person who desires to transport in interstate or foreign commerce any such device or weapon shall submit a written request so to do, in duplicate, to the Director. The request shall contain:

(1) A complete description and identification of the device or weapon to be transported;

(2) A statement whether such transportation involves a transfer of title;

(3) The need for such transportation;

(4) The approximate date such transportation is to take place;

(5) The present location of such device or weapon and the place to which it is to be transported;

(6) The mode of transportation to be used (including, if by common or contract carrier, the name and address of such carrier); and

(7) Evidence that the transportation or possession of such device or weapon is not inconsistent with the laws at the place of destination.

(b) No person shall transport any destructive device, machine gun, short-barreled shotgun, or short-barreled rifle in interstate or foreign commerce under the provisions of this section until he has received specific authorization so to do from the Director. Authorization granted under this section does not carry or import relief from any other statutory or regulatory provision relating to firearms.

* * * * *

Signed: July 6, 1983.

Philip L. McQuire,

Acting Director.

Approved:

Robert Powis,

Acting Assistant Secretary (Enforcement and Operations).

July 19, 1983.

[FR Doc. 83-21196 Filed 8-3-83; 8:45 am]

BILLING CODE 4810-31-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 872

Notice of Intent to Withdraw Unexpended State Abandoned Mine Land Reclamation Funds

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

ACTION: Rule related notice.

SUMMARY: The Office of Surface Mining is proposing to withdraw abandoned mine land reclamation (AMLR) funds allocated to the States of Georgia and Washington under the authority of Section 402(g)(2) of the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87 (SMCRA) and 30 CFR 872.11 of the Secretary's regulations. Both States have failed to adopt regulatory programs for active mining pursuant to Section 503 of SMCRA or reclamation plans for the restoration of lands previously degraded by past coal mining practices. Without these programs the States are ineligible to receive the State share allocation of AMLR funds collected within these States. Failure to expend these funds within the time limits allocated by SMCRA and the Secretary's regulations can result in the transfer of these funds to the Secretary's discretionary share for expediture in any eligible area of the country.

DATES: Comments on the proposed actions will be accepted until 5:00 p.m., August 19, 1983. Comments received after that time may not necessarily be considered nor included in the administrative record. These actions will be affective September 6, 1983.

ADDRESSES: Written comments must be mailed to: Administrative Record R&I-08, Office of Surface Mining, Room 5315-L 1951 Constitution Avenue NW., Washington, D.C. 20240 or hand carried to: Office of Surface Mining, Administrative Record R&I-08, Room 5315, 1100 L Street NW., Washington, D.C. 20005.

All comments, notices of public meetings and summaries of the meetings will be available for inspection in Room 5315, 1100 L Street NW., Washington, D.C. 20005.

FOR FURTHER INFORMATION CONTACT: Jim Fary, Division of Abandoned Mine Land Reclamation, 1951 Constitution Avenue NW., Washington, D.C. 20240, Telephone (202) 343-7921.

Public Meetings: Representatives of OSM will be available to meet between August 4, 1983 and August 19, 1983, at the request of members of the public, State representatives, industry officials, labor representatives and environmental organizations to receive advice and recommendations concerning these proposed actions.

OSM representatives will be available for such meetings from 9:00 a.m. to noon and 1:00 p.m. to 4:00 p.m. local time, Monday through Friday, excluding holidays. Summaries of each meeting will be prepared and made available for public review in Room 5315, 1100 L Street NW., Washington, D.C. 20005.

Persons wishing to meet with representatives of OSM during this time period may request a meeting at OSM's Washington, DC Office or at the Casper or Birmingham Field Offices. Persons to contact to schedule such meetings are as follows:

Jim Fary, Division of Abandoned Mine Land Reclamation, 1951 Constitution Ave. NW., Washington, D.C. 20240; (202) 343-7921.

John Davis, Birmingham Field Office Director, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 34209; (205) 254-0890.

William Thomas, Casper Field Office Director, P.O. Box 1420, 935 Pendell Blvd., Mills, Wyoming 82644; (307) 261-5776.

SUPPLEMENTARY INFORMATION: The Abandoned Mine Land Fund was established by the Surface Mining Control and Reclamation Act of 1977 in response to concern over extensive environmental damage caused by past coal mining activities. The Abandoned Mine Land Fund derives its financing from Title IV of the Act which establishes a fee on coal production for the purpose of financing specified Federal, State, and Indian reclamation programs. Programs funded by Congressional appropriations include grants to States and Indian tribes to plan and carry out reclamation programs and projects, Federal Reclamation projects carried out by the

Secretary of Interior through OSM, and the Rural Abandoned Mine Program (RAMP) administered by the Secretary of Agriculture and carried out by the Soil Conservation Services. Lands and water eligible for reclamation are those that were mined or affected by mining and abandoned or left in an inadequate reclamation status prior to August 3, 1977, and for which there is no continuing reclamation responsibility under State or Federal law.

Title IV of SMCRA provides that fifty percent of the AMLR funds collected within a State or on Indian lands are to be allocated to that State or Indian tribe to accomplish the purposes of this title. "Allocate" means the administrative identification in the records of OSM of moneys in the Fund for a specific purpose, e.g., identification of moneys for exclusive use by a State.

States and tribes are eligible to receive such allocated funds only after they have received approved regulatory programs pursuant to Section 503 of the Act and approved reclamation plans under Section 405. If allocated funds have not been expended within three years of their allocation by the States or Indian tribes, Section 402 of the Act provides the Secretary authority to withdraw such funds from the States accounts and utilize them in any eligible area of the country.

On June 30, 1982, OSM published revised final regulations concerning the implementation and administration of the Abandoned Mine Land Program. 47 FR 28574. Under 30 CFR 872.11(b)(2), OSM set out two procedures concerning the withdrawal of allocated but unexpended State or Indian tribal funds. First, if a State advises OSM in writing that it does not intend to submit a State reclamation plan, no moneys will be allocated to that State. Secondly, amounts allocated to a State that have not been granted to the State within three years from the date of allocation shall be available to the Director for other purposes as set out in 30 CFR 872.11(b)(5) and Section 401(c) of the Act.

Currently, $12,915 and $3,996,600 have been administratively allocated to the States of Georgia and Washington respectively. The State of Georgia has formally notified OSM in writing on September 8, 1981, that it does not wish to assume regulatory responsibility over surface mining. According the Director is proposing to transfer all funds allocated to that State to the Secretary's discretionary share pursuant to the authority in Section 402 and 412(a) of the Act and 30 CFR 872.11(b)(2) of the Secretary's regulations.

The State of Washington, on the other hand, has never formally advised OSM in writing concerning its intentions not to regulate surface mining and reclamation operations. However, since the State has not made reasonable efforts to assume primacy over these areas and thereby become eligible for AMLR grants, the Director is proposing to withdraw all State AMLR funds which have been allocated but left unexpended for more than three years.

Dated: July 27, 1983.

James R. Harris,

Director, Office of Surface Mining.

[FR Doc. 83-20685 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 219

[DoD Directive 3216.2]

Protection of Human Subjects in DoD-Supported Research

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule is being issued in compliance with Department of Health and Human Services Regulation, "Protection of Human Subjects," (45 CFR Part 46) and the Food and Drug Regulation (21 CFR, Subchapters A, D, and H). It establishes policy, assigns responsibility and specifies authority for protecting the rights and welfare of humans used as subjects in DoD-supported research, development, test, and evaluation and clinical investigation activities performed by either DoD Components or non-DoD contractors or grantees.

EFFECTIVE DATE: This rule was approved and signed by the Secretary of Defense, January 7, 1983, and is effective as of that date.

FOR FURTHER INFORMATION CONTACT: Captain J. Vorosmarti, MC, USN, Office of the Under Secretary of Defense for Research and Engineering, The Pentagon, Room 3D129, Washington, D.C. 20301, telephone 202-697-8535.

SUPPLEMENTARY INFORMATION:

1. This rule does not impose a burden under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

2. This rule is not subject to the requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*

3. Although exempt under section 1.(a)(2) of E.O. 12291, the Department of Defense does not consider this rule to be a major rule under section 1.(b), E.O. 12291.

List of Subjects in 32 CFR Part 219

Civil rights, Government contracts, Research, Safety.

Accordingly, 32 CFR is amended by adding Part 219, reading as follows:

PART 219—PROTECTION OF HUMAN SUBJECTS IN DOD-SUPPORTED RESEARCH

Sec.

219.1 Purpose.
219.2 Applicability and scope.
219.3 Definition.
219.4 Policy.
219.5 Responsibilities.
219.6 Procedures.
219.7 Information requirements.

Authority: 5 U.S.C. 301, sec. 474(a).

§ 219.1 Purpose.

This rule, under 45 CFR Part 46 and 21 CFR Parts 1–82, 300–460, and 800–895 establishes policy; assigns responsibilities; and specifies authority for protecting the rights and welfare of humans used as subjects of study in DoD-supported research, development, test, and evaluation (RDT&E) and clinical investigation activities (hereafter referred to as "research").

§ 219.2 Applicability and scope.

(a) This rule applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, the Defense Agencies, and the Uniformed Services University of the Health Sciences (USUHS) (hereafter referred to as "DoD Components") and to contractor or grantee activities supported by the Department of Defense.

(b) Its provisions encompass the following:

(1) Clinical investigations as established by DoD Directive 6000.4, bio-medical research, and behavioral studies.

(2) RDT&E involving new drugs, vaccines, biologicals, or investigational medical devices.

(3) Inclusion of human subjects, whether as the direct object of research or as the indirect object of research involving more than minimal risk in the development and testing of military weapon systems, vehicles, aircraft, and other materiel. The determination of whether a research protocol involves more than minimal risk shall be made by review committees established in accordance with § 219.6, below. Nothing in this rule is intended to supersede requirements for health hazard or other

safety reviews required by other DoD issuances or other DoD Component regulations.

(c) Its provisions do not apply to epidemiological surveys that are of no more than minimal risk as set forth in the human protection regulations issued by the Department of Health and Human Services (45 CFR Part 46).

(d) Nothing in this rule is intended to limit the authority of a health care practitioner to provide emergency medical care under applicable law of the jurisdiction in which the care is provided or of commanders in the discharge of assigned duties or responsibilities.

§ 219.3 Definitions.

Terms used in this rule are as defined in 45 CFR Part 46 except for the following:

(a) *Human Subject.* A living individual about whom an investigator conducting research obtains data through interaction with the individual, including both physical procedures and manipulations of the subject or the subject's environment. The term does not include military or civilian personnel who are qualified to test by assignment to duties that call specifically for such qualifications such as test pilots and test engineers.

(b) *Non-U.S. Citizens.* Foreign nationals, excluding, for the purposes of this rule, personnel on active duty.

(c) *Research.* A systematic investigation as described in § 219.2(b) (1), (2) and (3), above, that is designed to develop or contribute to generalizable knowledge. The term does not include individual or group training of military personnel such as combat readiness, effectiveness, proficiency, or fitness exercises.

§ 219.4 Policy.

(a) It is the policy of the Department of Defense that:

(1) The fundamental rights and welfare of human subjects in research funded by DoD Components shall be protected to the maximum extent possible. This protection is meant to encompass basic respect for human dignity and to protect subjects from actual harm. Responsibility for the protection of human subjects is a command responsibility.

(2) Except as provided elsewhere in this rule the human protection regulations issued by the Department of Health and Human Services (45 CFR Part 46) shall apply to research supported by the Department of Defense.

(3) Contractors or grantees (and elements of DoD Components) holding an assurance of compliance with the Human use regulations of the Department of Health and Human Services (45 CFR Part 46) shall be considered in compliance with the terms of this rule. In the absence of such an assurance, a special assurance that meets the minimum requirements of 45 CFR Part 46 shall be negotiated between the contractor or grantee and the DoD Component concerned.

(4) Only persons who are informed fully and voluntarily agree to participate may be used as human subjects in research. The only exception to the policy is that consent to participate may be obtained from a legal representative of the subject when the measures used are intended to be beneficial to the subject.

(i) In research conducted outside the United States involving non-U.S. citizens as human subjects, the laws, customs, and practices of the country in which the research is conducted, or those required by this rule, whichever are more stringent, shall take precedence. The research shall meet the same standards of ethics and safety that apply to research conducted within the United States involving U.S. citizens.

(ii) The use of prisoners of war as human subjects of research is prohibited.

(5) For any research involving human subjects, a medical monitor shall be appointed by name if the approving official determines that the risk is more than minimal.

(b) Requests for exceptions to policy as stated above shall be submitted with full justification to the Under Secretary of Defense for Research and Engineering (USDR&E) by heads of DoD Components.

§ 219.5 Responsibilities.

(a) The *Under Secretary of Defense for Research and Engineering*, or designee, shall:

(1) Develop policies in coordination with the Assistant Secretary of Defense (Health Affairs) (ASD(HA)) to protect human subjects in DoD-funded research.

(2) Coordinate DoD Component activities in the protection of human subjects.

(3) Serve as the point of contact within the Department of Defense and act as the principal DoD liaison with civil or federal agencies outside the Department of Defense on matters pertaining to protection of humans in research.

(4) Serve as the final DoD approval authority for all research involving actual exposure of human subjects to nuclear weapons effect or chemical warfare agents.

(b) The *Assistant Secretary of Defense (Health Affairs)* shall:

(1) Provide policy guidance regarding medical safety and standards of professional medical care and conduct as they relate to the use of humans in research.

(2) Serve as the DoD representative on matters relating to implementation of Food and Drug Administration (FDA) regulatory requirements.

(c) The *Heads of DoD Components*, or designees, shall:

(1) Protect the rights and welfare of human subjects in research sponsored or conducted by or among the members of the respective DoD Components.

(2) When more than one DoD Component is involved, determine primary responsibility based upon consideration of whether the subjects are inpatients or outpatients of a DoD medical treatment facility (MFT); whether the research is conducted in-house or by contract; or whether the prospective human subjects are members of a DoD Component.

(i) When the research, regardless of in-house or contract status, involves use of patients of a DoD MTF, the Component to which the MTF belongs organizationally shall have primary responsibility, except as provided in § 219.5(e).

(ii) For research not involving the use of patients at a DoD MTF, primary responsibility rests as follows:

(A) If the research is done on grant or contract, primary responsibility rests with the DoD Component providing funds.

(B) If the research is conducted in-house, primary responsibility rests with the DoD Component to which the principal investigator is assigned.

(C) If the research is not funded by a DoD Component and there is no DoD principal investigator, primary responsibility rests with the DoD Component to which the prospective human subject is assigned.

(3) Establish procedures to maintain adequate documentation of human subjects used in research, including resulting adverse reactions.

(4) Establish procedures for responding to reports of improper use of human subjects.

(5) Establish review committees as provided for in § 219.6(b), below.

(d) The *Secretaries of the Military Departments* shall approve in-house and contract research involving human subjects, conducted at or funded by a DoD Component for which the Military Department has been designated executive agent. This responsibility includes research that is classified for

reasons of national security. When more than one Military Department is involved in the same research, the first review committee to which the research is submitted shall perform the human use review and make recommendations to the Military Department Secretaries concerned. Each Secretary may accept these recommendations or may require additional reviews.

(e) The *President, Uniformed Services University of the Health Sciences*, and the *Director, Defense Nuclear Agency (DNA)*, shall have primary responsibility for research by their respective DoD Components when the research does not also involve patients of a DoD MTF. The President, USUHS, shall have additional responsibility for research conducted in-house or by contract when the research involves patients of a DoD MTF or other U.S. Government health care facility, and USUHS directly funds the research, has received a grant or gift, or has received some other non-DoD form of support for the research. However, in these instances, the MTF review committee shall perform the human use review and make recommendations to the President, USUHS, and to the DoD Component or other U.S. Government institution concerned. The President, USUHS, may accept these recommendations or may require additional reviews.

§ 219.6 Procedures.

(a) *Delegation of Authority.*

(1) The Secretaries of the Military Departments are authorized to delegate all or part of their authority under § 219.5, above, within the military chain of command to the lowest level operating a human-subjects review process.

(2) In addition, the Secretaries of the Military Departments are authorized to make the determination that unique military requirements dictate the use of drugs or devices not officially approved by the FDA. The Secretaries of the Military Departments may delegate this authority to the respective Surgeons General or designees.

(3) The President, USUHS, may delegate the authority specified in § 219.5(e), above, to the Dean or Associate Deans.

(4) Requests for approval of the use of human subjects in research funded by DoD Components other than the Military Departments, DNA, and USUHS shall be submitted to the USDR&E for final determination.

(5) Authority not delegated above to specific officials is retained by the Secretary of Defense.

(b) *Review Committees.* Each official having approval authority for research involving human subjects shall establish one or more committees to provide initial and continuing review of the use of human subjects in such research.

(1) The review committee is similar functionally to the Institutional Review Board (IRB) established under 45 CFR Part 46. The IRB performs protocol review and protocol approval. Within the Department of Defense these functions are separated. Review committees exercise only protocol review and recommend approval, modification, or disapproval to an approving authority. Approval authority is vested in the approving official to whom the review committee reports.

(2) The review committee shall be constituted in accordance with 45 CFR Part 46 standards for IRBs and § 219.5(c)(5), above, with the following exceptions:

(i) The prohibition in 45 CFR Part 46 of all-male or all-female membership may be waived by the approving official when compliance is impractical.

(ii) The requirement in 45 CFR Part 46 for a nonaffiliated member may be met by appointment of a member of an institution or organizational unit not subject to the immediate authority of the approving official.

(iii) When the approving authority, or the review committee itself, has reason to believe a given proposal includes more than minimal risk, a physician shall be included as an *ad hoc* member of the committee (see also § 219.4(a)(5), above).

(iv) The approving official may not be a member.

(3) The review committee shall retain records of research reviewed for at least 3 years after the completion of the research, or at the option of the approving official, shall forward records to that official for longer retention.

(4) An approving official may not approve research for which the official is also a principal or coinvestigator. Such research shall be reviewed and approved at a higher echelon of command.

(5) Research that involves the use of human subjects may not be initiated until all necessary approvals and the informed consent of the subjects have been obtained.

(6) If a review committee recommends safeguards or special conditions to a protocol it is recommending for approval, the approving official may not reduce the safeguards or conditions upon approving the protocol. The approving official may require additional safeguards, may disapprove the protocol, or may refer it to a higher approving authority and review committee.

§ 219.7 Information requirements.

The memorandum of understanding between the FDA and the Department of Defense requires that the FDA be informed whenever the use of human subjects in new drug or device research that is classified for reasons of national security has been approved. The FDA also shall be informed when a determination has been made that unique military requirements dictate the use of drugs or devices that have not been approved by the FDA. Such notification also shall be provided to the USDR&E and ASD(HA).

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

July 29, 1983.

[FR Doc. 83-21280 Filed 8-3-83; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 1, 160, 161, and 165

[CGD 79-026]

Ports and Waterways Safety; Control of Vessel Operations and Cargo Transfers

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule will delegate to the Coast Guard District Commanders and Captains of the Port (COTP), the authority contained in the Ports and Waterways Safety Act (PWSA) (33 U.S.C. 1221 et seq.) to prohibit particular tankers from operating in the navigable waters of the United States or transferring cargo in a port or place subject to the jurisdiction of the United States when certain conditions exist. This rule will also clarify the existing regulations in Part 160 which authorize a COTP or a District Commander to issue orders or regulations controlling vessel operations. These regulations implement the PWSA and will result in better protection for U.S. ports and harbors from the effect of vessel casualties and oil spills.

EFFECTIVE DATE: This regulation is effective September 6, 1983.

FOR FURTHER INFORMATION CONTACT: Ensign Randy B. Strobridge, Project Manager, Office of Marine Environment and Systems (G-WWM-2), Room 1608, U.S. Coast Guard Headquarters, 2100 Second Street, S.W., Washington, D.C. 20593, (202) 426-4958.

SUPPLEMENTARY INFORMATION: On December 3, 1979, the Coast Guard published a notice of proposed rulemaking (44 FR 69306) and invited comments. Seven comments were received from industry and trade interests. These comments were addressed in a supplemental notice of proposed rulemaking, which was published on June 11, 1981 (46 FR 30835). The supplemental notice made some substantive changes in the proposed rule, and invited further comments. Eleven comments were received from representatives of industry and trade, as well as from within the Coast Guard. There was no request for a public hearing.

This final rule transfers Subpart A of Part 161, entitled "Notification of Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes," to Part 160, and redesignates it as Subpart C. The transfer was done for the purpose of aligning material which pertains to vessel requirements for notification with material which pertains to vessel and facility requirements. These regulations are currently undergoing an extensive review to determine whether some relaxation is appropriate. It is anticipated that changes will be proposed as a result of this review. These changes will be published as a notice of proposed rulemaking. The shift in location of these rules has been made solely as part of a reorganization of Subchapter P and should not be interpreted as an indication that suggested changes have been rejected.

Some sections of Parts 160 and 165 were reorganized for the purpose of clarity, and redundant provisions were eliminated. In addition, editorial corrections to the final rule for Part 165, published on July 8, 1982, 47 FR 29659, have been included. Among those corrections is the addition of section 165.801, Mississippi River Gulf Outlet, which was inadvertently omitted from the final rule.

Drafting Information

The principal persons involved in drafting this document are: Ensign Randy B. Strobridge, Office of Marine Environment and Systems, Project Manager, and Lieutenant Commander Brad Short, Office of Chief Counsel, Project Attorney.

Discussion of the Comments

Three comments were directed at § 160.111, Special orders applying to vessel operations. There was widespread acceptance of orders being viewed as temporary measures, however three specific commentors were concerned that the Coast Guard provide guidance on the issuance of orders regarding vessel operations to the districts and COTPs. The Coast Guard presently maintains the Marine Safety Manual (MSM), a multi-volume publication furnished to all districts and COTPs. Its purpose is to provide guidance for all Coast Guard personnel assigned to marine safety duties. However, each port possesses its own distinct characteristics, and the incidents which give rise to the issuance of temporary orders are likely to be unique. The scope of an order may depend on the particular circumstances than existing within that port. For these reasons, no specific guidelines delineating the situations in which a COTP Order may or may not be issued are practicable. Each Captain of the Port has been chosen for that position on the basis of his experience, and each is familiar with the particular characteristics which exist in his zone. Therefore no limits have been placed on the authority to issue temporary orders.

This rule's intent is that special orders applying to vessel operations under § 160.111 are to be directed at individual vessels. Orders are viewed as a temporary measure to cover a particular hazardous condition. Where necessary vessel control results from long term situations or problems of a continuing nature, that control would be handled through the required rulemaking process. In those instances where many vessels or a class of vessels may be affected by a temporary hazardous condition, such as flood conditions or a major vessel casualty, vessel operations in a port may be controlled by the use of a safety zone or other regulations issued on an emergency basis.

Most commentors were in agreement with the procedure for controlling vessel operating requirements (regulations). However, three commentors questioned the idea of delegating the authority to promulgate rulemaking down to the District Commander. The Coast Guard does not believe that decentralizing the authority to establish Regulated Navigation Areas will be injurious to the public interest. The Coast Guard believes that the District Commanders are more familiar with specific navigational problems within their respective areas. This delegation of authority would improve the regulatory process and promote overall marine safety. All Regulated Navigation Area rulemaking will follow the normal rulemaking process as defined in the Administrative Procedure Act. Appropriate Coast Guard Headquarters staff elements will continue to monitor the progress of Regulated Navigation Area rulemaking as it is published in the **Federal Register**. In this final rule, this delegation is contained in § 1.05 and § 165.11.

In the supplemental notice, the definitions of "Captain of the Port" and "District Commander" found at § 160.3 were amended by deleting the reference to "or that person's authorized representative." The preamble to that notice indicated that the authority contained in Part 160 would only be exercised by persons designated by the Commandant. Due to the readjustment of certain Captain of the Port (COTP) Zones, it has become necessary to designate the Commanding Officer, Marianas Section, as one of those persons who may also exercise the authority of a Captain of the Port.

Two commentors were concerned that the wording of the rule would allow any District Commander or Captain of the Port to exert authority over vessles in any port or place under the jurisdiction of the United States. This authority will be exercised only within the confines of the individual district or COTP zone.

Two commentors raised the issue of a vessel's operations being prohibited due to the "vessel's history". This is based on a specific statutory mandate in Section 9 of the PWSA, (33 U.S.C. 1228). The vessel history is derived from a computer printout from the Marine Safety Information System (MSIS). This system is a tool used by the COTP to assist him in making decisions regarding a vessel's operations. Whenever a vessel is denied entry or its operations prohibited based on MSIS information, affected persons may appeal under the procedures outlined in the appeal section of this rule.

Four commentors questioned the necessity of including in this rule personnel licensing and manning levels. Since these issues are the subject of other regulatory efforts and international initiatives, they have been deleted.

One commentor expressed concern over the fact that vessels in innocent passage do not have to comply with regulations issued under the PWSA. The commentor was specifically concerned that vessels in the Great Lakes, transiting from one Canadian port through U.S. waters to another Canadian port, would be exempt from the regulations by reason of innocent passage. In general, it is true that the Coast Guard is not authorized to subjec. vessels in innocent passage to controls. However, the Coast Guard does not agree that the transit described above qualifies as innocent passage. The waters of the Great Lakes and

connecting tributaries are internal waters of the United States and Canada, and are governed by the provisions of the Boundary Waters Treaty of 1909. This treaty essentially allows free and open navigation to the vessels of both countries equally, subject to the rules of safe navigation and protection of the environment, so long as they are applied equally and without discrimination. Rulemaking under the Ports and Waterways Safety Act is to insure safe navigation and protection of the environment and does not discriminate between U.S. and Canadian vessels.

Evaluation

This regulation has been evaluated under Executive Order 12291 and the Coast Guard has determined that this is not a major regulation. This regulation has also been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations", dated May 22, 1980, and has been determined to be nonsignificant. Because this amendment relates to the organization and delegation of authority within the Coast Guard, its impact will be minimal, and a full Evaluation has not been prepared. Furthermore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, Pub. L. 96-354, 19 September 1980 (5 U.S.C. 603.). Nevertheless, it is certified that this rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects

33 CFR Part 1

Administrative practice and procedure, Authority delegations (Government agencies), Freedom of Information, Penalties.

33 CFR Part 160

Administrative practice and procedure, Harbors, Marine safety, Waterways, Hazardous materials transportation.

33 CFR Part 161

Navigation (water), Vessels.

33 CFR Part 165

Harbors, Marine safety, Waterways.

PART 1—[AMENDED]

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Subpart 1.01 reads as follows:

Authority: Sec. 3, 60 Stat. 238, and sec. 633, 63 Stat. 545, R.S. 4405, as amended, 4462, as amended, sec. 2, 23 Stat. 118, as amended, sec. 2, 63 Stat. 496, as amended; 5 U.S.C. 552, 14 U.S.C. 2, 633, 46 U.S.C. 375, 416, 2, unless otherwise noted.

2. By adding a new paragraph § 1.05-1(g)(4) to read as follows:

§ 1.05-1 General.

* * * * *

(g) * * *

(4) The establishment of Regulated Navigation Areas.

* * * * *

3. By revising Part 160 to read as follows:

PART 160—PORTS AND WATERWAYS SAFETY—GENERAL

Subpart A—General

Sec.
160.1 Purpose.
160.3 Definitions.
160.5 Delegations.
160.7 Appeals.

Subpart B—Control of Vessel and Facility Operations

160.101 Purpose.
160.103 Applicability.
160.105 Compliance with orders.
160.107 Denial of entry.
160.109 Waterfront facility safety.
160.111 Special orders applying to vessel operations.
160.113 Prohibition of vessel operation and cargo transfers.
160.115 Withholding of clearance.

Subpart C—Notifications of Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

160.201 Applicability and exceptions to applicability.
160.203 Definitions.
160.205 Waivers.
160.207 Notice of arrival: vessels bound for ports or places in the United States.
160.209 Notice of arrival: vessels bound from the high seas for ports or places on the Great Lakes.
160.211 Notice of arrival: vessels carrying certain dangerous cargo.
160.213 Notice of departure: vessels carrying certain dangerous cargo.
160.215 Notice of hazardous conditions.

Authority: Sec. 2, 92 Stat. 1471 (33 U.S.C. 1221); 49 CFR 1.46(n)(4).

Subpart A—General

§ 160.1 Purpose.

(a) This subchapter contains regulations implementing the Ports and Waterways Safety Act (33 U.S.C. 1221) and related statutes.

§ 160.3 Definitions.

(a) For the purposes of this subchapter:

(1) "Commandant" means the Commandant of the United States Coast Guard.

(2) "District Commander" means the officer of the Coast Guard designated by the Commandant to command a Coast Guard District described in Part 3 of this chapter.

(3) "Captain of the Port" means the Coast Guard officer commanding a Captain of the Port zone described in Part 3 of this chapter.

(4) "Person" means an individual, firm, corporation, association, partnership, or governmental entity.

(5) "State" means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Trust Territories of the Pacific Islands, the Commonwealth of the Northern Marianas Islands, and any other commonwealth, territory, or possession of the United States.

(6) "Vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

(7) "Vehicle" means every type of conveyance capable of being used as a means of transportation on land.

§ 160.5 Delegations.

(a) District Commanders and Captains of the Ports are delegated the authority to establish safety zones.

(b) Under the provisions of §§ 6.04-1 and 6.04-6 of this chapter, District Commanders and Captains of the Ports have been delegated authority to establish security zones.

(c) Under the provisions of § 1.05-1 of this chapter, District Commanders have been delegated authority to establish regulated navigation areas.

(d) Under the direction of the Captain of the Port Honolulu, the Commander, Marianas Section, may exercise the authority of a Captain of the Port within the waters surrounding Guam, and the Commonwealth of Marianas, all of which are in the Honolulu Captain of the Port Zone.

§ 160.7 Appeals.

(a) Any person directly affected by a safety zone or an order or direction issued under this subchapter may request reconsideration by the official who issued it or in whose name it was issued. This request may be made orally or in writing, and the decision of the official receiving the request may be rendered orally or in writing.

(b) Any person directly affected by the establishment of a safety zone or by an order or direction issued by, or on behalf of, a Captain of the Port may appeal to the District Commander

through the Captain of the Port. The appeal must be in writing, except as allowed under paragraph (d) of this section, and shall contain complete supporting documentation and evidence which the appellant wishes to have considered. Upon receipt of the appeal, the District Commander may direct a representative to gather and submit documentation or other evidence which would be necessary or helpful to a resolution of the appeal. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials. Following submission of all materials, the District Commander issues a ruling, in writing, on the appeal. Prior to issuing the ruling, the District Commander may, as a matter of discretion, allow oral presentation on the issues.

(c) Any person directly affected by the establishment of a safety zone or by an order or direction issued by a District Commander, or who receives an unfavorable ruling on an appeal taken under paragraph (b) of this section, may appeal through the District Commander to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard, Washington, D.C. 20593. The appeal must be in writing, except as allowed under paragraph (d) of this section. The District Commander forwards the appeal, all the documents and evidence which formed the record upon which the order or direction was issued or the ruling under paragraph (b) of this section was made, and any comments which might be relevant, to the Chief, Office of Marine Environment and Systems. A copy of this documentation and evidence is made available to the appellant. The appellant is afforded five working days from the date of receipt to submit rebuttal materials to the Chief, Office of Marine Environment and Systems. The decision of the Chief, Office of Marine Environment and Systems is based upon the materials submitted, without oral argument or presentation. The decision of the Chief, Office of Marine Environment and Systems is issued in writing and constitutes final agency action.

(d) If the delay in presenting a written appeal would have significant adverse impact on the appellant, the appeal under paragraphs (b) and (c) of this section may initially be presented orally. If an initial presentation of the appeal is made orally, the appellant must submit the appeal in writing within five days of the oral presentation to the Coast Guard official to whom the presentation was made. The written appeal must contain, at a minimum, the basis for the appeal and a summary of the material presented orally. If requested, the official to whom the appeal is directed may stay the effect of the action while the ruling is being appealed.

Subpart B—Control of Vessel and Facility Operations

§ 160.101 Purpose.

This subpart describes the authority exercised by District Commanders and Captains of the Ports to insure the safety of vessels and waterfront facilities, and the protection of the navigable waters and the resources therein. The controls described in this subpart are directed to specific situations and hazards.

§ 160.103 Applicability.

(a) This subpart applies to any—

(1) Vessel on the navigable waters of the United States, except as provided in paragraphs (b) and (c) of this section;

(2) Bridge or other structure on or in the navigable waters of the United States; and

(3) Land structure or shore area immediately adjacent to the navigable waters of the United States.

(b) This subpart does not apply to any vessel on the Saint Lawrence Seaway.

(c) Except pursuant to international treaty, convention, or agreement, to which the United States is a party, this subpart does not apply to any foreign vessel that is not destined for, or departing from, a port or place subject to the jurisdiction of the United States and that is in—

(1) Innocent passage through the territorial sea of the United States;

(2) Transit through the navigable waters of the United States which form a part of an international strait.

§ 160.105 Compliance with orders.

Each person who has notice of the terms of an order issued under this subpart must comply with that order.

§ 160.107 Denial of entry.

Each District Commander or Captain of the Port, subject to recognized principles of international law, may deny entry into the navigable waters of the United States or to any port or place under the jurisdiction of the United States, and within the district or zone of that District Commander or Captain of the Port, to any vessel not in compliance with the provisions of the Port and Tanker Safety Act (33 U.S.C. 1221–1232) or the regulations issued thereunder.

§ 160.109 Waterfront facility safety.

(a) To prevent damage to, or the destruction of, any bridge or other structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to such waters, and to protect the navigable waters and the resources therein from harm resulting from vessel or structure damage, destruction, or loss, each District Commander or Captain of the Port may—

(1) Direct the handling, loading, unloading, storage, and movement (including the emergency removal, control and disposition) of explosives or other dangerous articles and substances, including oil or hazardous material as those terms are defined in Section 4417a of the Revised Statutes, as amended (46 U.S.C. 391a) on any structure on or in the navigable waters of the United States, or any land structure or shore area immediately adjacent to those waters; and

(2) Conduct examinations to assure compliance with the safety equipment requirements for structures.

§ 160.111 Special orders applying to vessel operations.

Each District Commander or Captain of the Port may order a vessel to operate or anchor in the manner directed when—

(a) The District Commander or Captain of the Port has reasonable cause to believe that the vessel is not in compliance with any regulation, law or treaty;

(b) The District Commander or Captain of the Port determines that the vessel does not satisfy the conditions for vessel operation and cargo transfers specified in § 160.113; or

(c) The District Commander or Captain of the Port has determined that such order is justified in the interest of safety by reason of weather, visibility, sea conditions, temporary port congestion, other temporary hazardous circumstances, or the condition of the vessel.

§ 160.113 Prohibition of vessel operation and cargo transfers.

(a) Each District Commander or Captain of the Port may prohibit any vessel subject to the provisions of section 4417a of the Revised Statutes (46 U.S.C. 391a) from operating in the navigable waters of the United States, or from transferring cargo or residue in any port or place under the jurisdiction of the United States, and within the district or zone of that District Commander or Captain of the Port, if the District Commander or the Captain of the Port determines that the vessel's history of accidents, pollution incidents, or serious repair problems creates

reason to believe that the vessel may be unsafe or pose a threat to the marine environment.

(b) The authority to issue orders prohibiting operation of the vessels or transfer of cargo or residue under paragraph (a) of this seciton also applies if the vessel:

(1) Fails to comply with any applicable regulation;

(2) Discharges oil or hazardous material in violation of any law or treaty of the United States;

(3) Does not comply with applicable vessel traffic service requirements;

(4) While underway, does not have at least one licensed deck officer on the navigation bridge who is capable of communicating in the English language.

(c) When a vessel has been prohibited from operating in the navigable waters of the United States under paragraphs (a) or (b) of this section, the District Commander or Captain of the Port may allow provisional entry into the navigable waters of the United States, or into any port or place under the jurisdiction of the United States and within the district or zone of that District Commander or Captain of the Port, if the owner or operator of such vessel proves to the satisfaction of the District Commander or Captain of the Port, that the vessel is not unsafe or does not pose a threat to the marine environment, and that such entry is necessary for the safety of the vessel or the persons on board.

(d) A vessel which has been prohibited from operationg in the navigable waters of the United States, or from transferring cargo or residue in a port or place under the jurisdiction of the United States under the provisions of paragraph (a) or (b)(1), (2) or (3) of this section, may be allowed provisional entry if the owner or operator proves, to the satisfaction of the District Commander or Captain of the Port that has jurisdiction, that the vessel is no longer unsafe or a threat to the environment, and that the condition which gave rise to the prohibition no longer exists.

§ 160.115 Withholding of clearance.

Each District Commander or Captain of the Port may request the Secretary of the Treasury, or the authorized representative thereof, to withhold or revoke the clearance required by 46 U.S.C. of any vessel, the owner or operator of which is subject to any penalties under 33 U.S.C. 1232.

Subpart C—Notifications of Arrivals, Departures, Hazardous Conditions, and Certain Dangerous Cargoes

§ 160.201 Applicability and exceptions to applicability.

(a) This subpart prescribes notification requirements for U.S. and foreign vessels bound for or departing from ports or places in the United States.

(b) This subpart does not apply to boats under the Federal Boat Safety Act of 1971 (46 U.S.C. 1451, et seq.) and, except § 160.215, does not apply to passenger and supply vessels when they are employed in the exploration for or in the exploitation of oil, gas, or mineral resources on the continental shelf.

(c) Sections 160.207 and 160.209 do not apply to the following:

(1) Each vessel of less than 1,600 gross tons.

(2) Each vessel operating exclusively within a Captain of the Port zone.

(3) Each vessel operating upon a route that is described in a schedule that is submitted to the Captain of the Port for each port or place of destination listed in the schedule at least 24 hours in advance of the first date and time of arrival listed on the schedule and contains—

(i) Name, country of registry, and call sign or official number of the vessel;

(ii) Each port or place of destination; and

(iii) Dates and times of arrivals and departures at those ports or places.

(4) Each vessel arriving at a port or place under force majeure.

(5) Each vessel entering a port of call in the United States in compliance with the Automated Mutual Assistance Vessel Rescue System (AMVER).

(6) Each vessel entering a port of call in the United States in compliance with the U.S. Flag Merchant Vessel Locator Filing System (USMER).

(7) Each barge.

(8) Each public vessel.

(9) United States or Canadian flag vessels, except tank vessels or vessels carrying certain dangerous cargo, which operate solely on the Great Lakes.

(d) Sections 160.207, 160.211, and 160.213 apply to each vessel upon the waters of the Mississippi River between its mouth and mile 235, Lower Mississippi River, above Head of Passes. Sections 160.207, 160.211, and 160.213 do not apply to each vessel upon the waters of the Mississippi River between its sources and mile 235, above Head of Passes, and all the tributaries emptying thereinto and their tributaries, and that part of the Atchafalaya River above its junction with the Plaquemine-Morgan City alternate waterway, and the Red River of the North.

§ 160.203 Definitions.

As used in this subpart:

Agent means any person, partnership, firm, company or corporation engaged by the owner or charterer of a vessel to act in their behalf in matters concerning the vessel.

Carried in bulk means a commodity that is loaded or carried on board a vessel without containers or labels and received and handled without mark or count.

Certain dangerous Cargo includes any of the following:

(a) Class A explosives, as defined in 46 CFR 146.20-7 and 49 CFR 173.53.

(b) Oxidizing materials or blasting agents for which a permit is required under 49 CFR 176.415.

(c) Large quantity radioactive material, as defined in 49 CFR 173.389(b), or Fissile Class III shipments of fissile radioactive material, as defined in 49 CFR 173.389(a)(3).

(d) Each cargo under Table 1 of 46 CFR Part 153 when carried in bulk.

(e) Any of the following when carried in bulk:

Acetaldehyde
Ammonia, anhydrous
Butadiene
Butane
Butene
Butylene Oxide
Chlorine
Ethane
Ethylene
Ethylene Oxide
Methane
Methyl Acetylene, Propadiene Mixture, Stabilized
Methyl Bromide
Methyl Chloride
Phosphorous, elemental
Propane
Propylene
Sulfur Dioxide
Vinyl Chloride

Great Lakes means Lakes Superior, Michigan, Huron, Erie, and Ontario, their connecting and tributary waters, the Saint Lawrence River as far as Saint Regis, and adjacent port areas.

Hazardous condition means any condition that could adversely affect the safety of any vessel, bridge, structure, or shore area or the environmental quality of any port, harbor, or navigable water of the United States. This condition could include but is not limited to, fire, explosion, grounding, leaking, damage, illness of a person on board, or a manning shortage.

Port or place of departure means any port or place in which a vessel is anchored or moored.

Port or place of destination means any port or place to which a vessel is bound to anchor or moor.

Public vessel means a vessel owned by and being used in the public service of the United States. This definition does not include a vessel owned by the United States and engaged in a trade or commercial service or a vessel under contract or charter to the United States.

§ 160.205 Waivers.

The Captain of the Port may waive, within that Captain of the Port's designated zone, any of the requirements of this subpart for any vessel or class of vessels upon finding that the vessel, route, area of operations, conditions of the voyage, or other circumstances are such that application of this subpart is unnecessary or impractical for purposes of safety, environmental protection, or national security.

§ 160.207 Notice of arrival: Vessels bound for ports or places in the United States.

(a) The owner, master, agent or person in charge of a vessel on a voyage of 24 hours or more shall report under paragraph (c) of this section at least 24 hours before entering the port or place of destination.

(b) The owner, master, agent, or person in charge of a vessel on a voyage of less than 24 hours shall report under paragraph (c) of this section before departing the port or place of departure.

(c) The Captain of the Port of the port or place of destination in the United States must be notified of—

(1) The name and country of registry of the vessel;

(2) The name of the port or place of departure;

(3) The name of the port or place of destination; and

(4) The estimated time of arrival at the port or place.

If the estimated time of arrival changes by more than six hours from the latest reported time, the Captain of the Port must be notified of the correction as soon as the change is known.

§ 160.209 Notice of arrival: Vessels bound from the high seas for ports or places on the Great Lakes.

In addition to complying with the requirement of § 160.207, the owner, master, agent, or person in charge of a vessel bound from the high seas for any port or place of destination on the Great Lakes shall notify the Commander, Ninth Coast Guard District, at least 24 hours before arriving at the Snell Locks, Massena, New York of—

(a) The name and country of registry of the vessel; and

(b) The estimated time of arrival at the Snell Locks, Massena, New York.

§ 160.211 Notice of arrival: Vessels carrying certain dangerous cargo.

(a) The owner, master, agent, or person in charge of a vessel, except a barge, bound for a port or place in the United States carrying certain dangerous cargo shall notify the Captain of the Port of the port or place of destination at least 24 hours before entering that port or place of—

(1) The name and country of registry of the vessel;

(2) The location of the vessel at the time of the report;

(3) The name of each certain dangerous cargo carried;

(4) The amount of each certain dangerous cargo carried;

(5) The stowage location of each certain dangerous cargo;

(6) The operational condition of the equipment under § 164.35 of this chapter;

(7) The name of the port or place of destination; and

(8) The estimated time of arrival at that port or place.

If the estimated time of arrival changes by more than six hours from the latest reported time; the Captain of the Port must be notified of the correction as soon as the change is known.

(b) The owner, master, agent or person in charge of a barge bound for a port or place in the United States carrying certain dangerous cargo shall report the information required in paragraph (a)(1) through (a)(8) of this section to the Captain of the Port of the port or place of destination at least 4 hours before entering that port or place.

§ 160.213 Notice of departure: Vessels carrying certain dangerous cargo.

(a) The owner, master, agent, or person in charge of a vessel, except a barge, departing from a port or place in the United States for any other port or place and carrying certain dangerous cargo shall notify the Captain of the Port or place of departure at least 24 hours before departing, unless this notification was made within 2 hours after the vessel's arrival, of—

(1) The name and country of registry of the vessel;

(2) The name of each certain dangerous cargo carried;

(3) The amount of each certain dangerous cargo carried;

(4) The stowage location of each certain dangerous cargo carried;

(5) The operational condition of the equipment under § 164.35 of this chapter;

(6) The name of the port or place of departure; and

(7) The estimated time of departure from the port or place.

If the estimated time of departure changes by more than six hours from the latest reported time, the Captain of the Port must be notified of the correction as soon as the change is known.

(b) The owner, master, agent, or person in charge of a barge departing from a port or place in the United States for any other port or place and carrying certain dangerous cargo shall report the information required in paragraph (a)(1) through (a)(7) of this section to the Captain of the Port of the port or place of departure at least 4 hours before departing, unless this report was made within 2 hours after the barge's arrival.

§ 160.215 Notice of hazardous conditions.

Whenever there is a hazardous condition on board a vessel, the owner, master, agent or person in charge shall immediately notify the Captain of the Port of the port or place of destination and the Captain of the Port of the port or place in which the vessel is located of the hazardous condition.

PART 161—VESSEL TRAFFIC MANAGEMENT

33 CFR Part 161 is amended as follows:

4. The authority citation for Part 161 reads as follows:

Authority: Sec. 2, 92 Stat. 1471 (33 U.S.C. 1221); 49 CFR 1.46(n)(4).

5. Subpart A of 33 CFR Part 161 is transferred to 33 CFR Part 160 and redesignated as Subpart C. Subpart A is reserved.

6. The table of contents of Subpart A of 33 CFR Part 161 is revised to read as follows:

PART 161—VESSEL TRAFFIC MANAGEMENT

Subpart A—[Reserved]

* * * * *

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

33 CFR Part 165 is amended as follows:

7. The table of contents is revised to read as follows:

Subpart A—General

Sec.
165.1 Purpose.
165.5 Establishment procedures.
165.7 Notifications.

Subpart B—Regulated Navigation Areas

165.10 Regulated navigation areas.

Sec.

165.11 Vessel operating requirements (regulations).
165.13 General regulations.

Subpart C—Safety Zones

165.20 Safety zones.
165.23 General regulations

Subpart D—Security Zones

165.30 Security zones.
165.33 General regulations.

Subpart E—Restricted Waterfront Areas

165.40 Restricted waterfront areas.

Subpart F—Specific Regulated Navigation Areas and Limited Access Areas

First Coast Guard District

165.101 Kittery, Maine—regulated navigation area.

Second Coast Guard District

165.201 [Reserved]

Third Coast Guard District

165.301 Sandy Hook Bay, New Jersey—security zone.
165.302 New London Harbor, Connecticut—security zone.
165.303 Delaware Bay and River—regulated navigation area.
165.304 New Haven Harbor, Quinnipiac River, Mill River—regulated navigation area.
165.305 Arthur Kill, New York—safety zone.

Fifth Coast Guard District

165.501 Chesapeake Bay Entrance—regulated navigation area.
165.502 Cove Point, Chesapeake Bay, Maryland—safety zone.

Seventh Coast Guard District

165.701 Vicinity, Kennedy Space Center, Merritt Island, Florida—security zone.

Eighth Coast Guard District

165.801 Mississippi River Gulf Outlet—safety zone.
165.802 Lower Mississippi River, vicinity of Old River Control Structure—safety zone.
165.803 Mississippi River between miles 88 and 127 AHP—regulated navigation area.
165.804 Snake Island, Texas City, Texas; mooring and fleeting of vessels—safety zone.

Ninth Coast Guard District

165.901 Great Lakes—regulated navigation area.
165.902 Niagara River at Niagara Falls, New York—safety zone.

Eleventh Coast Guard District

165.1107 San Diego Bay, California—safety zone.
165.1108 San Pedro Bay, Los Angeles, California—safety zone.

Twelfth Coast Guard District

165.1201 [Reserved]

Thirteenth Coast Guard District

165.1301 [Reserved]

Fourteenth Coast Guard District

165.1401 Apra Harbor, Guam—security zone.
165.1402 Apra Outer Harbor, Guam—regulated navigation area.

Seventeenth Coast Guard District

165.1701 Valdez, Alaska—safety zone.
165.1702 Gastineau Channel, Juneau, Alaska—safety zone.

8. The authority citation for Part 165 reads as follows:

Authority: Subpart A issued under sec. 2, Pub. L. 95–474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); C. 30, sec. 1, 40 Stat. 220, as amended, (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); E.O. 10173, 3 CFR 1949–1953 Comp. 356; E.O. 11249, 3 CFR 1964–1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46 (b) and (n)(4).

Subparts B and C issued under sec. 2, Pub. L. 95–474, 92 Stat. 1475, 1477 (33 U.S.C. 1225, 1231); 49 CFR 1.46(n)(4).

Subparts D and E issued under c. 30, sec. 1, 40 Stat. 220, as amended, (50 U.S.C. 191); sec. 6(b)(1), 80 Stat. 938 (49 U.S.C. 1655(b)(1)); E.O. 10173, 3 CFR 1949–1953 Comp. 356; E.O. 11249, 3 CFR 1964–1965 Comp. 349; 33 CFR Part 6; 49 CFR 1.46(b).

§ 165.2 [Removed]

9. Section 165.2 is removed.

§ 165.3 [Removed]

10. Section 165.3 is removed.

11. Section 165.5 is amended by revising paragraph (b) to read as follows:

§ 165.5 Establishment procedures.

* * * * *

(b) Any person may request that a safety zone, security zone, or regulated navigation area be established. Except as provided in paragraph (c) of this section, each request must be submitted in writing to either the Captain of the Port or District Commander having jurisdiction over the location as described in Part 3 of this chapter, and include the following:

* * * * *

12. A new § 165.11 is added to read as follows:

§ 165.11 Vessel operating requirements (regulations).

Each District Commander may control vessel traffic in an area which is determined to have hazardous conditions, by issuing regulations—

(a) Specifying times of vessel entry, movement, or departure to, from, within, or through ports, harbors, or other waters;

(b) Establishing vessel size, speed, draft limitations, and operating conditions; and

(c) Restricting vessel operation, in a hazardous area or under hazardous conditions, to vessels which have particular operating characteristics or capabilities which are considered necessary for safe operation under the circumstances.

* * * * *

§ 165.25 [Removed]

13. Section 165.25 is removed.

14. The title of Subpart F is revised to read as follows:

Subpart F—Specific Regulated Navigation Areas and Limited Access Areas

15. Section 165.803 is amended by revising paragraph (m)(2)(iii)(C), and adding (m)(2)(iii)(D) to read as follows:

§ 165.803 Mississippi River—regulated navigation area.

* * * * *

(m) * * *

(2) * * *

(iii) * * *

(C) Radio-equipped;

(D) Within 500 yards of the barges; and

* * * * *

16. Section 165.901 is amended by revising paragraph (a)(2) to read as follows:

§ 165.901 Great Lakes—regulated navigation areas.

(a) * * *

(2) The waters of Lake Huron between Mackinac Island and St. Ignace, Michigan, bounded by a line east from position 45°52'12"N, 84°43'00"W; to Mackinac Island at 45°52'12"N, 84°39'00"W; and a line east from the mainland at 45°53'12"N, 84°43'30"W; to the northern tangent of Mackinac Island at 45°53'12"N, 84°38'48"W.

* * * * *

17. Section 165.1702 is amended by revising paragraph (a) to read as follows:

§ 165.1702 Gastineau Channel, Juneau, Alaska—safety zone.

(a) The waters within the following boundaries are a safety zone: A line beginning at the Standard Oil Company Pier West Light (LLNR 3217), located at position 58°17.9'N, 134°24.8'W, in the direction of 140° True to Rock Dump Lighted Buoy 2A (LLNR 3213) at position 58°17.2'N, 134°23.8'W; thence in the direction of 003° True to a point at position 58°17.4'N, 134°23.7'W, on the north shore of Gastineau Channel; thence northwesterly along the north shore of Gastineau Channel to the point of origin.

* * * * *

Dated: April 20, 1983.

J. S. Gracey,

Admiral, Coast Guard Commandant.

[FR Doc. 83-21281 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD7-83-05]

Drawbridge Operation Regulations; Peace River, Florida

AGENCY: Coast Guard, DOT.

ACTION: Final rule. Revocation.

SUMMARY: This amendment revokes the regulations for the Barron Collier drawbridge, mile 2.0, because the bridge has been removed. Notice and public procedure have been omitted from this action due to the removal of the bridge concerned.

EFFECTIVE DATE: This rule becomes effective on August 4, 1983.

FOR FURTHER INFORMATION CONTACT: J. R. Kretschmer, Bridge Administrator, (305)350-4108.

SUPPLEMENTARY INFORMATION:

Drafting Information

The drafters of this rule are Walter Paskowaky, project officer, and Lieutenant William Robson, project attorney.

This action has no economic consequences. It merely revokes regulations that are now meaningless because they pertain to a drawbridge that no longer exists. Consequently, this action cannot be considered to be a major rule under Executive Order 12291. Furthermore, it has been found to be nonsignificant under the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-2-80), and does not warrant preparation of an economic evaluation. Because no notice of proposed rulemaking is required under 5 U.S.C. 553, this action is exempt from the regulatory flexibility act (5 U.S.C. 605(b)). However, this action will not have a significant effect on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

§ 117.245 [Removed]

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended by removing § 117.245(i)(2c)

(33 U.S.C. 449, 49 U.S.C. 1655(g)(2); 49 CFR 1.46(c)(5); 33 CFR 1.05-1(g)(3))

Dated: July 8, 1983.

A. D. Breed,

Captain, Coast Guard, Acting Commander, Seventh Coast Guard District.

[FR Doc. 83-21394 Filed 8-3-83; 9:37 am]

BILLING CODE 4910-14-M

POSTAL SERVICE

39 CFR Part 10

International Express Mail Service to Colombia

AGENCY: Postal Service.

ACTION: Final action on International Express Mail Service to Colombia.

SUMMARY: Pursuant to an agreement with the postal administration of Colombia, the Postal Service intends to begin International Express Mail Service with Colombia at postage rates indicated in the table below. Service is scheduled to begin on September 3, 1983.

EFFECTIVE DATE: September 3, 1983.

FOR FURTHER INFORMATION CONTACT: Leon W. Perlinn, (202) 245-4414.

SUPPLEMENTARY INFORMATION: By a notice published in the **Federal Register** on July 1, 1983 (48 FR 30407), the Postal Service announced that it was proposing to begin International Express Mail Service to Colombia on September 3, 1983. Comments were invited on the proposed service and the published rate tables, which were proposed amendments to the International Mail Manual (incorporated by reference in the **Federal Register**, 39 CFR 10.1), and which are to become effective on the date service begins. No comments were received.

Accordingly, the Postal Service is confirming that it intends to begin International Express Mail Service with Colombia on September 3, 1983 at the rates indicated in the table below.

List of Subjects in 39 CFR Part 10

Foreign relations.

COLOMBIA—INTERNATIONAL EXPRESS MAIL

Custom designed service [1] [2]		On demand service [3]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
1	$27.00	1	$19.00
2	29.90	2	21.90
3	32.80	3	24.80
4	35.70	4	27.70
5	38.60	5	30.60
6	41.50	6	33.50
7	44.40	7	36.40
8	47.30	8	39.30
9	50.20	9	42.20
10	53.10	10	45.10
11	56.00	11	48.00
12	58.90	12	50.90

COLOMBIA—INTERNATIONAL EXPRESS MAIL—Continued

Custom designed service [1] [2]		On demand service [3]	
Up to and including		Up to and including	
Pounds	Rate	Pounds	Rate
13	61.80	13	53.80
14	64.70	14	56.70
15	67.60	15	59.60
16	70.50	16	62.50
17	73.40	17	65.40
18	76.30	18	68.30
19	79.20	19	71.20
20	82.10	20	74.10
21	85.00	21	77.00
22	87.90	22	79.90
23	90.80	23	82.80
24	93.70	24	85.70
25	96.60	25	88.60
26	99.50	26	91.50
27	102.40	27	94.40
28	105.30	28	97.30
29	108.20	29	100.20
30	111.10	30	103.10
31	114.00	31	106.00
32	116.90	32	108.90
33	119.80	33	111.80
34	122.70	34	114.70
35	125.60	35	117.60
36	128.50	36	120.50
37	131.40	37	123.40
38	134.30	38	126.30
39	137.20	39	129.20
40	140.10	40	132.10
41	143.00	41	135.00
42	145.90	42	137.90
43	148.80	43	140.80
44	151.70	44	143.70

[1] Rates in this table are applicable to each piece of International Custom Designed Express Mail shipped under a Service Agreement providing for tender by the customer at a designated Post Office.

[2] Pickup is available under a Service Agreement for an added charge of $5.60 for each pickup stop, regardless of the number of pieces picked up. Domestic and International Express Mail picked up together under the same Service Agreement incurs only one pickup charge.

A transmittal letter making these changes in the pages of the International Mail Manual will be published in the **Federal Register** as provided in 39 CFR 10.3 and will be transmitted to subscribers automatically.

(39 U.S.C. 401, 404, 407)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Adminstration.

[FR Doc. 83-21175 Filed 8-3-83; 8:45 am]

BILLING CODE 7710-12-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1170

[Ex Parte No. MC-161 (Sub-1)]

Employee Protection—Motor Passenger Carriers

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission published final rules that implemented Section 27 of the Bus Regulatory Reform Act of 1982 at 48 FR 23245 (May 24, 1983).

Section 27 deals with the re-employment rights of employees of motor passenger carriers who lose their jobs because of discontinuances or reductions of regular-route bus service. One provision of Section 27 requires the Commission to issue a periodic list of jobs available from Class I motor passenger carriers. This notice announces institution of that publication and amends 49 CFR Part 1170 to state that pertinent subscription information can be obtained from the Office of the Secretary. The Commission previously decided that free copies of the publication would be sent to individuals with pending applications for employee protection and eligible employees for a limited period of time.

DATES: For other interested parties, subscriptions for the publication: *Jobs Available With Class I Motor Passenger Carriers* will be taken upon publication of this notice in the **Federal Register.** The first issue of *Jobs Available With Class I Motor Passenger Carriers* will be issued on or about August 1, 1983.

EFFECTIVE DATE: August 4, 1983

ADDRESSES: Persons who wish to subscribe to *Jobs Available With Class I Motor Passenger Carriers* should send their request for subscription and $7.50 to: *Jobs Available With Class I Motor Passenger Carriers,* Room 2221, Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

Copies of the Cost Study on which the subscription price is based may be obtained from: Room 2215, Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT: Edward C. Fernandez, 202–275–7591.

SUPPLEMENTARY INFORMATION: Section 27 of the Bus Regulatory Reform Act of 1982 ("Bus Act") gives certain preferential rights to those employees of motor passenger carriers who lose their jobs because of discontinuances or reductions in regular-route passenger service in both interstate and intrastate commerce.

Section 27(d) of the "Bus Act" requires that "[t]he Commission shall establish, maintain, and periodically publish a comprehensive list of jobs available with Class I motor carriers of passengers. Such list shall include information and details such as job descriptions and required skills the Commission deems relevant and necessary."

The Commission's six regional offices will be collecting information about available positions with Class I motor carriers. The Office of the Secretary will handle the subscription program for the publication which will be called "Jobs Available With Class I Motor Passenger Carriers." The publication will be mailed from the Commission's Washington, D.C., headquarters on the first working day of each month.

The Commission previously decided that free copies of the publication would be sent to individuals with pending applications for determination of eligibility for employee protection and eligible employees for a limited period of time. Others who wish to subscribe to the publication should send their name, telephone number, mailing address and a check or money order for $7.50, payable to the Interstate Commerce Commission to: *Jobs Available With Class I Motor Passenger Carriers,* Room 2221, Office of the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

49 CFR 1170.12 is also being modified to state that the subscription information is available from the Office of the Secretary.

We have determined that good cause exists under 5 U.S.C. 553 to issue this revision in final form without notice and comment. The rule modification being made here is minor and merely a statement of agency procedure. We believe that the public interest requires that the publication be issued as quickly as possible. Our Regional Offices are already collecting information on vacancies. Such material will become stale and inaccurate if any delay occurs.

Since our publication is directed to individual employees, small entities will not be affected. Consequently, we certify that this rule modification will not have a significant economic impact on small business.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1170

Employment, Buses.

It is ordered:

Title 49 of the Code of Federal Regulations is amended to modify 49 CFR 1170.12 as set forth below.

This decision is issued pursuant to 49 U.S.C. 10321, 5 U.S.C. 553, and Pub. L. 97–261, 327.

Title 49 of the Code of Federal Regulations is amended by revising paragraph (c) of 49 CFR 1170.12 to read as follows:

PART 1170—[AMENDED]

§ 1170.12 Publication of list.

* * * * *

(c) Additional copies of the published list, entitled *Jobs Available From Class I Motor Passenger Carriers,* will be available by paid subscription. Current subscription information may be obtained from the Office of the Secretary, Room 2221, Interstate Commerce Commission, Washington, D.C. 20423.

Decided: July 25, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-21136 Filed 8-3-83; 8:45 am]

BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 48, No. 151
Thursday, August 4, 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 68 and 75

Regulations for Inspection and Certification of Quality of Agricultural and Vegetable Seeds Under the Agricultural Marketing Act of 1946

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service (AMS) is proposing to revise 7 CFR Part 75 by removing the existing reference to 7 CFR Part 68. It is further proposed that 7 CFR Part 75 be rewritten to provide regulations specifically for the Inspection and certification of quality of agricultural and vegetable seeds and to revise and increase the applicable fees to reflect, as nearly as practicable, the Department's costs of operating the seed inspection and certification program as authorized under the Agricultural Marketing Act of 1946.

DATE: Comments must be received by October 3, 1983.

ADDRESS: Send comments to Donald W. Ator, Chief, Seed Branch, Livestock, Meat, Grain, and Seed Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250. Comments will be available for public inspection at this location during the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Donald W. Ator, Chief, Seed Branch, Livestock, Meat, Grain, and Seed Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250, (202) 447-9340.

SUPPLEMENTARY INFORMATION: This proposed rule has been reviewed under USDA procedures established to implement Executive Order 12291 and the Secretary's Memorandum 1512-1 and has been determined to be a "nonmajor rule" because it does not meet any of the criteria established for major rules under the Executive Order.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, Pub. L. 96-511, the information collection requirements contained in this proposed rule have been submitted to OMB for review as prescribd in § 1320.13 Clearance of Collection of Information Requirements in Proposed Rules under § 3504(h) of the Paperwork Reduction Act. Comments concerning the information collection requirements contained in this proposed rule may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS/USDA, Washington, D.C. 20503, telephone (202) 395-7340.

Additionally, in conformance with the provisions of the Regulatory Flexibility Act, (5 U.S.C. 601 *et seq.*) full consideration has been given to the potential economic impact upon small businesses. The increased fee reflects the inflationary and other costs incurred by the Department and is a relatively small cost in the total cost of marketing seed. It has been determined that the economic impact upon all entities by the increased fee will be minor and will not affect normal competition in the marketplace. The revision of Part 75 by amending the part to include all the necessary provisions for the seed inspection program without reference to Part 68 will have a minor impact on all entities because many of the proposed provisions are the same or similar to provisions that presently exist in Part 68 and as such are currently applicable to the seed inspection program. Further, seed inspection under the Agricultural Marketing Act of 1946 (AMA of 46) (7 U.S.C. 1621 *et seq.*) is a voluntary inspection program. Dr. William T. Manley, Deputy Administrator, AMS, has certified that this action will not have a significant economic impact on a substantial number of small entities.

The Seed Branch of the Livestock, Meat, Grain, and Seed Division, AMS has recently undergone a major reorganization. As part of that reorganization, the four regional Federal seed laboratories were closed and their functions consolidated with the Federal Seed Standardization Laboratory located at Beltsville, Maryland. This lab, now known as the Federal Seed Laboratory, has responsibility for the inspection and certification of agricultural and vegetable seeds under the AMA of 46 in addition to its other responsibilities. In order to achieve the efficiencies and economies that are necessary, the regulations governing the inspection and certification of agricultural and vegetable seeds have been reviewed and are being revised accordingly.

Until November 1976 inspection and certification of agricultural and vegetable seeds as well as other agricultural commodities were carried out by AMS in accordance with the regulations contained in 7 CFR Part 68. At that time, authority over certain agricultural commodities other than seeds under the AMA of 46 and the regulations thereunder (7 CFR Part 68) was delegated to the Administrator of the Federal Grain Inspection Service (FGIS) pursuant to Section 3A of the U.S. Grain Standards Act (7 U.S.C. 75a). In revising 7 CFR Part 68 to carry out its responsibilities under Section 3A of the U.S. Grain Standards Act, FGIS eliminated all reference to the AMS. In view of this situation, 7 CFR Part 75 was established and assigned to the AMS for regulations pertaining to the inspection and certification of quality of agricultural and vegetable seeds on April 8, 1977. As an interim measure, 7 CFR Part 75 made reference to those sections of 7 CFR Part 68 which were applicable for the inspection and certification of agricultural and vegetable seeds.

It is being proposed that 7 CFR Part 75 be rewritten to provide regulations specifically for the inspection and certification of quality of agricultural and vegetable seeds, thereby eliminating any cross-referencing of 7 CFR Part 68. It is also being proposed that fees for the inspection service be increased to reflect, as nearly as practicable, the Department's costs of operating the program and to delete maximum time charged for all tests. The proposed regulations provide for definitions of terms that are used, administrative and supervisory authority, inspection procedures, an appeal procedure, licensing procedures, sampling provisions, and a description of the fees and charges. In addition, 7 CFR Part 68

is being revised by removing § 68.42(b) which pertains to the fees for the inspection and certification of agricultural and vegetable seeds. This section will be amended and renumbered as § 75.41 through § 75.47. Further, the following services presently available, checkweighing, checkloading, and inspection of containers, will be eliminated. Requests for such services have not been made recently and it is unlikely that such services will be requested in the future.

The Federal Seed Laboratory is currently testing submitted samples of seed and issuing submitted sample certificates. While lot inspection services are available, the travel costs involved are such that the service is not generally cost effective to applicants. The proposed regulations provide for lot inspection and issuance of lot inspection certificates, in addition to the submitted sample inspections that are currently being performed. Members of the seed industry have requested the development of regulations that would allow the Seed Branch to provide lot inspection services at a practicable cost to the applicant. At the present time, a number of countries that import agricultural and vegetable seeds from the United States are requesting official lot inspection certificates on the seed they import. Since the procedures of the Association of Official Seed Analysts (AOSA) and the International Seed Testing Association (ISTA), are generally standard in the industry, only these two inspection procedures will be made available to applicants for service. Further, certification of quality is entirely voluntary; therefore, there appears to be no need at this time to establish other methods.

Under the proposed regulations, submitted samples of seed will be tested and a certificate issued to persons applying for the service. For lot inspections, in those States which enter into a memorandum of understanding with USDA, interested persons may contact the official State seed authority in the State where the seed is located to request inspection of the seed. Persons requesting a lot inspection will be charged fees by the AMS for the cost of testing the seed and issuing a certificate and will be charged fees as applicable by the State for the cost of the State's services. Request for service through a State will provide such service at the lowest practicable cost. Any person, including those persons in States without a memorandum of understanding, may apply directly to the Federal Seed Laboratory for lot inspection service. Persons applying directly to the Federal Seed Laboratory will be charged fees by AMS for the cost of sampling and sealing the lot of seed including any travel and per diem that may be involved as well as the cost of testing the seed and issuing a certificate.

As part of this regulatory revision, the fees to be charged for the inspection and certification of agricultural and vegetable seeds are being increased to reflect the Department's costs of operating the program. The present fee of $13.20 per hour has been in effect since January 17, 1974. Since that time, however, there have been substantial increases in salary costs for personnel, administrative and supervisory costs, the cost of equipment and supplies, and the cost of other overhead items. After reviewing the current costs, the Department has determined the present fee is insufficient to cover the Department's costs in conducting a seed inspection and certification program. Section 203(h) of the AMA of 46 authorizes the Secretary to assess and collect such fees as will be reasonable and will cover the cost of the service rendered. In addition, the Department has determined that, in order to cover the Department's costs of providing this service, the hourly fee must be increased from $13.20 per hour to $23.40 per hour.

The present fee structure in 7 CFR 68.42b provides for fees for testing based on increments of 15 minutes or any part thereof and a $6.60 minimum and charges for service including sampling computed to the nearest quarter-hour with a 2-hour minimum. The proposed fee structure provides that fees would be calculated for the actual test to the nearest 15-minute increment with a minimum fee charged of 1 hour for laboratory testing and 2 hours for sealing and sampling. However, maximum time charged for all tests are proposed to be deleted. It is also proposed that standby time for sampling and sealing services at the service site and applicable travel costs be charged accordingly. Proposed § 75.44 and § 75.46 provide for the charging of applicable fees when a request for service is refused or withdrawn. Proposed § 75.45 provides for fees for appeals based upon the original inspection fees plus travel or other applicable costs. Proposed fees for extra copies of certificates in § 75.47 remain at the present $3.30 fee. These changes are proposed so as to recover, as nearly as practicable, the costs of the service as actually perfomed and to simplify the calculations of all fees to the nearest 15-minute increment.

Part 75 of the regulations references the provisions of Part 68 which are applicable to inspection of agricultural and vegetable seeds. These provisions appear in Subpart A of Part 68, § 68.1 through § 68.54 and provide the famework for a complete seed inspection program together with provisions which provide for the inspection of other agricultural commodities under the AMA of 46. The proposal would revise Part 75 by amending the part to include all the necessary provisions for the seed inspection program without reference to Part 68. Many of the proposed provisions are the same or similar to provisions that presently exist in Part 68 and as such are currently applicable to the seed inspection program.

Specifically, the following changes are proposed:

1. Section 75.1 of the present regulations, which is the only section in the part, would be revised by substituting for the present reference to Part 68 a provision relating to the meaning of words which together with proposed § 75.2 forms the definition provisions of the regulations.

2. The proposed § 75.3 through § 75.6 address the area of Administration reflecting in part the applicable portions of § 68.3 and § 68.5 of the present regulations.

3. The proposed § 75.7 through § 75.25, the Inspection provisions, include provisions as to the methods of inspections which may be requested under the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) rules which are generally accepted by the trade; who may obtain service; how to apply for service; testing; sampling; seed lot inspection; submitted sample inspection; grain sample inspection; and inspection certification. Present provisions relating to these proposed sections are in § 68.4 through § 68.16a, § 68.33, and § 68.34, as applicable.

4. Proposed § 75.26 through § 75.31 address the area of Appeal Inspections. These sections inlcude when and how an appeal may be requested or withdrawn; when an appeal may be refused; who would perform an appeal; and the appeal inspection certificate. These sections reflect appropriate portions of § 68.21 through § 68.29 of the present regulations.

5. Proposed § 75.32 through § 75.34, Licensing of Inspectors, provide provisions for the licensing of inspectors, suspension or revocation of licenses, and surrender of licenses. The present regulations provide for licensing inspectors and samplers at § 68.37 through § 68.41.

6. The proposed § 75.35 through § 75.40, Sampling Provisions and Requirements, include provisions as to obtaining samples, representative samples, submitted samples, use of file samples, and protection of samples. Present provisions relating to these proposed sections are in § 68.33, § 68.39, and § 68.40.

7. Proposed § 75.41 through § 75.47 contain provisions in the Fees and Charges section of the regulations. Included are provisions as to fees for sampling and sealing when performed by Federal employees, fees for laboratory testing, and charges for appeals and certificates.

The present fees for seed inspection services appear in § 68.42b of the regulations.

8. The proposed § 75.48 and § 75.49, Miscellaneous, include provisions for publications and identification numbers. The present section as to publication appears at § 68.49.

Services which are presently available and which are proposed to be eliminated are checkweighing, checkloading, and inspection of containers. Such services have not been requested and are not considered necessary to the seed inspection program which primarily is an inspection for quality program.

List of Subjects

7 CFR Part 68

Administrative practice and procedure, Agricultural commodities, Export.

7 CFR Part 75

Seed—agricultural and vegetable, Inspection—fee basis, Government agencies.

PART 68—[AMENDED]

§ 68.42b [Removed]

1. 7 CFR part 68 is amended by removing § 68.42b.

2. 7 CFR Part 75 is revised to read as follows:

PART 75—REGULATIONS FOR INSPECTION AND CERTIFICATION OF QUALITY OF AGRICULTURAL AND VEGETABLE SEEDS.

Definitions

Sec.

75.1 Meaning of words.
75.2 Terms defined.

Administration

75.3 Authority.
75.4 Federal and State Cooperation.
75.5 Regulations not applicable for certain purposes.
75.6 Nondiscrimination.

Inspection

Sec.

75.7 Inspection in accordance with methods prescribed or approved.
75.8 Basis of service.
75.9 Who may obtain service.
75.10 How to make application.
75.11 Content of application.
75.12 When application deemed filed.
75.13 When application may be rejected.
75.14 When application may be withdrawn.
75.15 Authority of agent.
75.16 Accessibility of seeds.
75.17 Testing.
75.18 Sampling.
75.19 Seed lot inspection.
75.20 Submitted sample inspection.
75.21 Grain sample inspection.
75.22 Form of Inspection certificate.
75.23 Issuance of Inspection certificate.
75.24 Disposition of Inspection certificate.
75.25 Issuance of corrected certificate.

Appeal Inspection

75.26 When appeal inspection may be requested.
75.27 How to file an appeal.
75.28 When a request for an appeal inspection may be withdrawn.
75.29 When an appeal may be refused.
75.30 Who shall perform appeal inspection.
75.31 Appeal inspection certificate.

Licensing of Inspectors

75.32 Who may become licensed inspector.
75.33 Suspension or revocation of license of inspector.
75.34 Surrender of license.

Sampling Provisions and Requirements

75.35 Obtaining samples for lot inspections.
75.36 Representative sample.
75.37 Submitted samples.
75.38 Lot inspections.
75.39 Use of file samples.
75.40 Protecting samples.

Fees and Charges

75.41 General.
75.42 Sampling and sealing.
75.43 Laboratory testing.
75.44 When application rejected or withdrawn.
75.45 Charge for appeals.
75.46 When appeal refused or withdrawn.
75.47 For certificates.

Miscellaneous

75.48 Publications.
75.49 Identification number.

Authority. Sec. 203, 60 Stat. 1087, as amended (7 U.S.C. 1622).

Definitions

§ 75.1 Meaning of words.

Words used in the regulations in this part in the singular form shall be deemed to import the plural and vice versa, as the case may demand.

§ 75.2 Terms defined.

For the purpose of these regulations unless the context otherwise requires, the following terms shall be construed, respectively, as follows:

(a) "Act" means the Agricultural Marketing Act of 1946, as amended (7 U.S.C. 1621 *et seq.*).

(b) "Regulations" means the regulations in this part.

(c) "Department" means the United States Department of Agriculture (USDA).

(d) "Secretary" means the Secretary of the United States Department of Agriculture, or any officer or employee of the Department to whom authority has been delegated to act in the Secretary's stead.

(e) "Administrator" means the Administrator of the Agricultural Marketing Service (AMS) of the Department, or any other officer or employee of the AMS to whom authority has been delegated to act in the Administrator's stead.

(f) "Division" means the Livestock, Meat, Grain, and Seed Division (LMGS), AMS.

(g) "Director" means the Director of the Division or any other officer or employee of the Division to whom authority has been delegated to act in the Director's stead.

(h) "Person" means any individual, partnership, association, business trust, corporation, entity, or any other organized group of persons, whether incorporated or not.

(i) "Seed" means any agricultural or vegetable seed.

(j) "Interested Party" means any person financially interested in a transaction involving seed.

(k) "Applicant" means an interested party who requests any inspection service with respect to seed.

(l) "Authorized agent" means an agent to whom authority to represent a person or government agency has been given by that person or government agency through delegation, contract or cooperative agreement or other means.

(m) "Memorandum of understanding" means a written plan between AMS and a State for carrying out their separate activities in a project of mutual interest to the parties involved.

(n) "Inspector" means a licensed employee of a State authorized pursuant to a memorandum of understanding or an employee of the Department authorized by the Director, to draw samples of seeds, seal containers, inspect records, test seeds for quality, issue certificates and reports, and bill for services.

(o) "Inspection" means sampling seeds, sealing containers, testing seeds for quality and reviewing records.

(p) "Appeal inspector" means an inspector or other person designated or authorized by the Division to perform

appeal inspections under the Act and regulations in this subpart.

(q) "Certificate" means a certificate issued under the Act and the regulations in this subpart.

Administration

§ 75.3 Authority.

The Director is charged with the adminstration of the provisions of the regulations and the Act insofar as they relate to the subject matter of the regulations, under the supervision of the Secretary and the Administrator.

§ 75.4 Federal and State Cooperation.

Pursuant to the Act the Administrator is authorized to cooperate with the appropriate State agencies in carrying out provisions of the Act and these regulations through memoranda of understanding. The memorandum of understanding shall specify the duties to be performed by the parties concerned with each party directing its own activities and utilizing its own resources.

§ 75.5 Regulations not applicable for certain purposes.

The regulations do not apply to the inspection of grain in the United States under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*), except to the extent that official grain samples received from the Federal Grain Inspection Service (FGIS) shall be examined for the presence of specified weed and crop seeds upon the request of FGIS.

§ 75.6 Nondiscrimination.

The conduct of all services under these regulations shall be accomplished without discrimination as to race, color, religion, sex, or national origin.

Inspection

§ 75.7 Inspection in accordance with methods prescribed or approved.

Inspection of seed shall be rendered pursuant to these regulations and under such conditions and in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

§ 75.8 Basis of service.

These regulations provide for inspection services pursuant to the Act. Seeds shall be inspected in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

§ 75.9 Who may obtain service.

An application for inspection service may be made by any interested party or his authorized agent.

§ 75.10 How to make application.

An application for service shall be confirmed in writing and addressed to the Federal Seed Laboratory, LMGS, AMS, USDA, Beltsville, Maryland 20705.

§ 75.11 Content of application.

An application for service shall include the following information: (a) Tha date of application; (b) the kind and quantity of seed, and test(s) to be performed; (c) the methods and instructions for the inspection of the seed (either Association of Official Seed Anslyst (AOSA) or International Seed Testing Association (ISTA) rules); (d) the name and address of the applicant and, if made by an authorized agent, the name and address of such agent; and (e) such further information relating to the inspection as may be required.

§ 75.12 When application deemed filed.

An application shall be deemed filed when received by the Division or the Federal Seed Laboratory.

§ 75.13 When application may be rejected.

Any application for service may be rejected by the Director (a) for noncompliance with the Act or the regulations relating to applications for service in this subpart, or (b) when it is not practicable to provide the service. Each such applicant shall be promptly notified in writing.

§ 75.14 When application may be withdrawn.

An application may be withdrawn at any time before the requested service is rendered. The applicant will remain responsible for payment of expenses incurred in connection therewith as provided in § 75.44.

§ 75.15 Authority of agent.

Proof of authority of any person making an application as an agent may be required in the discretion of the official receiving the application.

§ 75.16 Accessibility of seeds.

Each lot of seed for which a lot inspection is requested shall be placed by the applicant so as to permit the entire lot to be sampled and a representative sample to be obtained as required.

§ 75.17 Testing.

Upon request by the applicant, tests may be made for kind, variety, germination, purity, weed seeds, disease pathogens, treatment, moisture, and other special tests, or any combination thereof for which prescribed methods of testing are established. The tests shall be in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) as requested by the applicant.

§ 75.18 Sampling.

Sampling, when requested by the applicant, shall be in accordance with the methods of either the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA), depending upon the test method requested by the applicant.

§ 75.19 Seed lot inspection.

A lot inspection shall be made by obtaining a representative sample from a specified quantity of seed identified with a distinguishing mark or number to appear on all containers in the lot, and performing such test(s) as may be requested by the applicant. The identification mark or number must be approved by the inspector and will appear on the certificate to be issued.

§ 75.20 Submitted sample inspection.

A sample inspection shall be made by testing a sample of seed submitted by an applicant for inspection.

§ 75.21 Grain sample inspection.

A sample inspection shall be performed by examining official grain samples received from the FGIS to identify specified weed and crop seeds upon the request of the FGIS.

§ 75.22 Form of inspection certificate.

Inspection certificates shall be approved by the Director as to their form. No correction, erasure, or other change shall be made in the information on a certificate.

§ 75.23 Issuance of inspection certificate.

After an inspection has been completed, an inspection certificate shall be issued showing the results of the inspection in accordance with paragraph (a) or (b) of this section.

(a) *Lot inspection certificate.* A lot inspection certificate shall be issued to include the name of the inspector sampling and sealing the seed lot, the analysis results from testing the sample, the identifying mark or number which has been approved by the inspector to appear on each container in the seed lot, and any other factual information pertinent to the inspection.

(b) *Sample inspection certificate.* A sample inspection certificate shall be issued to show the results of the inspection of a sample of seed or grain

submitted by an interested party. Each sample inspection certificate shall state the results of the inspection that applies only to the sample described in the certificate.

(c) *General authorization to issue certificates.* Certificates for inspections may be issued by any inspector autorized by the Director to perform the inspection covered by the certificate.

(d) *Name requirements.* The name and signature of the person who issued the inspection certificate shall be shown on the certificate. The original certificate must be signed, and the signature or a stamped facsimile shall be shown on each copy

§ 75.24 Disposition of inspection certificate.

Upon issuance, the original and one copy of each inspection certificate shall be delivered or mailed to the applicant or otherwise delivered or mailed in accordance with the applicant's instructions. One copy of each inspection certificate shall be filed in the Federal Seed Laboratory. In case of a lost or destroyed certificate, a duplicate thereof labeled as such may be issued under the same number, date, and name.

§ 75.25 Issuance of corrected certificate.

(a) If any error is made in an inspection, a corrected inspection certificate may be issued.

(b) The original and copies of the corrected certificate shall be issued as promptly as possible to the same inerested persons who received the incorrect certificate.

(c) The corrected certificate shall supersede the incorrect inspection certificate previously issued. The corrected certificate shall clearly identify, by certificate number and date, the incorrect certificate which it supersedes.

(d) The original and all copies of the superseded incorrect certificate shall be obtained by the Director, if possible. If it is not possible to obtain the original and all copies of the superseded certificate, to the extent possible, all parties involved will be notified, to prevent misuse of the superseded certificate and the corrected certificate so marked as to the outstanding certificate.

Appeal Inspection

§ 75.26 When appeal inspection may be requested.

A request for an appeal inspection may be made by any interested party regarding the results of an inspection as stated on an inspection certificate. Such request shall be made within thirty (30) days following the day on which an inspection certificate was issued.

§ 75.27 How to file an appeal.

Any request for an appeal inspection may be made orally or in writing to the Federal Seed Laboratory. If made orally, written confirmation is required. The applicant shall clearly state the reasons for requesting the appeal service. The original and all available copies of the certificate shall be returned to the appeal inspector assigned to make the appeal inspection.

§ 75.28 When a request for an appeal inspection may be withdrawn.

A request for an appeal inspection may be withdrawn by the applicant at any time before the appeal inspection is performed: *Provided,* that, the appellant shall pay any expenses incurred in connection with the appeal as provided in § 75.46.

§ 75.29 When an appeal may be refused.

A request for an appeal inspection may be refused if:

(a) The reasons for an appeal inspection are frivolous or not substantial;

(b) The quality or condition of the seed has been altered since the inspection covering the seed on which the appeal inspection is requested;

(c) The lot in question in a lot inspection is not, or cannot be made accessible for sampling;

(d) The lot relative to which appeal inspection is requested cannot be positively identified by the inspector as the lot from which drawn samples were previously inspected in a lot inspection; or

(e) The application is not in compliance with the regulations; and

(f) Such applicant shall be notfied promptly of the reason for such refusal.

§ 75.30 Who shall perform appeal inspection.

An appeal inspection shall be performed by an inspector (other than the one from whose inspection the appeal is requested) authorized for this purpose by the Director.

§ 75.31 Appeal inspection certificate.

After an appeal inspection has been completed, an appeal inspection certificate shall be issued showing the results of such appeal inspection; and such certificate shall supersede the inspection certificate previously issued for the seed involved. Each appeal inspection certificate shall clearly identify the number and date of the inspection certificate which it supersedes. The superseded certificate shall become null and void upon the issuance of the appeal inspection certificate and shall no longer represent the quality or condition of the seed described therein. The inspector issuing an appeal inspection certificate shall forward notice of such issuance to such persons as considered necessary to prevent misuse of the superseded certificate if the original and all copies of such superseded certificate have not previously been delivered to the inspector issuing the appeal inspection certificate. The appeal inspection certificate shall be marked as to the existence of the outstanding certificate. The provisions in the regulations concerning forms of certificates and disposition of certificates shall apply to appeal inspection certificates, except that copies of such appeal inspection certificates shall be furnished to all interested parties who received copies of the superseded certificate.

Licensing of Inspectors

§ 75.32 Who may become licensed inspector.

Any person nominated by a cooperating State and who is found to have the necessary qualifications may be licensed by the Director as an inspector to perform such duties of inspection as specified by the memorandum of understanding. Such a license shall bear the signature of an authorized employee of the Department. A licensed inspector shall perform duties pursuant to the regulations in accordance with instructions issued or approved by the Director.

§ 75.33 Suspension or revocation of license of inspector.

Pending final action by the Administrator, the Director may suspend, whenever it is deemed that such action is necessary to assure that any service provided is performed properly, the license of any inspector, issued pursuant to the regulations by giving notice of such suspension to the respective licensee, accompanied by a statement of the reasons therefor. Within 7 days after receipt of notice and statement of reasons by a licensee, an appeal may be filed in writing with the Administrator supported by any argument or evidence as to why the license should not be suspended. After expiration of the 7 day period and consideration of such argument and evidence, the Administrator shall take such action as deemed appropriate with respect to a suspension or revocation.

§ 75.34 Surrender of license.

Upon termination of service as an inspector or suspension or revocation of such license, such licensee shall surrender the license immediately to the Federal Seed Laboratory.

Sampling Provisions and Requirements

§ 75.35 Obtaining samples for lot inspections.

Samples of seed for lot inspections may be obtained by licensed inspectors or authorized employees of the Department.

§ 75.36 Representative sample.

No lot inspection sample shall be deemed representative of a lot of seed unless the sample: (a) has been obtained by a licensed inspector or an authorized employee of the Department; (b) is of the size prescribed in the instructions; and (c) has been obtained, handled, and submitted in accordance with the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA) procedures.

§ 75.37 Submitted samples.

Submitted samples may be obtained by or for any interested person. (Instructions for sampling seed may be obtained upon request to the Director or the Federal Seed Laboratory.)

§ 75.38 Lot inspections.

Each lot inspection shall be made on the basis of a representative sample obtained from that lot of seed by a licensed inspector or an authorized employee of the Department. Each lot of seed which is offered for lot inspection shall be sealed at the time of sampling in accordance with methods and procedures of the Association of Official Seed Analysts (AOSA) or the International Seed Testing Association (ISTA).

§ 75.39 Use of file samples.

(a) File samples which are retained by inspection personnel in accordance with the regulations may be deemed representative for appeal inspections: Provided, that (1) the samples have remained in the custody of the inspection personnel who certificated the inspection; and (2) the inspection personnel who performed the inspection and the inspection personnel who are to perform the appeal inspection determine the sample was representative of the seed at the time of the inspection and that the quality or condition of the seed in the sample and in the lot has not changed since the time of the inspection.

(b) Upon request of the applicant, and if practicable, a new sample may be obtained and examined as a part of an appeal inspection.

§ 75.40 Protecting samples.

Inspection personnel shall protect each sample from manipulation, substitution, and improper or careless handling which would deprive the sample of its representative character from the time of collection until the inspection is completed and the file sample has been discarded.

Fees and Charges

§ 75.41 General.

Fees and charges for inspection services performed by Federal employees shall cover the cost of performing the service. Fees shall be for actual time required to render the service, calculated to the nearest 15-minute period except that a minimum of one hour shall apply for testing and a two-hour minimum shall apply for sampling and sealing. Fees and charges shall be at the rate of $23.40 per hour. (Cost estimates may be obtained upon request to the Director or the Federal Seed Laboratory.)

§ 75.42 Sampling and sealing.

(a) Fees for inspection services provided by licensed inspectors may be charged by States participating in the program at rates established by the individual States.

(b) When onsite inspection services are performed by Federal employees at the request of the applicant:

(1) Fees for onsite inspections for sampling and sealing shall include the time for actual sampling and sealing, standby at the service site, travel time and actual travel costs to and from the site, and a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations as appear in Agricultural Travel Regulations including the Federal Travel Regulations, DM 2300–1.

(2) Hourly rates shall begin when the inspector begins travel to the service site and end when the inspector arrives back at his official station or residence, computed to the nearest quarter hour, less meal time, if any.

(3) A 2-hour minimum shall be charged for each on-site inspection.

§ 75.43 Laboratory testing.

Fees for testing each sample shall include the time required for actual testing, preparation of test records, issuing the certificate, and filing of samples and documents, with:

(a) Charges billed at the hourly rate in increments of 15 minutes.

(b) A minimum fee of 1 hour per sample for testing shall be charged.

§ 75.44 When application rejected or withdrawn.

When an application for inspection is rejected in accordance with § 75.13 or withdrawn in accordance with § 75.14, the applicant will be required to pay applicable fees for the time used by an inspector and other expenses incurred in connection with such application prior to its rejection or withdrawal.

§ 75.45 Charge for appeals.

A charge of 1 hour shall be made for each appeal filed under § 75.26 and the fee for an appeal inspection shall equal the fee for the original inspection from which the appeal is taken, plus any charges for travel or other expenses incurred in performing the appeal: *Provided*, that when a material error in the certificate or sample from which the appeal is taken is found by the appeal inspector the charge and fee shall be waived.

§ 75.46 When appeal refused or withdrawn.

When an appeal is refused in accordance with § 75.29 or withdrawn in accordance with § 75.28, the applicant will be required to pay for the time used by the appeal inspector and other expenses incurred in connection with such appeal prior to its denial, dismissal, or withdrawal.

§ 75.47 For certificates.

A charge of $3.30 per certificate will be made for copies of certificates other than those required to be distributed in § 75.23 and for the issuance of a duplicate certificates in accordance with § 75.24 and appeal certificates in § 75.31.

Miscellanous

§ 75.48 Publications.

Publications under the Act and this subpart shall be make in such manner as the Director may from time to time designate for the purpose.

§ 75.49 Identification number.

The Director may require the use of official identification numbers in connection with seed certificated or sampled under the Act. When identification numbers are required, they shall be specified by the Director and shall be attached to, or stamped, printed, or stenciled on, the lot of seed certificated or sampled in a manner specified by the Director.

Done at Washington, D.C.: August 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-21134 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 201

Lawn and Turf Seed Mixtures, Germination Test Dates, and Certain Labeling Requirements Under the Federal Seed Act

AGENCY: Agricultural Marketing Service (AMS), USDA.

ACTION: Proposed rule and notice of public hearing.

SUMMARY: This proposed rule would amend sections of the Federal Seed Act Regulations (7 CFR Part 201) to implement changes made necessary by the Federal Seed Act Amendments of 1982 (Pub. L. 97–439, 96 Stat. 2287). This proposal would delete the requirement that any agricultural seed mixtures intended for lawn and turf seed purposes, in containers of 50 pounds or less, be labeled as "Fine-Textured Grasses" or "Coarse Kinds"; revise the labeling requirements for lawn seed mixtures to provide that only the month and year of the earliest germination test be required; and authorize the Secretary to extend, for agricultural seeds or mixtures thereof, the 5-month period between the germination test date and the date of shipment in interstate commerce when it is found that, under ordinary conditions of handling, the seed will maintain its germination qualities over a longer period of time. Based on tests and other data available to USDA, the Secretary is proposing to extend the 5-month period for certain categories of lawn and turf seeds or mixtures thereof listed herein to 15 months.

DATES: Public Hearing August 30, 1983, 9:00 a.m.–11:00 a.m. Written comments must be filed by October 4, 1983.

ADDRESS: Send comments to: Livestock, Meat, Grain, and Seed Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. The public hearing will be held at the United States Department of Agriculture, Room 2096-South, 1400 Independence Avenue, SW., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Donald W. Ator, Chief, Seed Branch, Livestock, Meat, Grain, and Seed Division, AMS, USDA, Washington, D.C. 20250, (202) 447-9340.

SUPPLEMENTARY INFORMATION: Under section 402 of the Federal Seed Act, as amended (7 U.S.C. 1592; hereinafter "the Act"), and the administrative procedure provisions of 5 U.S.C. 553, notice is hereby given of intention to amend Part 201 of the regulations (7 CFR Part 201) under the act.

This proposed action has been determined not to be a "major rule" as defined in the Executive Order 12291 and Secretary's Memorandum 1512–1 in that it does not meet the criteria for a major rule.

In compliance with Office of Management and Budget (OMB) regulations, 5 CFR Part 1320 Controlling Paperwork Burdens on the Public, which implements the Paperwork Reduction Act of 1980, Pub. L. 96–511, the information collection requirements contained in this proposed rule—specifically the labeling requirements—have been submitted to OMB for review as prescribed in § 1320.13 (48 FR 13666), Clearance of Collection of Information Requirements in Proposed Rules, under section 3504(h) of the Paperwork Reduction Act. Comments concerning the information collection requirements contained in this proposed rule may be addressed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer, AMS/USDA, Washington, D.C. 20503, Telephone (202) 395–7340.

William T. Manley, Deputy Administrator, AMS, has certified that this action will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because there is no increase in recordkeeping or paperwork requirements, no increase of direct or indirect cost of compliance with the rule, no effect on the competitive position of small entities in relation to larger entities, no effect on small entity's cash flow and liquidity, no effect on the ability of a small entity to remain in the market and imposes no need for, and therefore no cost of obtaining professional assistance for compliance. Further, the changes to the regulations proposed are made so as to implement the 1982 Amendments to the Federal Seed Act. A letter and certification to this effect have been sent to the Small Business Administration.

A public hearing with respect to the proposed amendments will be held on August 30, at 9:00 a.m., USDA, Room 2096-South, 1400 Independence Avenue, S.W., Washington, D.C. Interested persons or groups who wish to appear at the hearing to present oral or written data or views on the proposed amendments may do so either in person or through a representative. Interested persons or groups who do not wish to appear at the hearing but desire to submit written data or views on the proposed amendments may do so by filing them, in duplicate, with the Hearing Clerk, USDA, Room 1077, South Building, Washington, D.C. 20250, no later than October 4, 1983. Data or views submitted in writing will be given the same consideration as data or views presented orally at the hearing. All written data and views filed with the Hearing Clerk and a transcript or summary of the public hearing will be available to the public for inspection at the Office of the Hearing Clerk during official hours of business.

A final decision in this matter will be based on the written data and views filed with the Hearing Clerk, the transcript of the public hearing, and other information available to the Department. A notice of the final action taken will be published in the Federal Register after the hearing.

Background

The Federal Seed Act of 1939 (7 U.S.C. 1551 *et seq.*) (hereafter "the Act") and the regulations promulgated thereunder (7 CFR Part 201) contained prior to January 1983 certain requirements relating to lawn and turf seed mixtures and germination test dates. Congress enacted the "Federal Seed Act Amendments of 1982" (Pub. L. 97–439, hereinafter "the 1982 Amendments"). Based upon the 1982 Amendments, changes are being proposed to the regulations to make necessary conforming amendments.

Sections 2 (a) and (c) of the 1982 Amendments repeal section 201(j) of the Act (7 U.S.C. 1571(j)) which provided lawn and turf seed dealers are no longer required to distinguish between "Fine-Textured Grasses" and "Coarse Kinds" on lawn seed labels and other specified labeling requirements in section 201(j) were also deleted. Because of the development of improved varieties of grass seed, it has become virtually impossible to distinguish between these categories. The Association of American Seed Control Officials had previously adopted a change in the Recommended Uniform State Seed Law to eliminate the labeling requirement for these categories, and a number of States have enacted that recommendation. In the 1982 Amendments, Congress also eliminated this labeling requirement.

Further, section 2(b) of the 1982 Amendments amends § 201(a) of the Act (7 U.S.C. 1571(a)) to require lawn and turf seed mixtures to be labeled as such, with each component of the mixture listed in the order of predominance. This labeling standard provides seed regulatory officials and consumers adequate information and avoids the risk that producers will misclassify a seed by attempting to distinguish between fine textured and coarse. Also, the labeling requirements of section 201 were made applicable to lawn and turf seeds. Accordingly, USDA proposes to delete 7 CFR 201.12a, which defined

coarse and find kinds of lawn and turf seeds. This proposed rule would substitute for the current language of 7 CFR 201.12a a simple mixture labeling standard which provides that seed mixtures be designated as a mixture on the label and that each seed component be listed on the label in the order of predominance.

Section 3 of the 1982 Amendments inserts a new clause in section 201(a)(8) of the Act (7 U.S.C. 1571(a)(8)) which simplifies the listing of germination dates. A germination test required by section 201(a)(8) of the Act is now required by § 201.22 of the regulations for each kind or variety of seed contained in a seed mixture, but the 1982 Amendments require the label to list only the earliest test date for a given mixture. This proposed rule would revise 7 CFR 201.22 to reflect this change.

Section 4 of the 1982 Amendments changes section 201(c) of the Act (7 U.S.C. 1571(c)) to permit the Secretary to extend for agricultural seeds the 5-month period between the germination test and introduction of such seeds into interstate commerce when it is found that such seeds will maintain a percentage of germination within the limits established by the Act under ordinary conditions of handling. It is proposed that 7 CFR 201.22 be amended accordingly.

Finally, the Secretary has determined, based upon tests and data available to the Department of Agriculture, that certain categories of agricultural seeds will maintain the required germination percentage beyond 5 months and specifically has found that certain categories of lawn and turf seeds or mixtures thereof listed in proposed § 201.22c will maintain the required germination percentage for at least 15 months or longer. It is therefore proposed to extend the 5-month period to 15 months for certain categories of seeds and mixtures thereof. Such seeds are bentgrass, Kentucky bluegrass, chewings fescue, hard fescue, red fescue, tall fescue, annual ryegrass, and perennial ryegrass. Also, information is invited with respect to the maintenance of germination under ordinary conditions of handling for other categories of seed.

Section 5 of the 1982 Amendments provided for changes to the provisions of the Act relating to the importation of seed. By delegation of authority, according to Secretary's Memorandum No. 1030-5, dated August 30, 1982, the Administrator, Animal and Plant Health Inspection Service, USDA, is administering the provisions of Title III (7 U.S.C. 1581 *et seq.*) of the Act relating to the importations of seed. In view of the above, any changes to the applicable sections of the regulations pertaining to seed importation due to the 1982 Amendments will be proposed at a later time under section 402(b) of the Act by the appropriate agencies within the Department and the Department of Treasury.

List of Subjects in 7 CFR Part 201

Seed—agricultural and vegetable, Interstate, Certifying agencies, Testing, Penalties, Advertising, Labeling.

PART 201—FEDERAL SEED ACT REGULATIONS

Accordingly, it is proposed to amend Part 201, Title 7 of the Code of Federal Regulations as follows:

Authority: Section 402, 53 Stat. 1285 (7 U.S.C. 1592).

Section 201.12a is revised to read as follows:

§ 201.12a Lawn and turf seed mixtures.

Seed mixtures intended for lawn and turf purposes shall be designated as a mixture on the label and each seed component shall be listed on the label in the order of predominance.

Section 201.22 is amended by naming the existing paragraph as (a) and by adding paragraphs (b) and (c) to read as follows:

§ 201.22 Date of test.

(a) * * *

(b) In the case of a seed mixture, it is only necessary to state the calendar month and year of such test for the kind or variety or type of agricultural seed contained in such mixture which has the oldest calendar month and year test date among the tests conducted on all the kinds or varieties or types of agricultural seed contained in such mixture.

(c) The following kinds shall be tested within the indicated time before interstate shipment:

Agricultural seeds and mixtures thereof	Months from test date to shipment
Bentgrass: *Agrostis tenuis and palustris*	15
Bluegrass, Kentucky: *Poa pratensis*	15
Fescue, Chewings: *Festuca rubra var. commutata*	15
Fescue, Hard: *Festuca longifolia Thuill*	15
Fescue, Red: *Festuca rubra*	15
Fescue, Tall: *Festuca arundinacea*	15
Ryegrass, Annual: *Lolium multiflorum*	15
Ryegrass, Perennial: *Lolium perenne*	15

Done at Washington, D.C., August 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operation.

[FR Doc. 83-21139 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-02-M

Federal Crop Insurance Corporation

7 CFR Part 404

Western United States Apple Crop, Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed Rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposed to revise and reissue the Western United States Apple Crop Insurance Regulations (7 CFR Part 404), effective for the 1984 and succeeding crop years to update the regulations and the policy for insuring apples in the Western United States in compliance with Secretary's Memorandum No. 1512, requiring that no regulation should exist for more than five years without review as to the need, currency, clarity, and effectiveness. Included among the changes in the policy for insuring apples are: (1) An easy to read format for the policy itself, (2) adding fire, earthquake, and volcanic eruption insurable causes of loss, (3) adding a provision permitting the determination of indemnities based on the acrage report rather than at loss adjustment time, (4) providing for a coverage level if the insured does not select one, (5) adding a 60-day claim for indemnity provision, (6) providing that russetting is not longer a reason for reduction in grade, (7) adding a section allowing appraisals for unharvested acreage following the insurance period, (8) adding a hail/fire provision for appraisals of uninsued causes, (9) adding a provision to clarify the Corporation's liability in cases of loss by fire, (10) changing the cancellation/termination dates, (11) providing that any change in the policy will be available in the service office by a certain date, (12) adding a definition for "service office," (13) providing for unit determination when the acreage report is filed, and (14) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the Western United States Apple Crop Insurance Regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of

this rule is to update the policy for insuring Western United States Apples in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not late than September 6, 1983, to be sure of consideration.

ADDRESS: Written comments on this rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established in Executive Order No. 12291 (February 17, 1981) was not used to assure that units of local government are informed of this action.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 404

Crop insurance, Apples.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue 7 CFR Part 404—Western United States Apple Crop Insurance Regulations, effective for the 1984 and succeeding crop years, to read as follows:

PART 404—WESTERN UNITED STATES APPLE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

404.1 Availability of Western U.S. apple insurance.
404.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
404.3 OMB control numbers.
404.4 Creditors.
404.5 Good faith reliance on misrepresentation.
404.6 The contract.
404.7 The application and policy.

Appendix A—Counties Designated for Western Crop Insurance

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

§ 404.1 Availability of Western U.S. apple insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties in the Western United States within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which apple insurance will be offered.

§ 404.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for apples which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 404.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 404) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

§ 404.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 404.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Western U.S. apple insurance contract, whenever: (a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and (b) the Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds: (1) That an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied therein in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 404.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The

contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the applicable service office.

§ 404.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the apple crops as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an apple contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1984 and successing crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Western United States Apple Insurance Policy are as follows:

Western U.S. Apple Crop Insurance Policy

[This is a continuous contract. Refer to Section 15.]

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Frost; (2) freeze; (3) wind; (4) hail; (5) fire; (6) earthquake; (7) volcanic eruption; or (8) fruit-set failure unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We shall not insure against any loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good apple management practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.* a. The crop insured shall be a variety of apples established as adapted to the area, which is located on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be apples located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured apples at the time insurance attaches.

d. We do not insure any acreage:

(1) Which has not produced a minimum of 250 boxes per acre; or

(2) Which we inspect and consider not acceptable.

e. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. *Report of acreage, share, yield, and number of trees.* You shall report on our form:

a. All the acreage of apples in the county in which you have a share;

b. Your share at the time insurance attaches;

c. The number of bearing trees; and

d. The number of loose field boxes produced from the preceding crop year's insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any apples located in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and number of trees or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are contained in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE[1]

Percent adjustments for favorable continuous insurance experience

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio[2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

Percent adjustments for unfavorable insurance experience

Loss ratio[2] through previous crop year	Numbers of loss years through previous year[3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	118	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	106	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the orchard operation; or

(3) Your contract if you stop orchard operations in one county and start orchard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

8. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* Insurance on insured acreage attaches for each crop year on November 21 and ends at the earliest of:

a. Total destruction of the applies;

b. Harvest of the apples from the unit;

c. Final adjustment of a loss; or

d. October 31 of the calendar year in which apples are normally harvested.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice of:

(a) The date(s) of damage; and

(b) The causes of damage.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined or damage occurs during harvest, immediate notice shall be given.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the apples on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the apples on which an indemnity is to be claimed.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the apples on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of apples on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of apples to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production:

(1) Apple production which, due to insurable causes, does not grade 80 percent Fancy or better, in accordance with applicable State Standards, shall be adjusted by:

(a) Production with 21 thru 40 percent not grading Fancy or better shall be reduced 2 percent for each percent in excess of 20 percent. The difference between the reduced production and the total production shall be considered cull production.

(b) Production with 41 thru 50 percent not grading Fancy or better shall be reduced 40 percent plus an additional 3 percent for each percent in excess of 40 percent. The difference between the reduced production and the total production shall be considered cull production.

(c) Production with 51 thru 64 percent not grading Fancy or better shall be reduced 70 percent plus an additional 2 percent for each percent in excess of 50 percent. The difference between the reduced production and the total production shall be considered cull production.

(d) Production with 65 percent or more not grading Fancy or better shall be considered 100 percent cull production.

(e) Thirty percent of all cull production, as determined above shall also be counted as production.

In no event shall a reduction in grade be applied to any apple grading less than Fancy due solely to shape, russeting or color.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good apple management practices;

(b) Not less than the guarantee for any acreage which is abandoned or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any apraisal we have made on insured acreage shall be considered production to count unless such appraised production:

(a) is harvested; or

(b) is futher damaged by an insured cause.

(4) We may determine the amount of production of any unharvested apples on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the apples are damaged by hail or fire, apraisals for uninsured causes shall be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire".

(6) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy

provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer or right to indeminity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transfere shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all applies produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specifed on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are November 20.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of terms.* For the purposes of apple crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding apple insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall also be considerd contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the applies and extending through the normal harvest time and shall be designated by the calendar year in which the applies are normally harvested.

e. "Fruit-set failure" means failure of the apple trees to develop blossoms or set fruit due only to adverse weather conditions, but shall not include poor pollination resulting from inadequate pollinizers in the orchard or failure to set fruit due to spray damage or other manageable causes.

f. "Harvest" means the picking of apples from the trees or from the ground.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Loose field box" means a standard container, accepted by the industry, containing a minimum of 35 pounds of apples.

j. "Marketable" means apples which grade U.S. No. 1, 2 or cider in accordance with the United States Standards for Apples for processing.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the apples or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of apples in the county which are located on contiguous land at the time insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the apples on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

o. "Western U.S." means those states west of a line extening North-South along the eastern state boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

18. *Descriptive headings.* The descriptive headings of the various policy terms and

conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations to be published soon in the **Federal Register.**

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Western United States Apple Insurance

Oregon: Umatilla
Washington:
Benton
Chelan
Columbia
Douglas
Okanogan
Yakima

Done in Washington, D.C., on June 21, 1983.

Peter F. Cole,
Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,
Manager.

[FR Doc. 83-21191 Filed 8-3-83; 8:45 am]
BILLING CODE 3410-08-M

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7 CFR Part 408

Eastern United States Apple Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule

SUMMARY: The Federal Crop Insurance Corporation (FCIC proposes to revise and reissue the Eastern United States Apple Crop Insurance Regulations (7 CFR Part 408)), effective with the 1984 and succeeding crop years, in compliance with the provisions of Secretary's Memorandum No. 1512–1, which requires that no regulation remain in effect for more than five years without review as to the need, currency, clarity, and effectiveness of such regulations. FCIC has completed such review and herewith publishes as a notice of proposed rulemaking, its proposals for changes in these regulations. In addition to changes in the regulations, the policy for insuring apples in the Eastern U.S. has been changed to (1) Provide an easy to read format for the policy, (2) provide for the use of the establishment of the production guarantee using actual production records, (3) add drought, fire, earthquake, volcanic eruption, and fruit-set failure as causes of loss, (4) provide that insurance will attach only on acceptable acreage producing a minimum of 150 bushels per acre instead of basing such determination on minimum age and numbers of trees, (5) permit determination of indemnities based on the acreage report which shall include production records for the preceding year, (6) provide a coverage level when an insured does not select one, (7) show different insurance period dates to conform with farming practices, (8) remove the 7-day notice of damage provision and include "harvest of the unit" in the 30-day notice of loss provision, (9) add a 60-day claim for indemnity provision, (10) adjust for quality by the difference between the value of damaged apples and undamaged processing apples, (11) provide for appraisals following the end of the insurance period for unharvested acreage, (12) add a hail-fire provision for appraisals of uninsured causes, (13) add a provision to clarify FCIC's liability in cases of loss by fire, (14) change the cancellation/termination dates to conform with farming practices, (15) provide that any change in the policy will be available in the service office by a certain date, (16) define "fruit-set failure," (17) add a definition for "service office," (18) provide for unit determination when the acreage report is filed, and (19) add a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the Eastern United States Apple crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring Eastern United States Apples in accordance with Secretary's Memorandum No. 1521–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than October 3, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). It has been determined under such procedures that this action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined in Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden on individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as defined in Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

FCIC is soliciting comments on this rule for 60 days after publication in the **Federal Register.** All written comments made pursuant to this action will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 408

Crop insurance, Apples.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation

herewith proposes to revise and reissue the Eastern United States Apple Crop Insurance Regulations (7 CFR Part 408), effective for the 1984 and succeeding crop years, to read as follows:

PART 408—EASTERN UNITED STATES APPLE CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1984 and Succeeding Crop Years

Sec.

408.1 Availability of Eastern U.S. apple insurance.
408.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.
408.3 OMB control numbers.
408.4 Creditors.
408.5 Good faith reliance on misrepresentation.
408.6 The contract.
408.7 The application and policy.
Appendix A—Counties Designated for Eastern U.S. Apple Insurance

Authority: Secs. 508, 516, Pub. L. 75-430, 52 Stat. 73, 77 As amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1984 and Succeeding Crop Years

§ 408.1 Availability of Eastern U.S. apple insurance.

Insurance shall be offered under the provisions of this subpart on apples in counties in the eastern United States within the limits prescribed by and in accordance with the provisions of the Federal Crop Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation. Before insurance is offered in any county, there shall be published by appendix to this part the names of the counties in which apple insurance will be offered.

§ 408.2 Premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed.

(a) The Manager shall establish premium rates, production guarantees, coverage levels, and prices at which indemnities shall be computed for apples which will be included in the actuarial table on file in service offices for the county and which may be changed from year to year.

(b) At the time the application for insurance is made, the applicant shall elect a coverage level and price at which indemnities will be computed from among those levels and prices contained in the actuarial table for the crop year.

§ 408.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 408) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

§ 408.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, or an involuntary transfer shall not entitle the holder of the interest to any benefit under the contract except as provided by the policy.

§ 408.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the Eastern U.S. apple insurance contract, whenever—

(a) An insured person under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation (1) is indebted to the Corporation for additional premiums, or (2) has suffered a loss to a crop which is not insured or for which the insured person is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured person believed to be insured, or believed the terms of the insurance contract to have been complied with or waived, and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds (1) that an agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice, (2) that said insured person relied thereon in good faith, and (3) that to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured person shall be granted relief the same as if otherwise entitled thereto.

§ 408.6 The contract.

(a) The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the apple crop as provided in the policy. The contract shall consist of the application, the policy, the appendix, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. Copies of forms referred to in the contract are available at the applicable service office.

§ 408.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the apple crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date for the county on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any county upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications or contract changes in any county, by placing the extended date on file in the service office for the county and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1984 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of an apple contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1983 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37; 400.38, first published at 48 FR 1023, January 10, 1983) and may be amended from time to time for subsequent crop years. The provisions of the Eastern United States Apple Insurance Policy are as follows:

Department of Agriculture—Federal Crop Insurance Corporation

Eastern U.S. Apple Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) drought; (2) frost; (3) freeze; (4) wind; (5) hail; (6) fire; (7) earthquake; (8) volcanic eruption; or (9) fruit-set failure unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(4).

b. We shall not insure against any loss of production due to: (1) the neglect or malfeasance of you, any member of your household, your tenants or employees; (2) the failure to follow recognized good apple management practices; (3) damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or (4) any cause not specified in section 1a as an insured loss.

2. Crop, acreage, and share insured.

a. The crop insured shall be a variety of apples established as adapted to the area, which is located on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be apples located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured apples at the time insurance attaches.

d. We do not insure any acreage: (1) which has not produced a minimum of 150 bushels per acre; or (2) which we inspect and consider not acceptable.

e. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. Report of acreage, share, yield, and number of trees.

You shall report on our form:

a. all the acreage of applies in the county in which you have a share;

b. your share at the time insurance attaches;

c. the number of bearing trees; and

d. the number of bushels produced from the preceding crop year's insurable acreage on each unit.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any apples located in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and number of trees or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production guarantees, coverage levels, and prices for computing indemnities.

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual premium.

a. The annual premium is earned and payable at the time insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE[1]

Percent adjustments for favorable continuous insurance experience

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio[2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

(Percentage adjustments for unfavorable insurance experience)

	Numbers of loss years through previous year[3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio[2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	106	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	106	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00-to UP	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) the contract of your estate or surviving spouse in case of your death;

(2) the contract of the person who succeeds you if such person had previously participated in the orchard operation; or

(3) your contract if you stop orchard operations in one county and start orchard operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance on insured acreage attaches for each crop year on November 21 and ends at the earliest of:

a. total destruction of the apples;

b. harvest of the apples from the unit;

c. final adjustment of a loss; or

d. the earlier of:

(1) the end of the normal harvest period by variety for the crop year; or

(2) November 20 of the crop year.

8. Notice of damage or loss.

a. In case of damage or probable loss:

(1) You must give us written notice of: (a) the date(s) of damage; and (b) the cause(s) of damage.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined or damage occurs during harvest, immediate notice shall be given.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) total destruction of the apples on the unit;

(b) harvest of the unit; or

(c) the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the apples on which an indemnity is to be claimed.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. Claim for indemnity.

a. Any claim for indemnity on a unit shall be submitted to us on our prescribed form not later than 60 days after the earliest of:

(1) total destruction of the apples on the unit;

(2) harvest of the unit; or

(3) the calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) establish the total production of apples on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) multiplying the insured acreage by the production guarantee;

(2) subtracting therefrom the total production of apples to be counted (see section 9e);

(3) multiplying the remainder by the price election; and

(4) multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production which is marketable.

(1) Appraised production to be counted shall include:

(a) unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good apple management practices;

(b) not less than the guarantee for any acreage which is abandoned or damaged solely by an uninsured cause;

(c) any appraised production on unharvested acreage.

(2) Any appraisal we have made on insured acreage shall be considered production to count unless such appraised production:

(a) is harvested; or

(b) is further damaged by an insured cause.

(3) We may determine the amount of production of any unharvested apples on the basis of field appraisals conducted after the end of the insurance period.

(4) When you have elected to exclude hail and fire as insured causes of loss and the apples are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(5) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event will we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we will be liable for loss due to fire only for the smaller of:

(1) the amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) the amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. Records and access to farm.

You shall keep for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all apples produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. Life of contract: Cancellation and termination.

a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for rthe contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemnity claim shall be the date you sign such claim; or

(2) if deducted from payment under another program administered by the United States

Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are November 20.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes.

We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes will be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms.

For the purposes of apple crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, insurable and uninsurable acreage, and related information regarding apple insurance in the county.

b. "Contiguous land" means land which is touching at any point, except that land which is separated by only a public or private right-of-way shall also be considered contiguous.

c. "County" means the Eastern U.S. county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the apples and extending through the normal harvest time and shall be designated by the calendar year in which the apples are normally harvested.

e. "Eastern U.S." means those States east of a line extending North-South along the eastern State boundaries of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma and Texas.

f. "Fruit-set failure" means failure of the apple trees to develop blossoms or set fruit due only to adverse weather conditions, but shall not include poor pollination resulting from inadequate pollinizers in the orchard or failure to set fruit due to spray damage or other manageable causes.

g. "Harvest" means the picking of marketable apples from the trees or from the ground.

h. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

i. "Insured" means the person who submitted the application accepted by us.

j. "Marketable" means apples which grade U.S. No. 1, 2 or cider in accordance with the United States Standards for Apples for processing.

k. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and whenever applicable, a State, a political subdivision of a State, or any Agency thereof.

l. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

m. "Tenant" means a person who rents land from another person for a share of the apples or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of apples in the county which are located on contiguous land at the time insurance attaches for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the apples on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between you and us. Units as herein defined will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations.

All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations to be published soon in the **Federal Register.**

20. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Appendix A—Counties Designated for Eastern United States Apple Insurance—7 CFR Part 408

The following counties are designated for Eastern U.S. Apple Crop Insurance under the provisions of 7 CFR 408.1.

North Carolina

Alexander
Henderson
Wilkes.

Done in Washington, D.C., on June 21, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Approved by:

Merritt W. Sprague,

Manager.

Date: July 29, 1983.

[FR Doc. 83-21182 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 413

[Amdt. No. 2]

Texas Citrus Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Texas Citrus Crop Insurance Regulations (7 CFR Part 413), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read, (2) providing that damage due to fire is only insurable where good grove management practices relating to weed control and tree prunings are carried out, (3) permitting determination of indemnities based on the acreage report rather than at loss adjustment time, (4) providing a coverage if the insured does not select one, (5) adding a 60-day claim for indemnity provision, (6) adding a section regarding appraisals following the end of the insurance policy for unharvested acreage, (7) adding a hail/fire provision for uninsured causes, (8) changing the cancellation/termination dates to conform to farming practices, (9) providing that any change in the policy will be available in the service office by a certain date, (10) providing for unit determination when the acreage report is filed, and (11) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the Texas citrus crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring Texas citrus in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB

regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATES: Written comments on this proposed rule must be submitted not later than October 3, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 413

Crop insurance, Texas citrus.

Proposed Rule

PART 413—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Texas Citrus Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 413 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 413 is amended in the table of contents thereof by removing the word "Reserved" from § 413.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 413.3 is amended by removing the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 413.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 413) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

§ 413.7 [Amended]

4. 7 CFR 413.7(d) is amended by removing the Texas Citrus Crop Insurance Policy therein and inserting the following:

Department of Agriculture Federal Crop Insurance Corporation—Texas Citrus Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of Loss

a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) adverse weather conditions; (2) fire; (3) wildlife; (4) earthquake; (5) volcanic eruption; or (6) direct Mediterranean Fruit Fly damage unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(9). Direct Mediterranean Fruit Fly damage shall be actual physical damage to the citrus on the unit which, as determined by us, causes such citrus to be unmarketable and shall not include unmarketability of such citrus as a direct result of quarantine, boycott, or refusal to accept the citrus by any entity without regard to actual physical damage to such citrus.

b. We shall not insure against any cause of loss of production due to:

(1) Fire, where weeds and other forms of undergrowth have not been controlled or tree prunings have not been removed from the grove;

(2) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(3) The failure to follow recognized good citrus grove practices;

(4) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(5) Any cause not specified in section 1a as an insured loss.

2. Crop, Acreage, And Share Insured

a. The crop insured shall be any of the citrus types listed below which you elect: Type I, Early and midseason oranges; Type II, Late oranges (including Temples); Type III, Grapefruit, except the Star Ruby and Ruby Red varieties; Type IV, Star Ruby variety of grapefruit; or Type V, Ruby Red variety of grapefruit; which are grown on insured acreage; and for which a guarantee and premium rate are provided by the acturial table.

b. The acreage insured for each year shall be that acreage of citrus located on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured citrus on the date insurance attaches.

d. We do not insure any acreage:

(1) Which has not produced an average of 3 tons of oranges or grapefruit per acre the previous year;

(2) Which does not have the potential of 3 tons of oranges or grapefruit the crop year following a crop year in which substantial damage occurred;

(3) Which does not have acceptable records of production, unless inspected by us and considered acceptable and we agree in writing to insure such acreage;

(4) Where the practices carried out are not in accordance with the practices for which the premium rates have been established; or

(5) Which is irrigated and an irrigated practice is not provided for in the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3.

e. Insurance shall not attach or be considered to have attached to any acreage of the crop, for the crop year the application is filed until the acreage has been inspected and accepted by us.

f. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good citrus irrigation practice on the date insurance attaches. And

(2) Any loss of production caused by failure to carry our a good citrus irrigation practice, except failure of the water supply from an unavoidable cause occurring after the date insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

g. We may limit the insured acreage to any acreage limtation established under any Act of Congress, if we advise you of the limit prior to the date insurance attaches.

3. Report of Acreage, Share, and Practice

You shall report on our form:

a. All the acreage of citrus in the county in which you have a share.

b. The practice.

c. Your share on the date insurance attaches.

d. The number of bearing trees.

e. The number of trees topped. And

f. The most recent year's production records for insurable acreage on each unit.

You shall designate separately any acreage that is not insurable and the rcords of any production from such acreage. You shall report if you do not have a share in any citrus grown in the county. This report shall be submitted annually on or before June 30. We may determine all indemnitfes on the basis of information you have submitted on this report. It you do not submit this report June 30, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Production Guarantees, Coverage Levels, and Prices for Computing Indemnities

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. Annual Premium

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

Loss ratio [2] through previous crop year	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

Loss ratio [2] through previous crop year	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the grove operation; or

(3) Your contract if you stop grove operations in one county and start grove operations in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* a. Insurance attaches on December 1 prior to the crop year, except that for the first crop year if we accept the application after that date, insurance shall attach on the later of:

(1) December 1 prior to the first crop year; or

(2) The tenth day after you sign the application.

b. Insurance ends at the earliest of:

(1) Total destruction of the citrus;

(2) Harvest;

(3) Final adjustment of a loss; or

(4) May 31 of the calendar year following the normal year of bloom.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice promptly:

(a) After insured damage to the citrus becomes apparent, giving the date(s) and cause(s) of such damage; or

(b) If you decide not to further care for or harvest any part of it.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given. If harvest will begin after the end of the insurance period, notice shall be given on or before the calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the citrus which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our prescribed form not later than 60 days after the earliest of:

(1) Total destruction of the citrus on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of citrus on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of citrus to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Any citrus production which is not marketed as fresh fruit and due to insurable causes does not contain 120 or more gallons of juice per ton, shall be adjusted by:

(a) Dividing the gallons of juice per ton obtained from damaged citrus by 120; and

(b) Multiplying the result by the number of tons of such citrus.

(2) Where our actuarial table provides for and you elect the fresh fruit option; citrus production which is not marketable as fresh fruit due to insurable causes, shall be adjusted by:

(a) Dividing the value per ton of the damaged citrus by the price of undamaged citrus; and

(b) Multiplying the results by the number of tons of such citrus. The applicable price for undamaged citrus shall be: the local market price the week before damage occurred, or the contract price if the contract was entered into between the producer and buyer before damage occurred.

(3) Any production shall be considered marketed or marketable as fresh fruit unless due to insurable causes, such production was not marketed as fresh fruit.

(4) In the absence of acceptable records to determine the disposition of harvested citrus, we shall determine such disposition and the amount of such production to be counted for the unit.

(5) Any citrus on the ground which is not picked up and marketed shall be considered totally lost if the damage was due to any insured cause.

(6) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good citrus grove practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(7) Any appraisal we have made on insured acreage shall be considered production unless the appraised production:

(a) Is not harvested before harvest of the insured citrus type becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause.

(8) We may determine the amount of production of any unharvested citrus on the basis of field appraisals conducted after the end of the insurance period.

(9) When you have elected to exclude hail and fire as insured causes of loss and the citrus is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with form FCI-78, "Request to Exclude Hail and Fire".

(10) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for idemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any idemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to grove.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all citrus produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the grove for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the

amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are November 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. Contract changes. We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by August 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms. For the purposes of Texas citrus crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding citrus insurance in the county.

b. "Contiguous land" means land which is touching at any point except that land which is separated by only a public or private right-of-way shall be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period beginning with the date insurance attaches to the citrus crop and extending through normal harvest time, and shall be designated by the calendar year following the year in which the bloom is normally set.

e. "Harvest" means the severance of mature citrus from the tree either by pulling, picking, or severing by mechanical or chemical means, or picking up the marketable fruit from the ground.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Tenant" means a person who rents land from another person for a share of the citrus or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage of any one of the citrus types referred to in section 2 of this policy, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the citrus on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. Descriptive headings. The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. Determinations. All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations to be published soon in the **Federal Register**.

20. Notices. All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Date: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-21181 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 417

[Amendment No. 4]

Sugarcane Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Sugarcane Crop Insurance Regulations (7 CFR Part 417), effective for the 1985 and succeeding crop years, by: (1) Changing the policy to make it easier to read, (2) eliminating the reduction in production guarantee for unharvested acreage provision and its related provisions, (3) adding a provision permitting the determination of indemnities based on the acreage report rather than at loss adjustment time, (4) adding a provision to provide a coverage level if the insured does not select one, (5) adding a 60-day claim for indemnity provision, (6) adding a provision regarding appraisals following the end of the insurance period for unharvested acreage, (7) adding a hail/fire provision for appraisals on uninsured causes, (8) changing the cancellation/termination dates to conform with farming practices, (9) providing that any change in the policy will be available in the service office by a certain date, (10) adding a definition for "service office," (11) providing for a unit determination when the acreage report is filed, and (12) adding a section on "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the sugarcane crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring sugarcane in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than September 6, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 417

Crop insurance, Sugarcane.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Sugarcane Crop Insurance Regulations, effective for the 1985 and succeeding crop years, in the following instances:

PART 417—AMENDED

1. The Authority citation for 7 CFR Part 417 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 417 is amended in the Table of Contents thereof by removing the word "Reserved" from § 417.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 417.3 is revised to read as follows:

§ 417.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 417) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 417.7(d) is amended by removing the Sugarcane Crop Insurance Policy therein and inserting the following:

§ 417.7 The application and policy.

* * * * *

Sugarcane Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement To Insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good sugarcane farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.* a. The crop insured shall be sugarcane grown for processing for sugar which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be *plant* and *stubble* cane grown on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured sugarcane as reported by you or as determined by us.

d. We do not insure any acreage:

(1) Cut for seed;

(2) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(3) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(4) Which is destroyed and we determine it is practical to replant to sugarcane and such acreage is not replanted;

(5) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction;

(6) Planted to a type or variety of sugarcane not established as adapted to the area or excluded in the actuarial table; or

(7) Planted with a crop other than sugarcane.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good sugarcane irrigation practice at the time insurance attaches; and

(2) Any loss of production caused by failure to carry out a good sugarcane irrigation practice, except failure of the water supply from an unavoidable cause occurring after insurance attaches, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to the time insurance attaches.

3. *Report of acreage, share, and practice.* You shall report on our form:

a. All the acreage of sugarcane in the county in which you have a share;

b. The practice; and

c. Your share at the time insurance attaches.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any sugarcane in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the

reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities shall be contained in the actuarial table.

b. If you have not elected a coverage level, you shall have coverage level 2.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. Deductions for debt. Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program adminstered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* a. Insurance attaches on:

(1) *Plant* cane at the time of planting; and

(2) *Stubble* cane on the later of the April 15 following normal harvest or 30 days after harvest.

b. Insurance ends at the earliest of:

(1) Total destruction of the sugarcane;

(2) Harvest;

(3) Final adjustment of a loss; or

(4) The following dates immediately following the normal starting of harvest.

(a) Louisiana, January 31; (b) all other states, April 30.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the sugarcane on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the sugarcane and given written consent. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested sugarcane (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the sugarcane on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You must obtain written consent from us before you destroy any of the sugarcane which is not to be harvested.

c. If an indemnity is to be claimed on any unit you shall leave intact the stalks on unharvested acreage and the stubble on harvested acreage until inspected by us.

e. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the sugarcane on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of sugarcane on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of sugarcane to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production:

(1) Sugarcane production damaged by freeze within the insurance period which adversely affects boiling house operation shall be adjusted by:

(a) Dividing the value of the damaged sugarcane, as determined by us, by the value of undamaged standard sugarcane; and

(b) Multiplying the results by the number of tons of the damaged sugarcane.

The applicable price for undamaged sugarcane shall be the local market price on the earlier of: the day the loss is adjusted or the day such sugarcane was sold.

(2) Appraised production to be counted shall include:

(a) Any appraisal on *stubble* acreage with inadequate stand;

(b) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good sugarcane farming practices;

(c) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(d) Any appraised production on unharvested acreage.

(3) The appraisal for inadequate stand shall be made on any *stubble* acreage with less than 1,000 plants, at the time of inspection, for each ton of guarantee. The per acre appraisal shall be the difference between the production guarantee and the results obtained by dividing the number of plants by 1,000.

(4) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of sugarcane becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(5) We may determine the amount of production of any unharvested sugarcane on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the sugarcane is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(7) The commingled production of units shall be allocated to such units in proportion to the liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be benefically entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount determined by us by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire, as determined by us.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our prescribed form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to farm.* You shall keep for two years after the time of loss, records of the harvesting, storage, shipments, sale or other disposition of all sugarcane produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State	Cancellation and termination dates
Louisiana	Aug. 31.
All other states	Sept. 30.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table shall provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by May 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of terms.* For the purposes of sugarcane crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding sugarcane insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period from planting for *plant* cane and from the later of April 15 or 30 days after harvest for *stubble* cane until the end of the insurance period and shall be designated by the calendar year in which the sugarcane is normally harvested.

d. "Harvest" means the cutting and removing of sugarcane from the field.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Plant" (see definition of sugarcane.)

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Standard sugarcane" means net sugarcane containing the percent sucrose in the normal juice or in the cane and, where applicable, the purity factor as shown in the actuarial table.

k. "Stubble" (see definition of sugarcane).

l. "Sugarcane" means either:

(1) Sugarcane the initial year planted ("plant" cane);

(2) Sugarcane previously harvested and the stubble left to produce another crop ("stubble" cane).

m. "Tenant" means a person who rents land from another person for a share of the sugarcane or a share of the proceeds therefrom.

n. "Unit" means all insurable acreage of sugarcane in the county on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the sugarcane on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. We shall determine units as herein defined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-21159 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 421

[Amendment No. 3]

Cotton Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Cotton Crop Insurance Regulations (7 CFR Part 421), effective for the 1984 and succeeding crop years, by: (1) Eliminating of references to "third stage" coverage of cotton, (2) permitting determination of indemnities based on the acreage report rather than at loss adjustment time, (3) adding a provision that FCIC will determine a coverage level if the insured does not select one, (4) providing that determinations or appraisals allow for the entire appraisal for uninsured causes to be counted, regardless of the stage, (5) adding a provision regarding appraisals following the end of the insurance period for unharvested acreage, (6) revising the hail/fire provision to allow for appraisals for uninsured causes, (7) changing the cancellation/termination dates to conform with farming practices, and (8) providing that any change in the policy will be available in the service office by a certain date.

In addition, FCIC proposes to issue a new subsection in the cotton crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring cotton in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than September 19, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore,

review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 421

Crop insurance, Cotton.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Cotton Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 421—AMENDED

1. The Authority citation for 7 CFR Part 421 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 421 is amended in the Table of Contents thereof by removing the word "Reserved" from § 421.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 421.3 is revised to read as follows:

§ 421.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 421) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 421.7(d) is amended by removing the Cotton Crop Insurance Policy therein and inserting the following:

§ 421.7 The application and policy.

* * * * *

Cotton Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to Insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Corp Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption, unless those causes are expected, excluded, or limited by the actuarial table or section 9e(6).

b. We shall not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good cotton farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.* a. The crop insured shall be American Upland lint cotton which is grown on insured acreage and for which we provide a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be cotton planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect. The acreage insured of skip-row cotton shall be the acreage occupied by the rows of cotton after eliminating the skipped-row portions unless other acreage determinations are provided by the actuarial table.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured cotton at the time of planting.

d. We do not insure any acreage:

(1) Which is non-irrigated and from which a hay crop was harvested or on which a small grain crop reached the heading stage in the same calendar year;

(2) Planted in excess of limitation established by any programs administered by the United States Department of Agriculture;

(3) Which is new ground acreage;

(4) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(5) Which is irrigated and an irrigated practice is not provided for by the actuarial table, unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(6) Which is destroyed and we determine it is practical to replant to cotton, and such acreage was not replanted;

(7) Initially planted after the final planting date contained in the actuarial table, unless you agree in writing on our form to coverage reduction; or

(8) Planted to a type of variety of cotton not established as adapted to the area or excluded by the actuarial table.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good cotton irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good cotton irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree, in writing, to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of acreage, share, and practice.* You shall report on our form:

a. All the acreage of cotton in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any cotton planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may right to determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine, by unit, the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* a. The second stage production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. The production guarantees in the actuarial table are the second stage guarantees. The first stage guarantee is 60 percent of the second stage guarantee. The stages are:

(1) First Stage—Planting until 50 days after the final planting date or until the shedding of the first blooms, whichever occurs first. We may limit the liability to the first stage if the cotton was damaged during this period to the extent that farmers generally would not further care for the cotton, or (2) Second Stage—Includes all insured cotton after the first stage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* Insurance attaches when the cotton is planted and ends at the earliest of:

a. Total destruction of the cotton;

b. Removal of the cotton from the field;

c. Final adjustment of a loss; or

d. The date immediately following planting as follows:

(1) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmit Counties, Texas and all Texas counties south thereof, September 30;

(2) Arizona, California, New Mexico, Oklahoma and all other Texas counties, January 31;

(3) All other states, December 31.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the cotton on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the cotton and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of unharvested cotton (at least 10 feet wide and the entire length of the field) shall be left for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the cotton on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy any cotton on which an indemnity shall be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the cotton which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the cotton on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of cotton on the unit and that any loss of production has been directly caused by one or more of

the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of cotton to be counted (see section 9e);

(3) Multiplying the reminder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the premiun determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) When mature cotton has been damaged solely by insured causes, the production to count shall be reduced if, on the date the final notice of loss is given by the insured, the price quotation for cotton of like quality (price quotation "A") at the applicable spot market is less than 75 percent of price quotation "B". Price quotation "B" shall be that day's spot market price quotation at the same market for cotton of the grade, staple length, and micronaire reading shown in the actuarial table for this purpose. The pounds of production to be counted shall be determined by multiplying the actual number of pounds of such production by price quotation "A" and dividing the result by 75 percent of price quotation "B".

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good cotton farming practices;

(b) Not less than the applicable guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Only the appraised production in excess of the difference between the first and second stage production guarantee for other acreage which does not qualify for the second stage guarantee, except that for any appraised production lost due to uninsured causes, the entire appraisal for uninsured causes shall be counted.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of cotton becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) The cotton stalks shall not be destroyed on any acreage for which an indemnity is claimed, until consent is given by us. An appraisal of not less than the second stage guarantee may be made on acreage where the stalks have been destroyed without our consent.

(5) We may determine the amount of production of any unharvested cotton on the basis of field appraisals conducted after the end of the insurance period.

(6) When you have elected to exclude hail and fire as insured causes of loss and the cotton is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI-78, "Request to Exclude Hail and Fire".

(7) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the cotton is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogration.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to farm.* You shall keep for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all cotton produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. *of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termi nation date proceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) if deducted from an indemity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program adminstered by United States Department of Agriculture shall be that date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and terminations dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, La Salle, Dimmit Counties, Texas and all Texas counties lying south thereof.	Feb. 15.
Alabama, Arkansas, California, Georgia, Louisiana, Mississippi, Nevada, North Carolina and South Carolina and.	Mar. 31.
Winkler, Ector, Upton, Regan, Sterling, Coke, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south thereof to and including Mavfrich, Zavalla, Frio, Atascosa, Karnes, Gonzales, Lavaca, Wharton, and Matagorda Counties, Texas.	
All other Texas counties and all other states.	Apr. 15.

e. If you die or are judicially declared imcompent, or the insured entity is other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement

provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is not longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of terms.* For the purposes of cotton crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding cotton insurance in the county.

b. "Cotton" means only American Upland Cotton.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the cotton is normally grown and shall be designated by the calendar year in which the cotton is normally harvested.

e. "Harvest" means the removal of the seed cotton from the open cotten boll or the severance of the open cotton boll from the stalk by either manual or mechanical means.

f. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

g. "Insured" means the person who submitted the application accepted by us.

h. "New ground acreage" means any acreage which has not been planted to a crop in any one of the previous three crop years, except that acreage in tame hay or rotation pasture during the previous crop year shall not be considered new ground acreage.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

k. "Spot market" means a market so designated by the Secretary of Agriculture by Regulation (7 CFR 27.93) pursuant to 26 U.S.C. 4862.

l. "Tenant" means a person who rents land from another person for a share of the cotton or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of cotton in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share, or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the cotton on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having interest therein.

18. *Descriptive headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.[1]

20 *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-21151 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 423

[Amendment No. 3]

Flax Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Flax Crop Insurance Regulations (7 CFR Part 423), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read, (2) eliminating the substitute crop provision, (3) eliminating the reduction in production guarantee for unharvested acreage provision and its related provisions, (4) adding a provision which permits the determination of indemnities based on the acreage report rather than at loss adjustment time, (5) adding of a provision to provide a coverage level if the insured does not select one, (6) adding a 60-day claim for indemnity provision, (7) adding a section regarding appraisals following the end of the insurance period of unharvested acreage, (8) adding a hail/fire provision for appraisals of uninsured causes, (9) changing the cancellation/termination dates to conform with farming practices, (10) providing that any change in the policy will be available in the service office by a certain date, (11) adding a definition for "service office," (12) providing for unit definition when the acreage report is filed, and (13) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the flax crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring flax in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than October 3, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

[1] Copies of the Debtor Appeal Rights Procedures may be obtained from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 423

Crop insurance, Flax.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Flax Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 423—AMENDED

1. The Authority citation for 7 CFR Part 423 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 423 is amended in the Table of Contents thereof by removing the word "Reserved" from § 423.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 423.3 is revised to read as follows:

§ 423.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 423) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 423.7(d) is amended by removing the Flax Crop Insurance Policy therein and inserting the following:

§ 4237 The application and policy.

* * * * *

Flax Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to Insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9e(5).

b. We shall not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good flax farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.* a. The crop insured shall be flaxseed ("flax") which is planted for harvest as seed; which is grown on insured acreage; and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be flax planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share be your share as landlord, owner-operator, or tenant in the insured flax at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed and it is practical to replant to flax and such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction in writing on our form;

(5) Of volunteer flax;

(6) Planted to a type or variety of flax not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with another crop except perennial grasses or legumes other than vetch.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good flax irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good flax irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of acreage, share, and practice.* You shall report on our form:

a. All the acreage of flax in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any flax planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. Coverage level 2 will apply if you do not elect a coverage level.

c. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	126	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* a. Insurance attaches when the flax is planted and ends at the earliest of:

(1) Total destruction of the flax;

(2) Combining, threshing or removal from the field;

(3) Final adjustment of a loss; or

(4) October 31 following planting.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) During the period before harvest, the flax on any unit is damaged and you decide not to further care for or harvest any part of it;

(b) You want our consent to put the acreage to another use; or

(c) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the flax and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested flax (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the flax on the unit;

(b) Harvest of the unit; or

(c) October 31 following planting.

b. You must obtain written consent from us before you destroy any of the flax which is not to be harvested.

c. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the flax on the unit;

(2) Harvest of the unit; or

(3) October 31 following planting.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of flax on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of flax to be counted (see section 9e);

(3) Multiplying the remainder by the price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The total production to be counted for a unit shall include all harvested and appraised production.

(1) Mature flax which, due to insurable causes, does not grade No. 2 or better, in accordance with the Official United States Grain Standards, shall be adjusted by:

(a) Dividing the value per bushel of such flax, by the price per bushel of U.S. No. 2 flax; and

(b) Multiplying the result by the number of bushels of such flax.

The applicable price for No. 2 flax shall be the local market price on the earlier of the day the loss is adjusted or the day such flax was sold.

(2) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good flax farming practices;

(b) Not lesss than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(3) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of flax becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(4) We may determine the amount of production of any unharvested flax on the basis of field appraisals conducted after the end of the insurance period.

(5) When you have elected to exclude hail and fire as insured causes of loss and the flax is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(6) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

f. You shall not abandon any acreage to us.

g. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

h. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

i. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the flax is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

j. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our prescribed form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all flax produced on each unit including separate records showing the same information for production from any uninsured acreage. Any person designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are April 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of terms.* For the purposes of flax crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding flax insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the flax is normally grown and shall be designated by the calendar year in which the flax is normally harvested.

d. "Harvest" means the completion of combining or threshing of flax on the unit.

e. "Insurable acreage" mean the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a

political subdivision of a State, or any agency thereof.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as many be selected by you or designated by us.

i. "Tenant" means a person who rents land from another person for a share of the flax or a share of the proceeds therefrom.

j. "Unit" means all insurable acreage of flax in the county on the date of planting for the crop year:

(1) in which you have a 100 percent share; or

(2) which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the flax on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of you household to be your bona fide share or the bona fide share of any other person having an interest therein.

18. *Descriptive headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.[1]

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-21160 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

[1] Copies of the Debtor Appeal Rights Procedures may be obtained from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

7 CFR Part 425

[Amdt. No. 6]

Peanut Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Peanut Crop Insurance Regulations (7 CFR Part 425), effective for the 1984 and succeeding crop years, by (1) Changing the policy to make it easier to read, (2) adding volcanic eruption as an insurable cause of loss, (3) adding a provision to permit determination of indemnities based on the acreage report rather than at loss adjustment time, (4) providing for a coverage level if the insured does not select one, (5) adding a 60-day claim for indemnity provisions, (6) adding a section regarding appraisals following the end of the insurance period for unharvested acreage, (7) adding a hail/fire provision for appraisals of uninsured causes, (8) amending the replanting provision regarding the ineligibility of acreage for replanting payment if FCIC's appraisal of the potential exceeds 90 percent of the guarantee, (9) changing the cancellation and termination dates to conform to farming practices, (10) providing that any change in the policy will be available in the service office by a certain date, (11) providing for unit determination when the acreage report is filed, and (12) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the peanut crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring peanuts in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATES: Written comments on this proposed rule must be submitted not later than October 3, 1983 to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that : (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981). (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibilty Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washingtoon, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 425

Crop insurance, Peanut.

Proposed Rule

PART 425—[AMENDED]

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Peanut Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

1. The Authority citation for 7 CFR Part 425 is:

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 425 is amended in the table of contents thereof by removing the word "Reserved" from § 425.3 and inserting, in its pace, the words "OMB control number assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 425.3 is amended by moving the word "Reserved" in the title thereof and inserting, in its place, the following:

§ 425.2 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regualtions (7 CFR Part 425) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

§ 425.7 [Amended]

4. 7 CFR 425.7(d) is amended by removing the Peanut Crop Insurance Policy therein and inserting the following:

Peanut Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring with the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant disease; (5) wildlife; (6) earthquake; or (7) volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9g(7).

b. We shall not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good peanut farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.* a. The crop insured shall be peanuts planted for the purpose of digging, maturing and marketing as farmers' stock peanuts, which are grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be peanuts planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured peanuts at the time of planting.

d. We do not insure any acreage:

(1) Not planted to a type of peanuts designated as insurable by the actuarial table;

(2) Destroyed for the purpose of conforming with any other program administered by the United States Department of Agriculture;

(3) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(4) Which is irrigated and an irrigated practice is not provided for by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(5) Which is destroyed and we determine it is practical to replant to peanuts and such acreage is not replanted;

(6) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to coverage reduction in writing on our form; or

(7) Planted for experimental purposes.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good peanut irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good peanut irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of acreage, share, poundage quota, and where applicable, practice.* You shall report on our form:

a. All the acreage of peanuts in the county in which you have a share;

b. The practice;

c. Your share at the time of planting; and

d. The effective poundage marketing quota, if any, applicable to the unit for the current crop year as provided under ASCS Peanut Marketing Quota Regulations.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any peanuts planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production guarantees, coverage levels, and prices for computing indemnities.*

a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. The production guarantee per acre shall be reduced by the lesser of 250 pounds or 20 percent for any unharvested acreage.

c. Coverage level 2 will apply if you do not elect a coverage level.

d. You may change the coverage level and price election on or before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee for the unit (insured acreage times the applicable production guarantee) which may consist of quota and non-quota (additional) peanuts times the applicable price election, times the premium rate, times your share at the time of planting, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

(Percent adjustments for favorable continuous insurance experience)

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* Insurance attaches when the peanuts are planted and ends at the earliest of:

a. Total destruction of the peanuts;

b. Threshing or removal from the field;

c. Final adjustment of a loss; or

d. November 30 following planting.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant peanuts damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted shall be at least the lesser of 10 acres of 10 percent of the insured acreage on the unit.);

(b) During the period before threshing, the peanuts of any unit are damaged and you decide not to further care for or thresh any part of them;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the peanuts and given written consent. We shall not consent to another use until it is too late to replant. You must notify us when such acreage is put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given and a representative sample of the unharvested peanuts (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the peanuts on the unit;

(b) Harvest or otherwise disposing of the peanuts on the unit; or

(c) November 30 following planting.

b. You may not destroy or replant any of the peanuts on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the peanuts which are not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the peanuts on the unit;

(2) Harvest of the unit; or

(3) November 30 following planting.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of peanuts on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Subtracting therefrom the total production of peanuts to be counted (see section 9g);

(3) Multiplying the remainder applicable to quota and/or non-quota (additional) production by the applicable price election; and

(4) Multiplying this product by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. The indemnity shall be reduced by the amount of any replanting payment.

f. The total production to count shall be indentified as quota and/or non-quota (additional) production by:

(1) Counting all threshed and appraised production less than or equal to the unit's effective poundage quota as quota production; and

(2) Counting any threshed and appraised production in excess of the unit's effective poundage quota as non-quota (additional) production.

g. The total production to be counted for a unit shall include all threshed and appraised production.

(1) Threshed production shall be the net weight in pounds shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum".

(2) Mature peanut production which is damaged, due to insurable causes, shall be adjusted by:

(a) Dividing the value per pound for the insured type of peanuts by the applicable average price per pound; and

(b) Multiplying the result by the number of pounds of such production.

(3) To enable us to determine the net weight and quality of production of any peanuts for which a United States Department of Agriculture "Inspection Certificate and Sales Memorandum" has not been issued, we shall be given the opportunity to have such peanuts inspected and graded before you dispose of them. If you dispose of any production without giving us the opportunity to have the peanuts inspected and graded, the gross weight of such production shall be used in determining total production to count unless you submit a marketing record satisfactory to us which clearly shows the net weight and quality of such peanuts.

(4) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good peanut farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause; and

(c) Only the appraised and threshed production in excess of the lesser of 250 pounds or 20 percent of the production guarantee on all other unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered production unless such acreage:

(a) Is not put to another use before harvest of peanuts becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested peanuts on the basis of field appraisals conducted after the end of the insurance period.

(7) When you have elected to exclude half and fire as insured causes of loss and the peanuts are damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire".

(8) The commingled production of units shall be allocated to such units in proportion to our liability on the harvested acreage of each unit.

h. A replanting payment may be made on any insured peanuts replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment will be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre will be your actual cost per acre for replanting, but shall not exceed the lesser of 250 pounds or 20 percent of the production guarantee multiplied by the applicable price election which shall be the quota price up to and including the unit's effective quota and the non-quota price of any additional peanuts, multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

Any replanting payment will be considered as an indemnity.

i. You shall not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the peanuts are planted for any crop year, any indemnity shall be paid to the pesons(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to farm.* You shall keep, for two years after the time of loss, records of the harvesting, storage, shipment, sale or other disposition of all peanuts produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Florida; all Texas counties except as listed below.	Mar. 15.
Oklahoma; Gaines, Jones, Montague, Motley, Palo Pinto, Parker and Stonewall Counties, Texas and Virginia.	Apr. 15.
All other states.	Mar. 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms, and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. Meaning of terms. For the purposes of peanut crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding peanut insurance in the county.

b. "ASCS" means the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture.

c. "County" means the county shown on the application and any additional land

located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the period within which the peanuts are normally grown and shall be designated by the calendar year in which the peanuts are normally harvested.

e. "Effective Farm Marketing Quota" means the farm marketing quota as established and recorded by ASCS.

f. "Harvest" as to any acreage means the digging of the lesser of 250 pounds or 20 percent of the production guarantee per acre shown in the actuarial table of peanuts for the purpose of combining or threshing.

g. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

h. "Insured" means the person who submitted the application accepted by us.

i. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

j. "Replanting" means performing the cultural practices necessary to replant insured acreage to the same crop.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as my be selected by you or designated by us.

l. "Tenant" means a person who rents land from another person for a share of the peanuts or a share of the proceeds therefrom.

m. "Unit" means all insurable acreage of peanuts in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the peanuts on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other person having an interest therein.

n. "Value per pound" means the "value per pound including loose shell kernels" as shown on the United States Department of Agriculture "Inspection Certificate and Sales Memorandum", except for Segregation II, III and non-quota (additional) peanuts for which the value per pound shall be determined by us.

18. *Descriptive headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of appeal those determinations in accordance with Appeal Regulations to be published soon in the Federal Register.

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-21186 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 432

[Amendment No. 3]

Corn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Corn Crop Insurance Regulations (7 CFR Part 432), effective for the 1984 and succeeding crop years, by: (1) Adding a provision to exclude corn acreage from insurance when grown with another crop, (2) permitting determination of indemnities based on the acreage report rather than at the time of loss adjustment, (3) addition of a provision to determine a coverage level if the insured does not select one, (4) amending the provisions of the hail-fire clause for appraisals of a probable loss, (5) changing the cancellation and termination dates to conform with farming practices, and (6) providing that any change in the policy will be available at the service office on a certain date.

In addition, FCIC proposes to issue a new subsection in the corn crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring corn in accordance with Secretary's Memorandum No. 1512-1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than September, 19, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, telephone (202) 447-3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512-1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 432

Crop insurance, Corn.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amend (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amended the Corn Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 432—AMENDED

1. The Authority citation for 7 CFR Part 432 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 432 is amended in the Table of Contents thereof by removing the word "Reserved" from § 432.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR § 432.3 is revised to read as follows:

§ 432.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 432) have been approved by the office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR § 432.7(d) is amended by removing the Corn Crop Insurance Policy therein and inserting the following:

§ 432.7 The application and policy.

* * * * *

Corn Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement To Insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against unavoidable loss of production resulting from the following causes occurring within the insurance period: (1) Adverse weather conditions; (2) fire; (3) insects; (4) plant diesase; (5) wildlife; (6) earthquake; or (7)volcanic eruption unless those causes are excepted, excluded, or limited by the actuarial table or section 9g(9).

b. We will not insure against any cause of loss of production due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good corn farming practices;

(3) Damage resulting from the impoundment of water by any governmental, public or private dam or reservoir project; or

(4) Any cause not specified in section 1a as an insured loss.

2. *Crop, acreage, and share insured.* a. The crop insured shall be field corn ("corn") which is planted for harvest as grain or silage; which is grown on insured acreage and for which a guarantee and premium rate are provided by the actuarial table.

b. The acreage insured for each crop year shall be corn planted on insurable acreage as designated by the actuarial table and in which you have a share, as reported by you or as determined by us, whichever we shall elect.

c. The insured share shall be your share as landlord, owner-operator, or tenant in the insured corn at the time of planting.

d. We do not insure any acreage:

(1) Where the farming practices carried out are not in accordance with the farming practices for which the premium rates have been established;

(2) Which is irrigated and an irrigated practice is not provided by the actuarial table unless you elect to insure the acreage as nonirrigated by reporting it as insurable under section 3;

(3) Which is destroyed and it is practical to replant to corn but such acreage is not replanted;

(4) Initially planted after the final planting date contained in the actuarial table, unless you sign an option form agreeing to converage reduction in writing on our form;

(5) Of volunteer corn;

(6) Planted to a type or variety of corn not established as adapted to the area or excluded by the actuarial table; or

(7) Planted with a crop other than corn.

e. Where insurance is provided for an irrigated practice:

(1) You shall report as irrigated only the acreage for which you have adequate facilities and water to carry out a good corn irrigation practice at the time of planting; and

(2) Any loss of production caused by failure to carry out a good corn irrigation practice, except failure of the water supply from an unavoidable cause occurring after the beginning of planting, shall be considered as due to an uninsured cause. The failure or breakdown of irrigation equipment or facilities shall not be considered as a failure of the water supply from an unavoidable cause.

f. Acreage which is planted for the development or production of hybrid seed or for experimental purposes is not insured unless we agree in writing to insure such acreage.

g. We may limit the insured acreage to any acreage limitation established under any Act of Congress, if we advise you of the limit prior to planting.

3. *Report of acreage, share, and practice.* You shall report on our form:

a. All the acreage of corn in the county in which you have a share;

b. The practice; and

c. Your share at the time of planting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any corn planted in the county. This report shall be submitted annually on or before the reporting date established by the actuarial table. We may to determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage, share, and practice or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. *Production guarantees, coverage levels, and prices for computing indemnities.* a. The production guarantees, coverage levels, and prices for computing indemnities are in the actuarial table.

b. If you have not elected a coverage level, you shall have coverage level 2.

c. You may change the coverage level and price election before the closing date for submitting applications for the crop year as established by the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable at the time of planting. The amount is computed by multiplying the production guarantee times the price election, times the premium rate, times the insured acreage, time your share at the time of planting, times the applicable premium adjustment precentage.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to 60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70

PREMIUM ADJUSTMENT TABLE [1]—Continued

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
.81 to .90	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.91 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	156	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½ percent) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* Insurance attaches when the corn is planted and end at the earliest of:

a. Total destruction of the corn;

b. Harvest;

c. Final adjustment of a loss;

d. The date immediately following planting as follows:

(1) Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, Dimmitt Counties, Texas and all Texas counties south thereof, September 30;

(2) All other Texas counties and other states, December 10; or

e. September 30 where our actuarial table shows:

(1) Only a silage guarantee; or

(2) Both a grain and a silage guarantee on any acreage of corn harvested for silage.

8. *Notice of damage or loss.* a. In case of damage or probable loss:

(1) You must give us written notice if:

(a) You want our consent to replant corn damaged due to any insured cause. (To qualify for a replanting payment, the acreage replanted shall be at least the lesser of 10 acres or 10 percent of the insured acreage on the unit.);

(b) During the period before harvest, the corn on any unit is damaged and you decide not to further care for or harvest any part of it;

(c) You want our consent to put the acreage to another use; or

(d) After consent to put acreage to another use is given, additional damage occurs.

Insured acreage may not be put to another use until we have appraised the corn and given written consent. We will not consent to another use until it is too late to replant. You must notify us when such acreage is replanted or put to another use.

(2) You must give us notice at least 15 days before the beginning of harvest if you anticipate a loss on any unit.

(3) If probable loss is later determined, immediate notice shall be given a representative sample of unharvested corn (at least 10 feet wide and the entire length of the field) shall be left intact for a period of 15 days from the date of the notice, unless we give you written consent to harvest the sample.

(4) In addition to the notices required by this section, if you are going to claim an indemnity on any unit, we must be given notice not later than 30 days after the earliest of:

(a) Total destruction of the corn on the unit;

(b) Harvest of the unit; or

(c) The calendar date for the end of the insurance period.

b. You may not destroy or replant any of the corn on which a replanting payment will be claimed until we give consent.

c. You must obtain written consent from us before you destroy any of the corn which is not to be harvested.

d. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the earliest of:

(1) Total destruction of the corn on the unit;

(2) Harvest of the unit; or

(3) The calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish the total production of corn and/or silage on the unit and that any loss of production has been directly caused by one or more of the insured causes during the insurance period; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the production guarantee;

(2) Multiplying this product by the price election;

(3) Subtracting the dollar amount obtained by multiplying the total production to be counted (see section 9g) by the price election; and

(4) multiplying this result by your share.

d. Where a unit contains acreage to which both a grain and a silage guarantee apply, the dollar amount of insurance and dollar amount of the production to be counted shall

be determined separately for each portion and then added together to determine the total amount for the unit.

e. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

f. The indemnity shall be reduced by the amount of any replanting payment.

g. The total production to be counted for a unit shall include all harvested and appraised production.

(1) When the actuarial table shows only a grain guarantee, all production and appraisals shall be determined in bushels. When the actuarial table shows only a silage guarantee, all production and appraisals shall be in tons. When the actuarial table shows both a grain and silage guarantee, the production and appraisals shall be determined in bushels for any unharvested acreage and in bushels or tons for any harvested acreage, depending upon whether the acreage is harvested for grain or silage.

(2) Mature grain production:

(a) Which otherwise is not eligible for quality adjustment shall be reduced .12 percent for each .1 percentage point of moisture in excess of 15.5 through 30.0 percent and .2 percent for each .1 percentage point of moisture from 30.1 through 40.0 percent; or

(b) Which, due to insurable causes, has moisture over 40 percent, or kernel damage more than 15 percent as determined by a licensed grain grader, or test weight below 40 pounds per bushel, the production shall have the production adjusted by:

(i) Dividing the value per bushel of such corn by the price per bushel of U.S. No. 2 corn; and

(ii) Multiplying the result by the number of bushels of such corn.

The applicable price for No. 2 corn shall be the local market price on the earlier of the day the loss is adjusted or the day such corn was sold. The quality adjustment shall not reduce the harvested production more than 75 percent so that at least 25 percent of harvested production will count.

(3) Where the actuarial table shows both a grain and silage guarantee and the corn is harvested as silage, if a grain appraisal is made concurrently with a silage appraisal and the grain appraisal is less than 4.5 bushels per ton, the production shall be reduced 1 percent for each 1 tenth of a bushel below 4.5 bushels. There shall be no reduction allowed for harvested silage production if a representative sample (at least 10 feet wide and the entire length of the field) for each 25 acres of corn harvested for silage is not left until appraised by us.

(4) Appraised production to be counted shall include:

(a) Unharvested production on harvested acreage and potential production lost due to uninsured causes and failure to follow recognized good corn farming practices;

(b) Not less than the guarantee for any acreage which is abandoned or put to another use without our prior written consent or damaged solely by an uninsured cause;

(c) Any appraised production on unharvested acreage.

(5) Any appraisal we have made on insured acreage for which we have given written consent to be put to another use shall be considered as production unless such acreage:

(a) Is not put to another use before harvest of corn becomes general in the county;

(b) Is harvested; or

(c) Is further damaged by an insured cause before the acreage is put to another use.

(6) We may determine the amount of production of any unharvested corn on the basis of field appraisals conducted after the end of the insurance period.

(7) Where the actuarial table shows a silage guarantee or both a grain and silage guarantee and the normal silage harvesting period has ended, we may increase any tonnage appraisal or any harvested silage production to reflect the normal moisture content of silage harvested during the normal silage harvesting period.

(8) Where the actuarial table shows only a silage guarantee, we may convert bushels of grain to tons of silage, and increase all production harvested after the normal silage harvesting period as established by the actuarial table to reflect the normal moisture content of silage harvested as established by the actuarial table during the normal silage harvesting period.

(9) When you have elected to exclude hail and fire as insured causes of loss and the corn is damaged by hail or fire, appraisals for uninsured causes shall be made in accordance with Form FCI–78, "Request to Exclude Hail and Fire."

(10) The commingled production of units will be allocated to such units in proportion to our liability on the harvested acreage of each unit.

h. A replanting payment may be made on any insured corn replanted after we have given consent and the acreage replanted is at least the lesser of 10 acres or 10 percent of the insured acreage for the unit.

(1) No replanting payment shall be made on acreage:

(a) On which our appraisal exceeds 90 percent of the guarantee;

(b) Initially planted prior to the date we determine reasonable; or

(c) On which a replanting payment has been made during the current crop year.

(2) The replanting payment per acre shall be your actual cost per acre for replanting, except that:

(a) Where the actuarial table shows only a grain guarantee or both a grain and silage guarantee, the payment shall not exceed 8 bushels multiplied by the price election the product of which is multiplied by your share; or

(b) Where the actuarial table shows only a silage guarantee, the payment shall not exceed 1 ton multiplied by the price election, the product of which is multiplied by your share.

If the information reported by you results in a lower premium than the actual premium determined to be due, the replanting payment will be reduced proportionately.

Any replanting payment shall be considered as an indemnity.

i. You shall not abandon any acreage to us.

j. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

k. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

l. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the corn is planted for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

m. If you have other fire insurance and fire damage occurs during the insurance period, and you have not elected to exclude fire insurance from this policy, we shall be liable for loss due to fire only for the smaller of:

(1) The amount of indemnity determined pursuant to this contract without regard to any other insurance; or

(2) The amount by which the loss from fire exceeds the indemnity paid or payable under such other insurance. For the purposes of this section, the amount of loss from fire shall be the difference between the fair market value of the production on the unit before the fire and after the fire.

10. *Concealment or fraud.* We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall all rights and reponsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. *Records and access to farm.* You shall keep for two years after the time of loss, records of the harvesting, storage, shipment, sale, or other disposition of all corn produced on each unit including separate records showing the same information for production from any uninsured acreage. Any persons designated by us shall have access to such

records and the farm for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date for the contract on which the amount is due. The date of payment of the amount due:

[1] If deducted from an indemnity claim shall be the date you sign the claim; or

[2] If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are:

State and county	Cancellation and termination dates
Jackson, Victoria, Goliad, Bee, Live Oak, McMullen, LaSalle, and Dimmit Counties, Texas and all Texas counties lying south thereof.	Feb. 15.
Winkler, Ector, Upton, Regan, Sterling, Coke, Concho, McCulloch, San Saba, Mills, Hamilton, Bosque, Johnson, Tarrant, Wise, Cooke Counties, Texas and all Texas counties lying south thereof to and including Mavtrich, Zavalla, Frio, Atascosa, Karnes, Gonzales, Lavaca, Wharton and Matagorda Counties, Texas, Arizona and Florida.	Mar. 15.
Alabama, Arkansas, California, Georgia, Louisiana, Mississippi, Nevada, North Carolina and South Carolina.	Mar. 31.
All other Texas counties and all other states.	Apr. 15.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your price election at which indemnities are computed is no longer offered, the actuarial table will provide the price election which you shall be deemed to have elected. All contract changes shall be available at your service office by December 31 preceding the cancellation date for counties with an April 15 cancellation date and by November 30 preceding the cancellation date for all other counties. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of terms.* For the purposes of corn crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the production guarantees, coverage levels, premium rates, prices for computing indemnities, practices where applicable, insurable and uninsurable acreage, and related information regarding corn insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the corn is normally grown and shall be designated by the calendar year in which the corn is normally harvested.

d. "Harvest" means completion of combining, picking or cutting the corn for the purpose of livestock feed.

e. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

f. "Insured" means the person who submitted the application accepted by us.

g. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

h. "Replanting" means performing the cultural practices necessary to replant insured acreage to corn.

i. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

j. "Silage" means corn harvested by severing the stalk from the land and chopping the stalk and the ear for the purpose of livestock feed.

k. "Tenant" means a person who rents land from another person for a share of the corn or a share of the proceeds therefrom.

l. "Unit" means all insurable acreage of corn in the county on the date of planting for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the corn on such land shall be considered as owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in your service office or by written agreement between us and you. Units will be determined when the acreage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss and we may consider any acreage and share of or reported by or for your spouse or child or any member of your household to be your bona fide share or the bona fide share of any other persons having an interest therein.

18. *Descriptive headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.[1]

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-211158 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

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7 CFR Part 442

[Amendment No. 2]

Prevented Planting Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to amend the Prevented Planting Crop Insurance Regulations (7 CFR Part 442), effective for the 1984 and succeeding crop years, by: (1) Changing the policy to make it easier to read, (2) permitting determination of indemnities based on the acreage report rather than at loss adjustment time, (3) providing a coverage level if the insured does not select one, (4) adding a modified 60-day claim for indemnity provision, (5) changing the cancellation/termination dates to conform to farming practices, (6) providing that any change in the policy will be available in the service

[1] Copies of the Debtor Appeal Rights Procedures may be obtained from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

office by a certain date, and (7) adding a section concerning "descriptive headings."

In addition, FCIC proposes to issue a new subsection in the prevented planting crop insurance regulations to contain the control numbers assigned by the Office of Management and Budget (OMB) to information collection requirements of these regulations. The intended effect of this rule is to update the policy for insuring prevented planting in accordance with Secretary's Memorandum No. 1512–1, requiring a review of the regulations as to need, currency, clarity, and effectiveness, and to comply with OMB regulations requiring publication of OMB control numbers assigned to information collection requirements in these regulations.

DATE: Written comments on this proposed rule must be submitted not later than October 3, 1983, to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447–3325.

The Impact Statement describing the options considered in developing this rule and the impact of implementing each option is available upon request from Peter F. Cole.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 (June 11, 1981). This action constitutes a review under such procedures as to the need, currency, clarity, and effectiveness of these regulations. The sunset review date established for these regulations is April 1, 1988.

Merritt W. Sprague, Manager, FCIC, has determined that: (1) This action is not a major rule as defined by Executive Order No. 12291 (February 17, 1981), (2) this action will not increase the Federal paperwork burden for individuals, small businesses, and other persons, and (3) this action conforms to the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), and other applicable law.

The title and number of the Federal Assistance Program to which these regulations apply are: Title—Crop Insurance; Number 10.450.

This action will not have a significant impact specifically upon area and community development; therefore, review as established by Executive Order No. 12372 (July 14, 1982) was not used to assure that units of local government are informed of this action.

It has been determined that this action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Impact Statement was prepared.

All written comments made pursuant to this rule will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 442

Crop insurance, Prevented planting.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation proposes to amend the Prevented Planting Crop Insurance Regulations, effective for the 1984 and succeeding crop years, in the following instances:

PART 442—AMENDED

1. The Authority citation for 7 CFR Part 442 is:

Authority: Secs. 506, 516, Pub. L. 75–430, 52 Stat. 73, 77 as amended (1506, 1516).

2. 7 CFR Part 442 is amended in the Table of Contents thereof by removing the word "Reserved" from § 442.3 and inserting, in its place, the words "OMB control numbers assigned pursuant to the Paperwork Reduction Act."

3. 7 CFR 442.3 is revised to read as follows:

§ 442.3 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 442) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563–0003 and 0563–0007.

4. 7 CFR 442.7(d) is amended by removing the Prevented Planting Crop Insurance Policy therein and inserting the following:

§ 442.7 The application and policy.

* * * * *

Prevented Planting Crop Insurance Policy

(This is a continuous contract. Refer to Section 15.)

Agreement to Insure: We shall provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy "you" and "your" refer to the insured shown on the accepted Application and "we," "us" and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. *Causes of loss.* a. The insurance provided is against the unavoidable prevention of planting insured acreage during the insurance period due to excessive moisture conditions occurring within the insurance period, unless this cause is expected, excluded, or limited by the actuarial table.

b. We shall not cover any prevention of planting due to:

(1) The neglect or malfeasance of you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good farming practices;

(3) The impoundment of water by any governmental, public or private dam or reservoir project; or

(4) The failure to plant insured acreage due to a cause other than excessive moisture.

2. *Acreage and share insured.* a. The acreage insured for each crop year shall be the cultivated acreage intended for planting times the coverage level you elected, times your share, as reported by you or as determined by us, whichever we shall elect and for which an amount of insurance and premium rate are provided by the acturarial table.

b. The insured share shall be your share as landlord, owner-operator, or tenant in the insured prevented planting at the time insurance attaches.

c. "Cultivated acreage intended for planting" means land that was ready or, except for excessive moisture, could have been made ready for planting, but does not include land:

(1) On which a perennial forage crop is being grown or on which a crop was planted prior to the acreage reporting date;

(2) On which a prevented planting indemnity was claimed the prior crop year if such land is not worked prior to the October 31 date prior to the crop year; or

(3) Which will not be planted to comply with any other United States Department of Agriculture or state program or for any other reason.

3. *Report of acreage and share.* You shall report on our form:

a. All the cultivated acreage intended for planting in the county in which you have a share; and

b. Your share at the time of reporting.

You shall designate separately any acreage that is not insurable. You shall report if you do not have a share in any insurable acreage in the county. This report shall be submitted annually on or before the January 31 reporting date. We shall have the right to determine all indemnities on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may elect to determine by unit the insured acreage and share or we may deny liability on any unit. Any report submitted by you may be revised upon our approval.

4. *Amounts of insurance and coverage levels.* a. The amounts of insurance and coverage levels are in the actuarial table.

b. If you do not elect a coverage level, you will have coverage level 2.

c. You may change the amount of insurance and coverage level on or before the closing date for submitting applications for the crop year established by in the actuarial table.

5. *Annual premium.* a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured acreage, times your share on the date insurance attaches, times the applicable premium adjustment percentage contained in the following table.

PREMIUM ADJUSTMENT TABLE [1]

[Percent adjustments for favorable continuous insurance experience]

	Numbers of years continuous experience through previous year															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15 or more
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
.00 to .20	100	95	95	90	90	85	80	75	70	70	65	65	60	60	55	50
.21 to .40	100	100	95	95	90	90	90	85	80	80	75	75	70	70	65	60
.41 to .60	100	100	95	95	95	95	95	90	90	90	85	85	80	80	75	70
.61 to .80	100	100	95	95	95	95	95	95	90	90	90	90	85	85	85	80
.81 to 1.09	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100	100

[Percent adjustments for unfavorable insurance experience]

	Numbers of loss years through previous year [3]															
	0	1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
	Percentage adjustment factor for current crop year															
Loss ratio [2] through previous crop year																
1.10 to 1.19	100	100	100	102	104	106	108	110	112	114	116	118	120	122	124	126
1.20 to 1.39	100	100	100	104	108	112	116	120	124	128	132	136	140	144	148	152
1.40 to 1.69	100	100	100	108	116	124	132	140	148	156	164	172	180	188	196	204
1.70 to 1.99	100	100	100	112	122	132	142	152	162	172	182	192	202	212	222	232
2.00 to 2.49	100	100	100	116	128	140	152	164	176	188	200	212	224	236	248	260
2.50 to 3.24	100	100	100	120	134	148	162	176	190	204	218	232	246	260	274	288
3.25 to 3.99	100	100	105	124	140	156	172	188	204	220	236	252	268	284	300	300
4.00 to 4.99	100	100	110	128	146	164	182	200	218	236	254	272	290	300	300	300
5.00 to 5.99	100	100	115	132	152	172	192	212	232	252	272	292	300	300	300	300
6.00 and up	100	100	120	136	158	180	202	224	246	268	290	300	300	300	300	300

[1] For premium adjustment purposes, only the years during which premiums were earned shall be considered.
[2] Loss Ratio means the ratio of indemnity(ies) paid to premium(s) earned.
[3] Only the most recent 15 crop years shall be used to determine the number of "Loss Years". (A crop year is determined to be a "Loss Year" when the amount of indemnity for the year exceeds the premium for the year.)

b. Interest shall accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. Any premium adjustment applicable to the contract shall be transferred to:

(1) The contract of your estate or surviving spouse in case of your death;

(2) The contract of the person who succeeds you if such person had previously participated in the farming operation; or

(3) Your contract if you stop farming in one county and start farming in another county.

d. If participation is not continuous, any premium shall be computed on the basis of previous unfavorable insurance experience but no premium reduction under section 5a shall be applicable.

6. *Deductions for debt.* Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. *Insurance period.* Insurance attaches March 5 of the crop year and ends at the earliest of:

a. Planting of the acreage; or

b. The prevented planting date.

8. *Notice of damage or loss.* a. If you are going to claim an indemnity on any unit, we must be given notice not later than 5 days after the prevented planting date.

b. We may reject any claim for indemnity if any of the requirements of this section or section 9 are not complied with.

9. *Claim for indemnity.* a. Any claim for indemnity on a unit shall be submitted to us on our form not later than 60 days after the calendar date for the end of the insurance period.

b. We shall not pay any indemnity unless you:

(1) Establish that any prevention of planting on the unit was directly caused by excessive moisture during the insurance period for the crop year for which the indemnity is claimed; and

(2) Furnish all information we require concerning the loss.

c. The indemnity shall be determined on each unit by:

(1) Multiplying the insured acreage by the amount of insurance;

(2) Subtracting therefrom the amount obtained by multiplying the spring planted acreage, plus any acreage intended for planting from which a forage crop is harvested, plus any acreage which could have been planted; and

(3) Multiplying this result by your share.

d. If the information reported by you results in a lower premium than the actual premium determined to be due, the indemnity shall be reduced proportionately.

e. You shall not abandon any acreage to us.

f. You may not bring suit or action against us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is mailed to and received by you.

g. We shall pay the loss within 30 days after we reach agreement with you or entry of a final judgment. In no event shall we be liable for interest or damages in connection with any claim for indemnity, whether we approve or disapprove such claim.

h. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, any indemnity shall be paid to the person(s) we determine to be beneficially entitled thereto.

10. *Concealment or fraud.* We may void the contract on all crops insured without

affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract, and such voidance shall be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. *Transfer of right to indemnity on insured share.* If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee shall have all rights and responsibilities under the contract.

12. *Assignment of indemnity.* You may only assign to another party your right to an indemnity for the crop year on our form and with our approval. The assignee shall have the right to submit the loss notices and forms required by the contract.

13. *Subrogation.* (Recovery of loss from a third party.) Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss then your right of recovery shall at our option belong to us. If we recover more than we paid you plus our expenses, the excess shall be paid to you.

14. *Records and access to farm.* You shall keep, for two years after the time of loss, records of the insured, uninsured and planted acreage in your farming operation. Any persons designated by us shall have access to such records and the farm for purposes related to the contract.

15. *Life of contract: Cancellation and termination.* a. This contract shall be in effect for the crop year specified on the application and may not be canceled for such crop year. Thereafter, the contract shall continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice or or before the cancellation date preceding such crop year.

c. This contract shall terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an indemnity claim shall be the date you sign the claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture shall be the date such payment was approved.

d. The cancellation and termination dates are January 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract shall terminate as of the date of death, judicial declaration, or dissolution. *However,* if such event occurs after insurance attaches for any crop year, the contract shall continue in force through the crop year and terminate at the end thereof. Death of a partner in a partnership shall dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons shall dissolve the joint entity.

f. The contract shall terminate if no premium is earned for five consecutive years.

16. *Contract changes.* We may change any terms and provisions of the contract from year to year. If your amount of insurance is no longer offered, the actuarial table will provide the amount of insurance which you shall be deemed to have elected. All contract changes shall be available at your service office by October 31 preceding the cancellation date. Acceptance of any changes shall be conclusively presumed in the absence of any notice from you to cancel the contract.

17. *Meaning of terms.* For the purposes of prevented planting crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, coverage levels, premium rates, insurable and uninsurable acreage, and related information regarding prevented planting insurance in the county.

b. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

c. "Crop year" means the period within which the crops to be planted are normally planted and shall be designated by the calendar year in which the crops are normally planted.

d. "Insurable acreage" means the land classified as insurable by us and shown as such by the actuarial table.

e. "Insured" means the person who submitted the application accepted by us.

f. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

g. "Prevented Planting Date" means the latest date that we will insure any spring planted crop in the county, except tobacco. This date includes any extended date or final date offered under any late planting agreement option.

h. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

i. "Spring planted acreage" means the insured acreage:

(1) Planted to any crop during the insurance period; or

(2) Which could have been planted during the insurance period, as determined by us, to a crop normally included in your farming operation or shown in the actuarial table as suitable for production in the county.

j. "Tenant" means a person who rents land from another person for a share of the crop(s) or a share of the proceeds therefrom.

k. "Unit" means all insurable acreage in the county which you intend to plant:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis.

Land rented for cash, a fixed commodity payment, or any consideration other than a share in the prevented planting on such land shall be considered as owned by the lessee.

18. *Descriptive headings.* The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

19. *Determinations.* All determinations required by the policy shall be made by us. If you disagree with our determinations you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.[1]

20. *Notices.* All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Approved by the Board of Directors on April 26, 1983.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: July 29, 1983.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 83-21150 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-08-M

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Proposed Changes in Subpart—Quality Control; Minimum Grade and Condition Standards and Subpart—Supplementary Regulations; Weight Dockage System

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking invites written comments on reducing the incoming substandard tolerance on Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless, and Monukka raisins, and modifying the weight dockage system to conform with the proposed tolerance reduction. The proposal is intended to improve product

[1] Copies of the Debtor Appeal Rights Procedures may be obtained from Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C. 20250.

quality and reduce handling costs. The proposal was recommended by the Raisin Administrative Committee, which works with the USDA in administering the marketing agreement and order for California raisins.

DATE: Comments must be received by August 19, 1983.

ADDRESSES: Send two copies of comments to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, where they will be available for public inspection during regular business hours.

FOR FURTHER INFORMATION CONTACT: Frank M. Grasberger, Acting Chief, Specialty Crops Branch, Fruit and Vegetable Division, AMS, USDA, Washington, D.C. 20250 (202) 447-5053.

SUPPLEMENTARY INFORMATION: This proposal has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been determined to be a "non-major" rule under criteria contained therein

Frank M. Grasberger has determined that an emergency situation exists which warrants less than a 60 day comment period. The 1983-84 marketing year begins August 1, 1983, and producers and handlers need sufficient time to plan their operations accordingly. Also, the final regulation should be effective as soon as possible to minimize any chances of inequities among producers and handlers due to different requirements for different parts of the same crop year.

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 substandard tolerance is contained in § 989.701 of Subpart—Quality Control (7 CFR 989.701-989.703). The weight dockage system is contained in § 989.210 of Subpart—Supplementary Regulations (7 CFR 989.210-989.221). These subparts are operative pursuant to the marketing agreement, and Order No. 989, both as amended, regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposal would reduce the current 8 percent incoming substandard tolerance prescribed for Natural (sun-dried) Seedless, Dipped Seedless, Oleate and Related Seedless, Golden Seedless and Monukka raisins to 6 percent for the 1983-84 crop year, to 4 percent for the 1984-85 crop year, and to 2 percent for the 1985-86 crop year, and thereafter. The substandard tolerance is one of the factors prescribed in the minimum grade and condition standards for natural condition raisins.

The intent of the reduced tolerances is to encourage producers to deliver less substandard raisins to handlers, which could result in improved product quality and reduce handling costs. Both of these goals are achievable through improved maturity. The yield and quality of raisins depends on the maturity of the grapes made into raisins. Grapes with desired sugar levels produce better quality raisins. Tighter tolerances would encourage producers to modify cultural practices and preparation techniques in order to improve maturity levels.

The proposed reduction in the substandard tolerance requires conforming changes to be made in the weight dockage table prescribed in § 989.210(g). The weight dockage system permits handlers to acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, and Oleate and Related Seedless raisins even though the lots have been determined to be off-grade because they contain an excess of substandard (immature) raisins. Immature raisins are removed during normal processing. The creditable weight of such lots is computed by multiplying the net weight of the lot by a factor from the dockage table in § 989.210(g). The factor reduces the weight of the lot by an amount approximating the weight of the substandard (immature) raisins needed to be removed from the lot in order for the balance of the lot to meet grade standards.

Current § 989.701(g) provides that Monukka raisins shall meet the same requirements as set forth for Natural (sun-dried) Seedless raisins, in paragraph (a) of the section. To keep the varietal types with the same requirements together, § 989.701(a) should be modified by adding "Monukka raisins" in the paragraph heading and the first sentence, and § 989.701(g) should be deleted.

The proposal is as follows:

1. Section 989.210 (a) and (g) of Subpart—Supplementary Regulations (7 CFR 989.210-989.221) are revised to read as follows:

Subpart—Supplementary Regulations

§ 989.210 Handling of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, Oleate and Related Seedless raisins acquired pursuant to a weight dockage system.

(a) *General.* Subject to prior agreement between handler and tenderer, a handler may acquire as standard raisins any lot of Natural (sun-dried) Seedless, Golden Seedless, Dipped Seedless, and Oleate and Related Seedless raisins containing more than 6 percent beginning with the 1983-84 crop year, 4 percent beginning with the 1984-85 year, and 2 percent beginning with the 1985-86 crop year, and thereafter, by weight, of substandard raisins under a weight dockage system. The creditable weight of such lot acquired shall be that obtained by multiplying the net weight of the raisins in the lot by the applicable dockage factor from the dockage table prescribed in paragraph (g) of this section.

* * * * *

(g) *Dockage Table.*

CROP YEAR—1983/84

Percent substandard	Dockage factor
6.0 or less	[1]
6.1	0.999
6.2	.998
6.3	.997
6.4	.996
6.5	.995

[1] No dockage.

CROP YEAR—1984/85

Percent substandard	Dockage factor
4.0 or less	[1]
4.1	0.999
4.2	.998
4.3	.997
4.4	.996
4.5	.995

[1] No dockage.

CROP YEAR—1985/86 AND THEREAFTER

Percent substandard	Dockage factor
2.0 or less	[1]
2.1	0.999
2.2	.998
2.3	.997
2.4	.996
2.5	.995

[1] No dockage.

Note.—Percentages in excess of the last percentage shown in each table shall be expressed in the same increments as the foregoing, and the dockage factor for each such increment shall be .001 less than the dockage factor for the preceding increment.

2. Section 989.701 (a), (b), and (c) of Subpart—Quality Control (7 CFR 989.701—989.703) should be revised to read as follows:

Subpart—Quality Control

§ 989.701 Minimum grade and condition standards for natural condition raisins.

(a) **Natural (sun-dried) Seedless and Monukka Raisins.** Natural condition Natural (sun-dried) Seedless and Monukka Raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic color, flavor, and odor of properly prepared raisins; (3) shall, for the 1983–84 crop year contain not more than 6 percent, for the 1984–85 crop year contain not more than 4 percent, and for the 1985–86 crop year, and subsequent thereto contain not more than 2 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 16 percent moisture as determined by the dried fruit moisture tester method; and (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(b) *Dipped Seedless, and Oleate and Related Seedless.* Natural condition Dipped Seedless, and Oleate and Related Seedless raisins shall have been prepared from sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn, or other similar injury; (2) shall have a normal characteristic flavor and odor of properly prepared raisins; (3) shall, for the 1983–84 crop year contain not more than 6 percent, for the 1984–85 crop year, contain not more than 4 percent, and for the 1985–86 crop year, and subsequent thereto, contain not more than 2 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 14 percent moisture as determined by the dried fruit moisture tester method, and (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee.

(c) *Golden Seedless.* Natural condition Golden Seedless raisins shall have been prepared for sound, wholesome, matured grapes properly dried and cured, and shall meet the following additional requirements: (1) Shall be fairly free from damage by sugaring, mechanical injury, sunburn or other similar injury; (2) shall have a normal characteristic flavor and odor of properly prepared raisins; (3) shall, for the 1983–84 crop year contain not more than 6 percent, for the 1984–85 crop year contain not more than 4 percent, and for the 1985–86 crop year, and subsequent thereto, contain not more than 2 percent, by weight, of substandard raisins (raisins that show development less than that characteristic of raisins prepared from fairly well matured grapes); (4) shall not exceed 14 percent moisture as determined by the dried fruit mosture tester method; (5) shall be of such quality and condition as can be expected to withstand storage as provided in the order and that when processed in accordance with good commercial practice will meet the minimum standards for processed raisins established by the Committee; and (6) shall possess a color varying from yellowish green to dark amber or dark greenish amber with not more than 15 percent, by weight, of all the raisins being definitely dark berries. "Definitely dark berries" means raisins which are definitely darker than dark amber and characteristic of "naturally" raisined grapes.

* * * * *

List of Subjects in 7 CFR Part 989

Marketing Agreement and Orders; Grapes, Raisins, California.

Dated: July 29, 1983.

D. S. Kuryloski,

Acting Director, Fruit and Vegetable Division.

[FR Doc. 83-21135 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AWP-5]

Proposed Revocation of VOR Federal Airway; Oceanside, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke the entire description of VOR Federal Airway V-22 located in the vicinity of Oceanside, CA. The current alignment of V-22 overlies the Naval Air Station (NAS) at Miramar, thereby causing terminal area delays and restrictive traffic flows.

DATE: Comments must be received on or before September 19, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWP-5, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWP-5." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will

be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke VOR Federal Airway V–22 in its entirety. V–22 located in the vicinity of Oceanside, CA, overlies the Miramar, CA, NAS. Departure aircraft from Miramar NAS penetrate V–22 thereby compromising safety. V–22 is rarely used because all ATC Instrument Flight Rule Procedures have been redesigned to avoid terminal traffic at Miramar NAS. The navy estimates an annual average of 7,850 military jet aircraft use the Julian Four Departure; a Standard Instrument Departure Route that permits the maximum use of available airspace, reduces delays and reduces controller workload; however, aircraft on V–22 are diverted in order to ensure safety. This action would increase air safety and air flight planning. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70–3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

VOR Federal airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

V–22 [Revoked]

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983)); and 14 CFR 11.65)

Note.—The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on July 28, 1983.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83–21178 Filed 8–3–83; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 83–ASW–29]

Proposed Alteration of Transition Area; El Campo, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration proposes to alter the transition area at El Campo, TX. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing standard instrument approach procedures (SIAPs) to the El Campo Metro Airport. This action is necessary since a review of the designated airspace revealed the 700-foot transition area is inadequate for the protection of aircraft executing SIAPs to the Metro Airport and the SIAP to El Campo (Pvt.) Airport has been canceled; thereby, deleting the requirement for the airspace designated for this airport.

DATE: Comments must be received on September 5, 1983.

ADDRESS: Sent comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8 a.m. and 4:30 p.m. The FAA Rules Docket is located in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX

FOR FURTHER INFORMATION CONTACT:

Kenneth L. Stephenson, Airspace and Procedures Branch, ASW–535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877–2630.

SUPPLEMENTARY INFORMATION: .

History

Federal Aviation Regulation Part 71, Subpart G § 71.181 as republished in Advisory Circular AC 70–3A dated January 3, 1983, contains the description of transition areas designated to provide controlled airspace for the benefit of aircraft conducting instrument flight rules (IFR) activity. Alteration of the transition area at El Campo, TX, will necessitate an amendment to this subpart. This amendment will be required at El Campo, TX, since a review of the 700-foot transition area revealed the designated airspace and was inadequate for aircraft executing SIAPs to the El Campo Metro Airport and, since the SIAP has been canceled to the El Campo (Pvt.) Airport, the 700-foot transition area is no longer required at this airport.

Comments Invited

Interested persons are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. (Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals.) Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83–ASW–29." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All

comments submitted will be available for examination in the Rules Docket both before and after the closing for comment. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101, or by calling (817) 877-2630. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should contact the office listed above.

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposed to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

El Campo, TX [Revised]

Within a 5-mile radius of the El Campo Metro Airport (latitude 29°10'15"N., longitude 96°19'17"W.), and 2.5 miles each side of a 180° and 358° bearing of the airport extending from the 5-mile radius to 9.5 miles south and 16 miles north; and within 3 miles each side of the 184° bearing from the El Campo NDP (latitude 29°10' 35"N., longitude 96°19'11"W.), extending from the 5-mile radius area to 8.5 miles south of the NDB.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec 6(c), 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.61(c))

Note.—The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore - (1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Forth Worth, TX, on July 26, 1983.

F. E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 83-21178 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 83-AWA-19]

Proposed Alteration of VOR Federal Airway V-412; Redwood Falls, MN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign VOR Federal Airway V-412 located in the vicinity of Redwood Falls, MN. Realignment of this airway would serve to reduce route mileage to users; would reduce the procedural coordination associated with holding at the BUNKR intersection; and would improve traffic flow by eliminating a crossover of VOR Federal Airway V-148

DATE: Comments must be received on or before September 19, 1983.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Great Lakes Region, Attention: Manager, Air Traffic Division, Docket No. 83-AWA-19, Federal Aviation Administration, 2300 East Devon, Des Plaines, IL 60018.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, D.C.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTRACT: Neil Saunders, Airspace and Air Traffic Rules Branch (AAT-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AWA-19." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to realign VOR Federal Airway V-412 from Redwood Falls, MN, VORTAC to Flying Cloud, MN, VORTAC. This realigment is expected to improve the traffic flow along this airway be eliminatng its intersection with VOR Federal Airway V-148. The realignment would also reduce internal ATC coordination by relocating the BUNKR holding pattern southward. Finally, the realignment would result in a reduction of route mileage to the users. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Advisory Circular AC 70-3A dated January 3, 1983

List of Subjects in 14 CFR Part 71

VOR Federal Airways.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal

Aviation Regulations (14 CFR Part 71) as follows:

V-412 [Revised]

From Redwood Falls, MN, via INT Redwood 067°T(060°M) and Flying Cloud, MN, 270°T(264°M) radials; Flying Cloud.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Note. The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) Is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Issued in Washington, D.C., on July 28, 1983.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 83-21179 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-13-M

CIVIL AERONAUTICS BOARD

14 CFR Part 377

[Special Regs. Docket 41497; SPDR-89A]

Continuance of Expired Authorizations Pending Board Action on Renewal Requests

Dated: August 1, 1983.

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental notice of proposed rulemaking.

SUMMARY: The CAB is extending for one week the comment period in its rulemaking to amend its rule implementing the APA provision that provides for the automatic extension of certain expiring licenses. Air Canada and Cathay Pacific Airways requested this extension.

DATES: Comments by: August 9, 1983.

Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESSES: Twenty copies of comments should be sent to Docket 41497, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. as soon as they are received.

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

SUPPLEMENTARY INFORMATION: By SPDR-89, 48 FR 24923, June 3, 1983, the Board proposed to clarify Part 377 of its rules (14 CFR Part 377) and provide that foreign air carrier licenses would expire upon the happening of an event such as the expiration of a bilateral air service agreement. Comments were due on August 2, 1983.

On July 29, 1983, Air Canada and Cathay Pacific Airways requested a one week extension for submission of their comments. Air Canada requested the extension because their senior solicitor, in charge of these matters, would be absent until August 2. Cathay Pacific stated that it needed more time to consult with government officials.

In order to accommodate these two airlines, and because it does not appear that the brief extension will prejudice any other person or delay Board action in this proceeding, the request for an extension of time to file comments is granted.

Accordingly, under authority delegated by the Board in 14 CFR 385.20(d), the time for filing comments in this proceeding is extended to August 9, 1983.

(Secs. 204, 403, 416, 1001, Pub. L. 85-726, as amended, 72 Stat. 743, 757, 771, 788; 49 U.S.C. 1324, 1372, 1386, 1481; 5 U.S.C. 558, 559)

By the Civil Aeronautics Board.

Richard B. Dyson,

Associate General Counsel, Rules and Legislation.

[FR Doc. 83-21198 Filed 8-3-83; 8:45 am]

BILLING CODE 6320-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 270

[Release No. IC-13412; S7-973]

Exemption From Section 22(d) to Permit the Sale of Redeemable Securities at Prices that Reflect Different Sales Loads.

AGENCY: Securities and Exchange Commission.

ACTION: Extension of time for comment.

SUMMARY: The Securities and Exchange Commission announced today that it has extended until September 30, 1983, the date by which comments on Investment Company Act Release No. 13183 (April 22, 1983) (48 FR 19887, May 3, 1983) must be submitted. The Commission has received a request that the comment period be extended and believes that an extension of time until September 30, 1983 will be beneficial since it will result in the receipt of additional useful comments. The release originally had a comment period ending on August 1, 1983.

DATE: Comments must be received on or before September 30, 1983.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549 (Reference to File No. S7-973). All comments will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Jeffrey S. Puretz, (202) 272-2048, Office of Regulatory Policy, Division of Investment Management.

SUPPLEMENTARY INFORMATION: In Investment Company Act Release No. 13183, the Commission proposed and published for public comment rule 22d-6 that would exempt, under certain conditions, registered investment companies and the principal underwriters of and dealers in such companies' shares from section 22(d) of the Investment Company Act of 1940. If adopted, the proposed rule would permit investment companies to adopt a pricing system that includes rates: (1) Described in a schedule, (2) that are determined by a process of negotiation, or (3) which combine such two methods. The proposed rule would obviate the necessity for such companies to file applications requesting exemptive relief from section 22(d) in many circumstances where applications must now be filed and would give investment companies maximum flexibility in establishing the pricing of their shares. The comments received will be considered to determine whether the proposed rule is appropriate in the public interest and consistent with the protection of investors, and to analyze what effect, if any, the proposed rule would have upon the distribution of investment company shares.

The Commission has received a request that the comment period be extended. In view of such request and in order to receive the benefit of comments from the greatest number of interested persons, the Commission has extended the comment period for Investment

Company Act Release No. 13183 until September 30, 1983.

By the Commission.

George A. Fitzsimmons,

Secretary.

July 29, 1983.

[FR Doc. 83-21198 Filed 8-3-83; 8:45 am]

BILLING CODE 8010-01-M

RAILROAD RETIREMENT BOARD

20 CFR Part 299

Determination of the Level of Annuities Under the Railroad Retirement Act

Correction

In FR Doc. 83-18522, beginning on page 31410 in the issue of Friday, July 8, 1983, make the following correction.

On page 31411, second column, the eighth line of § 299.3(b) should read: "payment of benefits from that Account in each".

BILLING CODE 1505-01-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 5

[Notice No. 480]

Reduced Proof Distilled Spirits Products

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms (ATF) is considering amending regulations in 27 CFR Part 5 to provide for labeling and advertising of distilled spirits products at lower proof than is currently permitted in the standards of identity for these products. This advance notice of proposed rulemaking is based on a petition submitted by Heublein Spirits Group. ATF wishes to gather information by inviting comments from the public and industry as to whether our regulations should be amended to provide for low proof distilled spirits products similar to "light beer," "light wine," and similar "light" products which have become increasingly popular with consumers in recent years.

DATE: Written comments must be received by November 2, 1983.

ADDRESSES: Send written comments to: Chief, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385 (Attn: Notice No. 480).

Copies of the petition and the written comments will be available for public inspection during normal business hours at: ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202-566-7626).

SUPPLEMENTARY INFORMATION:

Background

Since the repeal of Prohibition, ATF and its predecessor agencies have regulated the composition of distilled spirits products by strictly defined standards of identity prescribed in Federal regulations. These standards have remained relatively unchanged for nearly 50 years, but, even when they were promulgated, they reflected long-standing popular opinion of the composition of these products. The minimum bottling proofs for distilled spirits products, prescribed by 27 CFR 5.22, are:

80° proof—neutral spirits, alcohol, vodka, grain spirits, whisky, gin, brandy, blended applejack, rum, and tequila;

70° proof—flavored brandy, flavored gin, flavored rum, flavored vodka, and flavored whisky;

60° proof—rye liqueur, bourbon liqueur, rum liqueur, gin liqueur, and brandy liqueur;

48° proof—rock and rye, rock and bourbon, rock and brandy, and rock and rum;

no minimum—all other distilled spirits products.

The Federal Alcohol Administration, a predecessor agency of ATF, issued Circular FA-91 on January 21, 1937, permitting the labeling of diluted distilled spirits. This circular required that distilled spirits bottled at less than the minimum proof be labeled with the following, in direct conjunction with the class designation: (1) The word "Diluted" as conspicuous as the class designation, (2) the actual proof, and (3) the phrase "United States Government Standard for (*class and type of product*) Requires Not Less Than —— Proof." In 1975, ATF issued ATF Ruling 75-32 (ATF C.B. 1975, p. 31) which eliminated and prohibited the third requirement mentioned above.

In 1966 and 1967, the Alcohol and Tobacco Tax Division, a predecessor agency of ATF, published notices of proposed rulemaking and held public hearings in response to petitions from industry members for the establishment of new classes and types of distilled spirits products. The industry was interested in producing whisky utilizing the same methods used in Canada, Scotland, and Ireland, so that an American whisky could be produced which was more analogous to whiskies of those countries than any other class and type of American whisky. As a result of these rulemaking proceedings, the A&TT Division published Treasury Decision 6945 (33 FR 983) on January 26, 1968, establishing a new class and type of American whisky designated "light whisky." The standard of identity for this product is:

Section 5.22 The standards of identity.

* * * * *

(b) *Class 2; whisky.* "Whisky" is an alcoholic distillate from a fermented mash of grain produced at less than 190° proof in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to whisky, stored in oak containers (except that corn whisky need not be so stored), and bottled at not less than 80° proof, and also includes mixtures of such distillates for which no specific standards of identity are prescribed.

* * * * *

(3) "Light whisky" is whisky produced in the United States at more than 160° proof, on or after January 26, 1968, and stored in used or uncharred new oak containers; and also includes mixtures of such whiskies. If "light whisky" is mixed with less than 20 percent of straight whisky on a proof gallon basis, the mixture shall be designated "blended light whisky" (light whisky—a blend).

Thus, for the last 15 years, the term "light" with respect to whisky has not referred to a lower alcohol content.

Petition

Heublein Spirits Group has petitioned ATF to change the standards of identity for distilled spirits by allowing a category of reduced proof products. Heublein requests that these products be designated "mild."

The petitioner states that consumers are seeking foods and beverages with less sugar, salt, and fewer calories. Among these beverages are low calorie wine and beer. The petitioner notes that wine which is not over 14 percent alcohol by volume may be labeled "light" under existing regulations. The petitioner also notes that brewers did not need government approval to market "light" beers and the term "light," when

applied to beer is well understood by consumers to mean lower alcohol content than regular beers.

The petitioner believes that consumers deserve and desire additional choices of distilled spirits products, and that only the marketplace can determine if they will be accepted.

The petitioner requests the word "mild" to describe reduced proof distilled spirits products because the world "light" has been pre-empted, since 1968, for "light whisky." In requesting the word "mild" to describe reduced proof distilled spirits products, the petitioner claims that a consumer survey showed that the terms "light" and "mild" represent less alcohol content than an 80° proof product, and that these terms receive good consumer acceptance and understanding of a lower proof product. Conversely, Heublein claims that research shows "diluted," required by ATF Ruling 75–32, implies a negative connotation to consumers.

Discussion

This petition requests establishment of new classes and types of distilled spirits, and would not affect existing standards of identity. The petitioned rulemaking would also alter ATF Ruling 75–32 by requiring "light" or "mild" rather than "diluted" to describe reduced proof spirits.

ATF agrees that consumers deserve additional choices for reduced proof/low calorie distilled spirits products. Only consumer acceptance can verify or disprove consumer demand for these products.

The primary disadvantage to introduction of reduced proof distilled spirits products would be potential confusion with similar products at "regular" bottling proof. Unlike wine and beer, distilled spirits products are usually sold at more than one bottling proof (e.g. whisky is frequently sold at 80 degrees, 86 degrees, and 100 degrees proof) with the difference in proof being the only distinction between products which are otherwise identical. Therefore, ATF must carefully consider labeling to insure there exists a clear cut difference in the minds of consumers between products at minimum bottling proof or above minimum bottling proof, and those which are reduced in proof.

Public Participation—Written Comments

Based on the above discussion, ATF is issuing this advance notice of proposed rulemaking concerning reduced proof spirits. We believe specific questions should be asked to gather meaningful information about these products. Therefore, ATF is requesting comments on the following questions:

(1) Does a potential market exist for these products? Are there any market surveys or studies supporting reduced proof distilled spirits products?

(2) What name would be useful in describing reduced proof products? Heublein has suggested "mild" and "light." Are these appropriate? Are there other names such as "reduced proof," etc. which are suitable?

(3) "Light" is now a standard of identity for whisky. In view of the small market for light whisky, could this standard of identity be eliminated (or renamed, e.g., "whisky aged in seasoned barrels"), and the term "light" be used to describe reduced proof products (light bourbon whisky, light vodka, etc.)?

(4) What proof standards should apply to reduced proof distilled spirits? Sould they be a fixed percentage, such as 25% or 33%, less than the "regular" product, or should an arbitrary proof be established, such as 60° proof for products which are required to be 80° proof? Should minimum and/or maximum proofs be established for these products?

(5) What precautions, if any, should be made to differentiate reduced proof products from "regular" products? Is the name used in the standard of identity, such as "mild", "light", "reduced proof", etc., sufficient? Should ATF require other label information such as placing the proof of the product in direct conjunction with the class designation? Should other requirements such as those found in ATF Ruling 75–32 be incorporated into this standard of identity?

(6) Should ATF consider requiring the label of these reduced proof products to show the percentage alcohol by volume in addition to the proof?

(7) Should ATF allow or require statements of caloric content on reduced proof distilled spirits products?

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The name of the person submitting a comment is not exempt from disclosure.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because it will not have a significant economic impact on a substantial number of small entities. The proposal will not impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities.

Therefore, ATF believes that this advance notice of proposed rulemaking will not have a significant economic impact on a substantial number of small entities.

Compliance with Executive Order 12291

In compliance with Executive Order 12291, ATF has determined that this proposal is not a major rule since it will not result in:

(a) An annual effect on the economy of $100 million or more;

(b) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this advance notice of proposed rulemaking because no requirement to collect information is proposed.

List of Subjects in 27 CFR Part 5

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Liquors, and Packaging and containers.

Drafting Information

The principal authors of this document are Charles N. Bacon and John A. Linthicum, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority

This advance notice of proposed rulemaking is issued under the authority in 27 U.S.C. 205.

Signed: July 21, 1983.

Stephen E. Higgins,

Director.

Approved: July 19, 1983.

Robert Powis,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 83-21194 Filed 8-3-83; 8:45 am]

BILLING CODE 4810-31-M

27 CFR Part 9

[Notice No. 477]

American Viticultural Areas; Martha's Vineyard, Southeastern New England

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Bureau of Alcohol, Tobacco and Firearms is considering the establishment of two American viticultural areas in New England. One is located in Connecticut, Rhode Island, and Massachusetts, and would be known as "Southeastern New England." The other is located in Massachusetts and would be known as "Martha's Vineyard." These proposals are the result of petitions from bonded wineries in Rhode Island and Massachusetts.

The establishment of viticultural areas and the use of viticultural area names in wine labeling and advertising will allow wineries to designate the specific grape-growing area where their wines originate, and will help consumers to identify the wine they purchase.

DATE: Written comments must be received by September 19, 1983.

ADDRESS: Send written comments to: Chief, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, D.C. 20044-0385, Attention: Notice No. 477.

Copies of the petitions, the proposed regulations, the appropriate maps, and written comments will be available for public inspection during normal business hours at ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background

ATF regulations in 27 CFR Part 4 allow the establishment of definite viticultural areas. These regulations also allow the name of an approved viticultural area to be used as application of origin on wine labels and in wine advertisements. American viticultural areas are listed in 27 CFR Part 9.

Section 9.11, Title 27, CFR, defines an American viticultural area as a delimited grape-growing region distinguishable by geographical features. Section 4.25a(e)(2) outlines the procedure for proposing an American viticultural area. Any interested person may petition ATF to establish a grape-growing region as a viticultural area. The petition should include:

(a) Evidence that the name of the proposed viticultural area is locally and/or nationally known as referring to the area specified in the petition;

(b) Historic or current evidence that the boundaries of the viticultural area are as specified in the petition;

(c) Evidence relating to the geographic characteristics (climate, soil, elevation, physical features, etc.), which distinguish the viticultural features of the proposed area from surrounding areas;

(d) A description of the specific boundaries of the viticultural area, based on features which are found on United States Geological Survey (U.S.G.S.) maps of the largest applicable scale; and

(e) A copy of the appropriate U.S.G.S. maps with the boundaries prominently marked.

Petition for Southeastern New England Viticultural Area

ATF has received a petition to establish a viticultural area located within the States of Connecticut, Rhode Island, and Massachusetts to be known as "Southeastern New England." This proposed viticultural area is composed of the area around Stonington, Connecticut; Washington, Newport, and Bristol County, and Providence County east of the Blackstone River in Rhode Island; and the portion of Massachusetts south and east of the Norfolk-Bristol County boundary, the Amtrak main line, and the Neponset River. The total area is approximately 2,450 square miles or 1,568,000 acres.

The petitioner, Mr. James Mitchell, of Sakonnet Vineyards, Little Compton, Rhode Island, bases this petition on the following information:

Name. The name "Southeastern New England" is descriptive of the land adjoining the coastal bodies of water in eastern Connecticut, Rhode Island, and Massachusetts south of the Boston area. Considerable precedence exists for applying the name "Southeastern New England" to this area, and it has been used by the New England River Basins Commission to describe the proposed area.

Evidence of viticulture. Historically, most grapes grown throughout New England have been for table use rather than for the production of wine; however, local wineries produced wine from grapes grown along the New England coast for many years prior to Prohibition. For example, the Devil's Food Winery in Quonset Point, Rhode Island grew 300 acres of grapes and sold wines as far away as Chicago from 1900 until the advent of Prohibition in 1919.

Commercial grape growing along the southern New England coast resumed in the 1960's with plantings of French Hybrid grapes in Western Connecticut. The relatively mild climate of the proposed viticultural area, and availability of modern technology has enabled both French Hybrids and Vinifera grapes to grow within the area. Also, the passage of farm winery laws by Connecticut, Rhode Island, and Massachusetts has encouraged the planting of vineyards and establishment of wineries. Since the early 1960's, more than 200 acres of wine grapes have been planted in 30 commercial vineyards, and more acreage is planned. Vineyards are distributed throughout the proposed viticultural area with plantings in Stonington, Connecticut, surrounding Narragansett Bay and on the islands in the bay in Rhode Island, and in Plymouth, Norfolk, and Bristol Counties, Massachusetts, as well as on Martha's Vineyard and Nantucket Island. Varieties include Chardonnay, White Reisling, Pinot Noir, other Vinifera grapes, and French Hybrids. Currently there are nine bonded wineries within the proposed area.

Climate. Climate distinguishes the proposed Southeastern New England viticultural area from surrounding areas. The proposed area is part of that area shown on U.S. Weather Service climatic division maps as the coastal climatic divisions of Connecticut, Rhode Island, and Massachusetts.

Climate within this area is moderated by its proximity to the Atlantic Ocean and various coastal bays including Block Island Sound, Narragansett Bay, Rhode Island Sound, Buzzards Bay, Cape Cod Bay, and Massachusetts Bay. The area is uniformly low Region I on the scale developed by Winkler and Amerine of the University of California to measure degree days. The growing season of 180 days is longer and more uniform than either adjacent New England or the recognized grape-growing regions of New York. The growing season in the Hudson River Region averages 153 days while nearby interior portions of New England average about 150 days.

Precipitation in the proposed Southeastern New England viticultural area averages 44 inches a year. The average daily temperature in January is 30 degrees Fahrenheit, and in July 70° Fahrenheit, and the mean daily range of

temperature during the growing season is 20° Fahrenheit or less.

Boundaries. The boundaries of the proposed Southeastern New England viticultural area are based on the area defined by the New England River Basins Commission as "Southeastern New England." However, due to urbanization, higher elevations, and hillier terrain, Connecticut west of the Mystic River, most of Providence and Kent Counties, Rhode Island, Middlesex and western Norfolk County, Massachusetts, and the City of Boston and its immediate suburbs have been excluded from the proposed viticultural area. Generally, the area includes New London County, Connecticut east of the Mystic River; all of Rhode Island except most of Kent and Providence Counties; and all of southeastern Massachusetts east and south of the Norfold-Bristol County Boundary, the Amtrak (ex New Haven) mainline, and the Neponset River. All offshore islands between Boston and the Mystic River, including Martha's Vineyard and Nantucket, are included as part of this viticultural area. Specific boundaries are set forth in the regulatory language of § 9.72.

Petition for Martha's Vineyard Viticultural Area

Mr. George Mathiesen, co-owner of Chicama Vineyards, West Tisbury, Massachusetts, has submitted a petition for the establishment of a viticultural area known as "Martha's Vineyard." This viticultural area would consist of Martha's Vineyard (including Chappaquiddick Island) in Dukes County, Massachusetts. The petitioner bases this petition on this following information:

Name. The name "Martha's Vineyard" is well known as referring to the island. This name was given to the island in 1602 by Bartholemew Gosnold, an agent for Sir Walter Raleigh. Although the Martha for whom the Island was named remains a mystery, the vineyard referred to the proliferation of native American grape vines which grow on the island. In succeeding years, the island was referred to as Martha's or Martin's Vineyard. By 1640 after the first permanent settlement on the island, it was firmly established as Martha's Vineyard. Today, Martha's Vineyard is a well known resort area, and all references to the island are to Martha's Vineyard.

Evidence of Viticulture. The journal of two members of the original party which landed on Martha's Vineyard in 1602 described the island as "An incredible store of vines, as well as in the Woodie part of the island, where they run upon every tree, as upon the outward parts that we could not goe for treading upon them."

Although the island is rich in native American grapes, grapes were not cultivated until 1971 when George and Catherine Mathiesen planted three acres of Chardonnay and White Riesling grapes near Oak Bluffs. Later they expanded their vineyard to 33 acres and bonded Chicama Vineyards. The first Martha's Vineyard wines, Chardonnay and White Riesling, were produced in 1974 and sold in 1975.

At the present time there are 46 acres of bearing commercial vineyards on Martha's Vineyard. All grapes grown commercially are Vinifera varieties, primarily Chardonnay, White Riesling, Gewurztraminer, Cabernet, Pinot Noir, and Merlot.

Climate. Although Martha's Vineyard is a part of the proposed Southeastern New England viticultural area, its climate is milder, being more strongly influenced by surounding waters than coastal New England.

As an island, Martha's Vineyard is influenced by coastal winds blowing from all directions, unlike the New England coast which is influenced by ocean winds blowing from the south. These coastal winds moderate the climate of Martha's Vineyard. In the spring, winds travel over cool ocean waters causing a late island spring but protecting grapes from spring frost. In the fall, ocean winds influenced by warm water prolong the growing season. Consequently, the Martha's Vineyard growing season averages 210 days as compared to 180 days on the New England coast. Summer winds also keep grape vines dry preventing rot and mildew. In winter, snowfall is significantly less and rainfall greater than that of coastal New England.

Martha's Vineyard may be classified as a high Region I with an average of 2450 degree days. Other parts of the proposed Southeastern New England viticultural area average low Region I, and winters tend to be colder and summers warmer on the New England coast than on Martha's Vineyard. These temperature differences stem from the moderating ocean influences around Martha's Vineyard.

Typography. Martha's Vineyard is an island surrounded on the north by Vineyard Sound, on the east by Nantucket Sound, and on the south and west by the Atlantic Ocean. The greatest length of the island from east to west is 19 miles, and greatest width about 9½ miles. Total size of Martha's Vineyard is approximately 100 square miles or 64,000 acres.

Geologically, Martha's Vineyard was formed by a glacial moraine. Soils are deep, well drained sand and sandy loam, some of which are in the rocky phase.

Public Participation

ATF requests comments from all interested persons concerning the proposed viticultural areas. ATF especially requests comments concerning the name and proposed boundaries of the Southeastern New England viticultural area. ATF requests evidence that the proposed area is locally and/or nationally known as "Southeastern New England." ATF also notes that the proposed area encompasses approximately 2,450 square miles, but contains only 200 acres of vineyards. We therefore seek comments on climatic or geographic features which would allow reduction in size of the proposed viticultural area, and comments on alternative boundaries.

All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material or comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on these proposed viticultural areas should submit his or her request, in writing, to the Director within the 45 day comment period. The request should include reasons why the respondent feels a public hearing is necessary. The Director reserves the right to determine whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities. This rule, if adopted, will allow the petitioners or other persons to use the appellations of origin, "Southeastern New England" or "Martha's Vineyard," on wine labels and in wine advertising. This proposal is not expected to have

significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual affect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, activity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act Notice

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96-511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

List of Subjects in 27 CFR Part 9

Administrative practices and procedures, Consumer protection, Viticultural areas, and Wine.

Drafting Information

The principal author of this document is Charles N. Bacon, FAA, Wine, and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

Accordingly, under the authority contained in 27 U.S.C. 205, the Director proposes the amendment of 27 CFR Part 9 as follows:

PART 9—AMERICAN VITICULTURAL AREAS

Paragraph 1. The table of sections in 27 CFR Part 9 is amended by adding §§ 9.72 and 9.73. As amended, the table of sections reads as follows:

* * * * *

Subpart C—Approved American Viticultural Areas

* * * * *

Sec.
9.72 Southeastern New England.
9.73 Martha's Vineyard.

* * * * *

Paragraph 2. Subpart C is amended by adding §§ 9.72 and 9.73. As added, §§ 9.72 and 9.73 read as follows:

§ 9.72 Southeastern New England.

(a) *Name.* The name of the viticultural area described in this section is "Southeastern New England."

(b) *Approved maps.* The approved maps for determining the boundary of the Southeastern New England viticultural area are two U.S.G.S. maps. They are entitled:

(1) "Boston, Mass.; N.H.; Conn.; R.I.; Maine", scaled 1:250,000, edition of 1956, revised 1970; and

(2) "Providence, R.I.; Mass.; Conn.; N.Y.", scaled 1:250,000, edition of 1947, revised 1969.

(c) *Boundaries.* The Southeastern New England viticultural area is located in New London County, Connecticut; in the counties of Bristol, Kent, Newport, Providence, and Washington, in Rhode Island; and in the counties of Barnstable, Bristol, Dukes, Nantucket, Norfolk, and Plymouth in Massachusetts. The beginning point is found on the "Providence" U.S.G.S. map at the point where the Mystic River flows into Block Island Sound:

(1) Then north following the Mystic River through Long Pond to Connecticut Highway 2.

(2) Then east following Connecticut Highway 2 to Connecticut Highway 201.

(3) Then north following Connecticut Highway 201 to the 41°30' latitude line.

(4) Then east following the 41°30' latitude line to Interstate Highway 95 near Hope Valley.

(5) Then north following Interstate Highway 95 to the Kent County-Washington County boundary.

(6) Then east following the Kent County-Washington County boundary into Narragansett Bay.

(7) Then north through Narragansett Bay, the Providence River, and the Blackstone River to the Rhode Island-Massachusetts State boundary.

(8) Then east and south following the Rhode Island-Massachusetts State boundary to the Norfolk-Bristol (Mass.) County boundary.

(9) Then northeast following the Norfolk-Bristol (Mass.) County boundary to the Amtrak right-of-way (Penn Central on map) northeast of Mansfield.

(10) Then north following the Amtrak (Penn Central) right-of-way to the Neponset River immediately east of the Norwood Memorial Airport.

(11) Then northeast following the Neponset River into Dorchester Bay.

(12) Then east following the Norfolk-Suffolk County boundary, and the Plymouth-Suffolk County boundary into Massachusetts Bay.

(13) Then returning to the point of beginning by way of Massachusetts Bay, the Atlantic Ocean, and Block Island Sound; and including all of the offshore islands in Norfolk, Plymouth, Barnstable, Nantucket, Dukes, and Bristol Counties, Massachusetts; all offshore islands in Rhode Island; and all offshore islands in Connecticut east of the Mystic River, including Mason Island.

§ 9.73 Martha's Vineyard.

(a) *Name.* The name of the viticultural area described in this section is "Martha's Vineyard."

(b) *Approved maps.* The approved map for determining the boundary of the Martha's Vineyard viticultural area is the U.S.G.S. map. "Providence, R.I.; Mass.; Conn.; N.Y.;" scaled 1:250,000, edition of 1974, revised 1969.

(c) *Boundaries.* The Martha's Vineyard viticultural area is located entirely within Dukes County, Massachusetts. The boundary of the Martha's Vineyard viticultural area is the shoreline of the islands named "Martha's Vineyard" and "Chappaquiddic Island" on the "Providence" U.S.G.S. map, and the viticultural area comprises the entire area of the islands.

Approved: July 29, 1983.

Stephen E. Higgins,
Director.

[FR Doc. 83-21133 Filed 8-3-83; 8:45 am]
BILLING CODE 4810-31-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 115

[CGD5-83-06]

Bridge Locations and Clearances; Nanticoke River, MD

AGENCY: Coast Guard, DOT.

ACTION: Public hearing on bridge permit application.

SUMMARY: The Commander, Fifth Coast Guard District, has authorized a public hearing to be held to receive comments on a bridge permit application submitted

by the Maryland Department of Transportation for a fixed bridge across the Nanticoke River at Sharptown, Maryland. This hearing is being held to gather information necessary to resolve differences between various factions who support or oppose the bridge project.

DATES: (a) The hearing will be held on September 7, 1983 at 8:00 p.m. (b) Written comments concerning this permit application may be submitted on or before October 4, 1983.

ADDRESSES: (a) The location of the hearing will be the Delmar Firehouse, Delmar, Delaware.

(b) Written comments may be submitted to and will be available for examination from 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, at the Office of the Commander (oan), Fifth Coast Guard District, Room 609, 431 Crawford Street, Portmouth, Virginia 23705. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Wayne J. Creed, Bridge Administrator, Aids to Navigation Branch, Fifth Coast Guard District, Portsmouth, Virginia 23705, (804) 398–6222.

SUPPLEMENTARY INFORMATION: The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement discussing the proposed application, and announce the procedures to be followed at the hearing. A transcript will be made of the hearing and may be purchased by the public.

Interested persons who are unable to attend this hearing may also participate in the consideration of this bridge permit by submitting their comments in writing. Each comment should state reasons for supporting or opposing the application and include the name and address of the person or organization submitting the comment. Persons desiring acknowledgement that their comments have been received should enclose a stamped, self-addressed postcard or envelope. All comments received will be considered before final action is taken on the proposed permit application.

33 U.S.C. 491; 33 CFR 115.60(b).

Dated: July 29, 1983.

John D. Costello,

Rear Admiral, U.S. Coast Guard, Fifth Coast Guard District.

[FR Doc. 83-21256 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 251 and 261

Special Uses; Prohibitions

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: Present regulations governing use of National Forest System lands do not adequately explain when advanced permission is required for certain recreational uses and assemblies. Ambiguous language in the present regulations sometimes leads to confusion by the public and could result in lack of uniform application by Forest Officers. The proposed rule will establish clear guidelines on the requirement for such permits. Other technical and editorial changes in the regulations are also proposed.

DATE: Comments on this proposed regulation must be received by October 3, 1983.

ADDRESS: Comments on the proposed rule should be mailed to: R. Max Peterson, Chief (2340), Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: David Hammond, Recreation Staff, Forest Service, USDA, Room 4247-South Building, 12th and Independence Avenue, SW., Washington, D.C., (202) 447–2311.

SUPPLEMENTARY INFORMATION: Pursuant to 16 U.S.C. 551, the Secretary of Agriculture is authorized to promulgate regulations governing use of National Forest System lands. Regulations covering issuance of special use authorizations (permits, term permits, leases, or easements) are contained in 36 CFR Part 251. Regulations governing prohibited acts upon National Forest System lands are contained in 36 CFR Part 261.

The proposed rule would establish uniform guidelines for requiring a special use authorization for recreational activities and special events on National Forest System lands, while allowing flexibility needed to meet special conditions of particular areas.

Presently, all uses of National Forest System lands are considered special uses, except those uses provided for in the regulations governing disposal of timber and minerals and the grazing of livestock. A special use authorization is required in advance of any special use other than "noncommercial temporary use or occupancy of National Forest System land or facilities by individuals for camping, picnicking, hiking, fishing, hunting, riding, boating, parking of vehicles and similar purposes." There has been no clear definition of "temporary" for purposes of this Part. Similarly, use of the word "individuals" has led to some confusion as to whether groups must have a permit to engage in recreational or other activities on National Forest System lands.

The proposed rule would eliminate the word "temporary" from the regulation and would add definitions for two particular types of special use requiring authorization: Recreation event and special event. Recreation event is presently defined in the Forest Service Manual; the proposed rule would incorporate the definition of the term in Part 251. Under the proposed rule, a recreation event would be a planned, organized, and/or publicized recreational activity, engaged in by a total of 10 or more participants and/or spectators, that involves competition, entertainment, or training. Spontaneous activities that were not specifically anticipated before the users arrived on National Forest land would not be considered a recreation event. Thus, for example, a spontaneous ball game among campers would normally be excluded from the definition of recreation event, but a competitive ball game that was planned, organized, and/or publicized in advance would fall within the definition. Under the proposed rule, it is primarily the level of planning or organization that would distinguish a recreation event from those recreational activities for which no special use authorization would be required.

Under the proposed rule, a special event would be defined as a meeting, assembly, demonstration, parade, or other activity with expression or exchange of views or judgments as its primary purpose. In recognition of the special significance of the activities encompassed by the definition of special event, the proposed rule would establish separate guidelines on the granting and denial of special use authorizations for special events.

In addition to claryifying when special use authorization is needed for recreational and special events, the proposed rule would also clarify special uses that may be authorized by special order or regulation. Under existing rules at 36 CFR 261.50 and 36 CFR 261.70, Forest Service officials may issue orders and regulations that require special authorization for use of National Forest System land or facilities that do not otherwise require authorization. Orders may be issued to close or restrict entry

to an area. An order must state the restrictions, describe the area and times of applicability, and must be posted in a manner to reasonably bring the restrictions to the attention of the public. Regulations may be issued to protect resources, property, and public health or safety. A regulation must state the restrictions and must be promulgated in accordance with the Administrative Procedure Act. Such orders or regulations may require a special use authorization for occupancy in excess of a specified length of time or for occupancy by groups in excess of a particular size. Standards for size of groups or length of stay so established for an area may vary during the year; for example, an order may require that during holiday periods a permit is required for use by any group of 15 persons or more, whereas during other times of the year, only groups of 25 persons or more would be required to obtain a permit.

The proposed rule makes no change in the fee system governing special use authorizations.

The proposed rule would make some changes in the present regulations governing special use authorizations that are primarily technical or conforming. Of particular note, § 261.1a would clarify that any act or omission that would otherwise be a violation of Part 261 may be authorized in a contract, special use authorization, or approved operating plan. Also, § 261.3a (47 FR 29229, July 6, 1982) would be transferred to § 261.3(c), and § 261.16 would be amended to eliminate an inconsistency with § 261.57(h). For ease of reference, definition of the term "special use authorization" as used in Part 251 would be incorporated in Part 261.

This action has been reviewed pursuant to Executive Order 12291. It has been determined that this action is not a major rule and does not require a regulatory impact analysis. The rule will have no impact on the economy and will result in no increase in cost or prices for consumers, individuals industries, Federal, State or local government agencies, or geographic regions. The proposed rule will have no effect on competition, employment, investment productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Assistant Secretary for Natural Resources and Environment has determined that this action does not require a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.,) because the action will not have a significant economic impact on a substantial number of small entities; it imposes no paperwork or recordkeeping requirements on small entities; it does not affect the competitive position of small entities in relation to large entities; and it does not affect cash flow, liquidity, or ability to remain in the market for small entities.

There are no new paperwork or information collection requirements contained in the proposed rule. The public would apply for a permit or authorization under this rule on Standard Form 299, which has been approved for interagency use by the Office of Management and Budget in accordance with the Paperwork Reduction Act. Forest Service use of SF-299 has been assigned OMB Control No. 0596-0068. Since this rule is intended to clarify existing policy and procedure, it would not impose any new information collection requirements or expand the class or number of applicants for special use authorizations.

An environmental assessment has been prepared and is available for review in the offices of the Forest Service Recreation Staff, Room 4247, South Agriculture Building, 12th and Independence Avenue, S.W., Washington, D.C.

List of Subjects in 36 CFR Parts 251 and 261

Administrative practice and procedure, Law enforcement—prohibitions, National forests, and Public lands—permits.

Therefore, for the reasons set forth in the premable, Parts 251 and 261 of Title 36 of the Code of Federal Regulations are proposed to be amended as follows:

PART 251—LAND USES

1. The authority citation for 36 CFR Part 251 reads as follows:

Authority: Sec. 1, 30 Stat. 35, as amended, 62 Stat. 100, Sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472); 90 Stat. 2776 (43 U.S.C. 1761-1771), unless otherwise noted.

Other authorities are listed in 36 CFR 251.53.

2. In 36 CFR 251.50, paragraphs (a), (c) and (d) are revised to read as follows:

§ 251.50 Special uses.

(a) All uses of National Forest System land, improvements, and resources, except those provided for in the regulations governing the disposal of timber (Part 223) and minerals (Part 228) and the grazing of livestock (Part 222), are designated "special uses" and must be approved by an authorized officer.

* * * * *

(c) With the exception of "recreation event" and "special event" as defined in § 251.51 of this part, special use authorization is not required for the noncommercial use or occupancy of National Forest System lands or facilities for camping, picnicking, hiking, fishing, hunting, horse riding, boating or similar recreational activity, unless otherwise provided by order issued under § 261.50 or by regulation issued under § 261.70 of this Chapter.

(d) Unless otherwise required by order issued under § 261.50 or by regulation issued under § 261.70 of this Chapter, a special use authorization is not required for use of existing forest development roads and trails; however, any such use is subject to compliance with all Federal and State laws governing the roads or trails to be used.

3. 36 CFR 251.51 is amended by adding, in alphabetical sequence, the following terms and definitions:

§ 251.51 Definitions.

The following definitions apply to this Part:

* * * * *

Recreation event—a planned, organized, or publicized recreational activity engaged in by a total of ten (10) or more participants and/or spectators, that involves competition, entertainment, or training such as, but limited to, animal or vehicle races or rallies, dog trials, fishing contests, rodeos, fairs, regattas, and games.

Special event—a meeting, assembly, demonstration, parade, or other activity engaged in for the purpose of expression or exchange of views or judgments.

* * * * *

4. In 36 CFR 251.53, paragraph (k) is revised to read as follows:

§ 251.53 Authorities.

* * * * *

(k) Permits under the Land and Water Conservation Fund Act of September 3, 1964, 78 Stat. 897, as amended (16 U.S.C. 4601-6a(c)), for recreation events and special events;

* * * * *

5. In 36 CFR 251.54, the heading and introductory clause of paragraph (h) is revised and a new paragraph (i) is added to read as follows:

§ 251.54 Special use applications.

* * * * *

(h) *Denial of applications for special use other than a special event.* An application for a special use other than a special event may be denied if the authorized officer determines that:

* * * * *

(i) *Denial of application for special event.* An application for a special event

shall be granted unless the authorized officer determines that:

(1) The special event would conflict with use by another whose use has previously been approved by special use authorization, contract, or approved operating plan, under this Part or Part 222, 223, or 228 of this Chapter; or

(2) The special event would present a clear and present danger to the public health or safety; or

(3) The special event would be of such nature or duration that it could not reasonably be accommodated in the particular place and time applied for; or

(4) The application proposes activities that are contrary to the provisions of Part 261 of this Chapter or the provisions of any other Federal or State criminal law.

When an application is denied on the basis of paragraph (i)(1) or (i)(3) of this section, the applicant shall be provided the opportunity to accept an alternative site or time selected by the authorized officer.

PART 261—PROHIBITIONS

6. The table of contents for 36 CFR Part 261 is amended by removing § 261.3a and by revising the heading for § 261.3 to read as follows:

Sec.

* * * * *

261.3 Interfering with a Forest Officer, volunteer, or hosted enrollee or giving false report to a Forest Officer.

* * * * *

7. The authority citation for 36 CFR Part 261 reads as follows:

Authority: 30 Stat. 35, as amended (16 U.S.C. 551); Sec. 1, 33 Stat. 628 (16 U.S.C. 472); 50 Stat. 526, as amended (7 U.S.C. 1011, (f)); 82 Stat. 916 (16 U.S.C. 1281(d)); 82 Stat. 922 (16 U.S.C. 1246, (i)), unless otherwise noted.

8. 36 CFR 261.1a is revised to read as follows:

§ 261.1a Special use authorizations, contracts and operating plans.

The Chief, each Regional Forester, each Forest Supervisor, and each District Ranger or equivalent officer may issue special use authorizations, contracts, or operating plans authorizing the occupancy or use of a road, trail, area, river, lake, or other part of the National Forest System in accordance with authority which is delegated elsewhere in this Chapter or in the Forest Service Manual. These Forest Officers may permit in the authorizing document or approved plan an act or omission that would otherwise be a violation of a Subpart A or Subpart C regulation or a Subpart B order. In authorizing such uses, the forest officer may place such conditions on the authorization as the officer considers necessary for the protection or administration of the National Forest System, or for the promotion of public health, safety, or welfare.

§ 261.2 [Amended]

9. 36 CFR 261.2 is amended by inserting, in correct alphabetical order, the definition of "special use authorization" to read as follows:

* * * * *

"Special Use Authorization"—a permit, term permit, lease or easement which allows occupany, use rights, or privileges of National Forest System land.

* * * * *

10. 36 CFR 261.3a is transferred to and redesignated as 36 CFR 261.3(c), and the heading for 261.3 is revised to read as follows:

§ 261.3 Interfering with a Forest officer, volunteer, or hosted enrollee or giving false report to a Forest officer.

11. In 36 CFR 261.6, paragraphs (a) and (h) are revised to read as follows:

§ 261.6 Timber and other forest products.

The following are prohibited:

(a) Cutting or otherwise damaging any timber, tree or other forest product, except as authorized by a special use authorization, timber sale contract, Federal law or regulation.

* * * * *

(h) Removing any timber, tree or other forest product, except as authorized by a special use authorization, timber sale contract, Federal law, or regulation.

* * * * *

12. In 36 CFR 261.9, paragraph (f) is revised to read as follows:

§ 261.9 Property.

The following are prohibited:

* * * * *

(f) Using any pesticide except for personal use as an insect repellent or as provided by special use authorization for other minor uses.

* * * * *

13. In 36 CFR 261.10, paragraphs (a), (b), (c), (g), (i), (j) and (k) are revised and paragraph (m) is added to read as follows:

§ 261.10 Occupancy and use.

The following are prohibited:

(a) Constructing, placing, or maintaining any kind of road, trail, structure, fence, enclosure, communication equipment, or other improvement without a special use authorization, contract or approved operating plan.

(b) Taking possession of, occupying, or otherwise using National Forest System lands for residential purposes without a special use authorization, or as otherwise authorized by Federal law or regulation.

(c) Selling or offering for sale any merchandise or conducting any kind of work activity or service unless authorized by Federal law, regulation, or special use authorization.

* * * * *

(g) Posting, placing, or erecting any paper, notice, advertising material, sign, or similar matter without a special use authorization.

* * * * *

(i) Operating or using a public address system, whether fixed, portable or vehicle mounted, in or near a campsite or developed recreation site or over an adjacent body of water without a special use authorization.

(j) Use or occupancy of National Forest System land or facilities without special use authorization when such authorization is required.

(k) Violating any term or condition of a special use authorization, contract or approved operating plan.

* * * * *

(m) Failing to pay any special use rental fee as required.

14. In 36 CFR 261.12, paragraph (a) is revised to read as follows:

§ 261.12 Forest development roads and trails.

The following are prohibited:

(a) Violating the load, weight, height, length, or width limitations prescribed by State law except by special use authorization or written agreement or by order issued under § 261.54 of this Chapter.

15. In 36 CFR 261.14, paragraph (p) is revised to read as follows:

§ 261.14 Developed recreation sites.

The following are prohibited:

* * * * *

(p) Distributing any handbill, circular, paper or notice without a special use authorization.

16. In 36 CFR 261.16, paragraph (b) is revised to read as follows:

§ 261.16 National Forest Wilderness.

The following are prohibited in a National Forest Wilderness:

* * * * *

(b) Possessing or using a hang glider.

* * * * *

17. In 36 CFR 261.17, paragraph (c) is amended to read as follows:

§ 261.17 Boundary Waters Canoe Area, Superior National Forest.

The following are prohibited in the Boundary Waters Canoe Area:

* * * * *

(c) Using wheels, rollers, or other mechanical devices for the overland transportation of any watercraft, except by special use authorization, or as authorized by Federal law or regulation.

18. In 36 CFR 261.18 is revised to read as follows:

§ 261.18 Pacific Crest National Scenic Trail.

It is prohibited to use a motorized vehicle on the Pacific Crest National Scenic Trail without a special use authorization.

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

June 27, 1983.

[FR Doc. 83-21199 Filed 8-3-83; 8:45 am]

BILLING CODE 3410-11-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 61 and 62

[Docket No. FEMA-FIA]

National Flood Insurance Program; Assistance to Private Sector Property Insurers

Correction

In FR Doc. 83-20627, beginning on page 34482 in the issue of Friday, July 29, 1983, make the following correction.

On page 34482, first column, the comment date in the second line of the **"DATES"** paragraph should have read "September 27, 1983".

BILLING CODE 1505-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Child Support Enforcement

45 CFR Parts 302, 304 and 306

Child Support Enforcement Program; Medical Support Enforcement

AGENCY: Office of Child Support Enforcement (OCSE), HHS.

ACTION: Withdrawal of proposed rulemaking; notice of proposed rulemaking.

SUMMARY: The Notice of Proposed Rulemaking (NPRM) published July 28, 1983 (48 FR 34302) is withdrawn because it was published in error and the following NPRM is issued in its place. OCSE is proposing to amend the Child Support Enforcement program regulations governing medical support enforcement activities. Currently these activities are pursued through optional cooperative agreements between the State IV-D agency and the State Medicaid agency. This proposal would require all State IV-D agencies, as part of the IV-D State plan, to perform certain limited medical support activities. First, the IV-D agency would be required to attempt to obtain basic medical support information during the normal processing of child support cases and provide this information to the State Medicaid agency. Second, the IV-D agency would be required to petition to include medical support in new or modified support orders in situations in which coverage is available to the absent parent at reasonable cost and to inform the State Medicaid agency of any new or modified support orders which include a medical support obligation. These activities would result in increased use of available third party resources in the form of private medical insurance and in medical cost savings to State and Federal governments. Federal funding would be available to IV-D agencies for these required medical support activities.

DATE: Consideration will be given to written comments and suggestions received by October 3, 1983.

ADDRESS: Address comments to: Director, Office of Child Support Enforcement, Department of Health and Human Services, Room 1010, 6110 Executive Boulevard, Rockville, Maryland 20852. Comments will be available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. in the Department's office at the above address.

FOR FURTHER INFORMATION CONTACT: Carol Jordan, Policy Branch, OCSE, (301) 443-5350.

SUPPLEMENTARY INFORMATION:

Background

The Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977 (Pub. L. 95-142) added section 1912 to title XIX of the Social Security Act (the Act). This section of the Act permits the State Medicaid agency to establish a medical support enforcement program. The Conference Committee Report (H. Rep. 95-673, September 22, 1977) states that the Medicaid agency may use the IV-D agency to assist in the enforcement of medical support rights due from or through an absent parent, since it was not intended that the Medicaid agency establish a separate system for the enforcement of medical support obligations.

On February 11, 1980, OCSE and the Health Care Financing Administration (HCFA) published joint regulations to implement section 1912 of the Act through optional cooperative agreements between the State Medicaid agency and the State IV-D agency. (See 45 CFR Part 306 for OCSE regulations and 42 CFR 433.151 through 433.154 for HCFA regulations.) Under these agreements, the Medicaid agency reimburses the IV-D agency for medical support enforcement activities conducted pursuant to the agreement. However, most States have not elected to enter into such agreements because of other child support enforcement program priorities and an unfavorable differential in the two programs' Federal funding rates. Federal funding in the Medicaid program is available at a rate lower than the 70 percent rate for child support activities under title IV-D of the Act. States are, therefore, reluctant to take on additional responsibilities which will increase the burden on IV-D agency staff and result in a smaller percentage of Federal reimbursement for services provided. State IV-D agencies have also indicated that they have insufficient staff and resources to allow them to pursue medical support enforcement. For these reasons, medical support enforcement efforts through cooperative agreements have been minimal.

We believe that many parents have private medical insurance available through their employers or unions which could be used, at reasonable cost to the parent, to pay for their dependents' medical expenses, resulting in reduced costs of supporting a child and significant cost savings to State and Federal governments under the Medicaid program. In fact, a National Health Care Expenditures survey conducted by the National Center for Health Services Research of the Public Health Service, indicated that 73 percent of low-wage employees can obtain employer provided insurance at reasonable or no cost. In addition, the Department is advocating cost-saving policies in Federal programs and these regulations would enhance State enforcement of third party liability for medical expenses.

Statutory Authority

These proposed regulations are published under the authority of sections 1102 and 454(13) of the Act. Section 1102 authorizes the Secretary of HHS to publish regulations not inconsistent with the Act which may be necessary to efficiently administer his functions under the Act. Under the title IV-D State plan requirement contained

in section 454(13), the Secretary may prescribe, and the State must comply with, requirements and standards necessary to establish an effective title IV–D program. Furthermore, because section 462(b) of the Act defines "child support" to include payments to provide for health care, we believe that requiring State IV–D agencies to attempt to obtain information on the availability of medical insurance and to petition to include medical insurance coverage in new or modified support orders as part of their normal child support enforcement activities is consistent with the purpose and functions of the title IV–D program.

Regulatory Provisions

These proposed regulations do not alter or replace current regulations governing optional cooperative agreements between IV–D and Medicaid agencies under which IV–D agencies may provide medical support enforcement services. Restrictions contained in current regulations governing optional cooperative agreements do not apply to the required activities contained in these proposed regulations. The proposed regulations would require under the title IV–D State plan that IV–D agencies gather specified medical support information if it is available during the regular processing of IV–D cases; submit the information to the Medicaid agency for use in its medical support enforcement and follow-up activities; petition to include medical support in new or modified support orders in situations in which coverage is available to the absent parent at reasonable cost; inform the Medicaid agency when new or modified support orders include a medical support obligation; and provide the Medicaid agency with health insurance policy information either at the time the order is entered or when the absent parent secures medical coverage in compliance with the order. These regulations would not require the IV–D agency to perform other medical support enforcement or follow-up activities such as actual collection of payments for medical services from liable third parties which remain the responsibility of the Medicaid agency.

We have tried to minimize the burden that these regulations would place on IV–D agencies. These additions to the present scope of IV–D activities are in keeping with the Department's initiative to pursue third party resources as a means of reducing medical costs to State and Federal governments. Because the IV–D agency already performs the functions of locating absent parents and ensuring that the support obligations of absent parents are met, the use of IV–D agencies to gather medical support information during the normal processing of IV–D cases and to petition to include medical support in new or modified support orders will avoid the duplication of effort, the unnecessary expense, and the administrative complexity that would result if the Medicaid agency had to establish new and separate systems for these activities.

The proposed regulations amend 45 CFR 302.80 by changing the section title, redesignating the current contents of the section as paragraph (a), and adding a new paragraph (b). The section title, Medical support enforcement, would be changed to Medical support, because the new paragraph (b) does not require enforcement. In paragraph (a), the cross-reference to 45 CFR Part 306 would be changed to refer to Subpart A of Part 306 for reasons explained below. The proposed § 302.80(b) would specify that the IV–D activities contained in 45 CFR Part 306, Subpart B, are requirements under the title IV–D State plan.

These proposed regulations amend 45 CFR 304.20, Availability and rate of Federal financial participation, by adding a new paragraph (b)(11). Paragraph (b)(11) would make Federal funding available under the IV–D program for IV–D medical support activities required in Part 306, Subpart B, of these proposed regulations.

These proposed regulations also amend 45 CFR 304.23, Expenditures for which Federal financial participation is not available, by revising the cross-references in paragraph (g). This change is required because of the redesignation of the current contents of 45 CFR Part 306 as Part 306, Subpart A.

The redesignated 45 CFR Part 306, Subpart A, entitled "Optional Cooperative Agreements," does not change current regulations at 45 CFR Part 306. Part 306, Subpart B, entitled "Required IV–D Activities," contains new §§ 306.50 and 306.51.

The new § 306.50 is entitled Securing medical support information. Section 306.50(a) lists the information a IV–D agency is required to attempt to obtain on behalf of the Medicaid agency to assist with medical support enforcement activities. Under this paragraph, the IV–D agency would collect information on each IV–D case for which an assignment is in effect under title IV–A of the Act (45 CFR 232.11), if the information can be obtained during the regular processing of IV–D cases and if the IV–A agency does not provide the information to the Medicaid agency. The information would include the name, address and social security number of the absent parent; the name and address of the absent parent's place of employment; the child's name and social security number; the AFDC case number, the Medicaid number or custodial parent's social security number; and whether the absent parent has a health insurance policy and, if so, the policy name and number and names of persons covered.

Section 306.50(b) would require the IV–D agency to obtain the information specified in paragraph (a) upon request of an individual who applies for IV–D services under 45 CFR 302.33.

Section 306.50(c) of the proposed regulations requires the IV–D agency to submit the medical support information obtained under §§ 306.50 (a) and (b) to the Medicaid agency. The IV–D agency has discretion regarding the transfer of medical support information to the Medicaid agency, i.e., the information may be transmitted manually or by automated system, if the State has one. However, the IV–D agency would be required to transmit the information by the most efficient and cost-effective means available.

We believe that requiring IV–D agencies to supply Medicaid agencies with medical support information which is readily available to the IV–D agencies is the simplest, least expensive way of securing the information necessary for medical support enforcement activities. Also, since IV–D agencies need not secure information unless it is readily available to them during the normal processing of IV–D cases, we believe the impact of these proposed requirements on IV–D agencies will be minimal.

We do not intend that IV–D agencies should duplicate IV–A agencies' actions in providing AFDC case information to Medicaid agencies, but do not have sufficient information to assess the depth of this potential problem. We welcome comments from State IV–D agencies in this area.

The new § 306.51 is entitled "Securing medical support obligations." Paragraph (a)(1) would require the IV–D agency, with respect to AFDC cases, to petition to include medical support in new court or administrative orders for child support and in existing orders which are being modified or adjusted. The IV–D agency is not required to attempt to modify an existing court or administrative order for the sole purpose of including medical support. The purpose of this requirement is to avoid Medicaid expenditures and protect children under the medical insurance policies of their absent parents at low cost to the IV–D agency.

If the absent parent assumes responsibility, in part or in whole, for the medical expenses of his or her dependents, the costs of the Medicaid program will be reduced. This requirement would be limited to situations in which coverage is available to the absent parent at reasonable cost either by securing employer-related medical insurance coverage or extending current coverage to include the child or children in question.

Section 306.51(a)(2) would require the IV–D agency to inform the Medicaid agency of any new or modified orders for support in AFDC cases that include medical support and to provide the health insurance policy name and number and names of persons covered if this information is available at the time the order is issued.

Section 306.51(a)(3) would require IV–D agencies to ensure that the absent parent secure employment-related health insurance coverage for a dependent child as required by a support order, if the required coverage has not been secured at the time the order is issued. The IV–D agency would then provide the Medicaid agency with the health insurance policy name and number and the names of the persons covered.

Section 306.51(b) would require the IV–D agency to provide the services under paragraph (a) upon request by an individual who applies for these services under 45 CFR 302.33.

Medical support enforcement and follow-up activities other than those specified in §§ 306.50 and 306.51 are not required of the IV–D agency under these proposed regulations, but are the responsibility of the State Medicaid agency.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96–511), the State plan amendment that is required by this regulation will be submitted for approval to the Office of Management and Budget (OMB). It is not effective until OMB approval has been obtained and the public has been notified to that effect through publication of a final regulation.

Sections 306.50 and 306.51 of this proposed rule contain information collection requirements. As required by section 3504(h) of Pub. L. 96–511, we have submitted a copy of this proposed rule to OMB for its review of these information collection requirements. Other organizations and individuals desiring to submit comments on the information collection requirements should direct them to the agency official designated for this purpose whose name appears in this preamble, and to the Office of Information and Regulatory Affairs, OMB, New Executive Office Building (Room 3208), Washington, D.C. 20503, ATTN: Desk Officer for HHS.

Regulatory Impact Analysis

Section 1(b) of Executive Order 12291 states that a major rule is one that is likely to result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Executive Order requires that for major rules, we prepare a regulatory impact analysis which describes the potential benefits and costs of the rule, together with the potential benefits and costs of alternative approaches.

We estimate that in FY 1984 these regulations will save approximately $89 million in Federal Medicaid expenditures and approximately $70 million in State Medicaid expenditures. Child Support Enforcement program costs are not expected to exceed $16 million, since IV–D agencies will obtain only information that is readily available during the regular processing of IV–D cases, will petition to include medical support only in new or modified child support orders, will ensure that absent parents secure insurance coverage or add dependents to already existing coverage if required to do so in a support order, and will submit information to Medicaid agencies by the most effective means possible. We have determined that this is a major rule. The discussion below, together with the preamble as a whole, constitute the regulatory impact analysis.

The rule will have little or no *net* economic effect, because it will not change substantially the total amount that will be spent on medical care for dependent children of absent parents. The effect here is not the level of medical coverage but rather who will finance it—parents, third-party payors, and ultimately, employers and employees who pay premiums, versus the Medicaid program and taxpayers. In any event, total expenditures will be about the same, and this regulation, therefore, results in a redistribution of resources with little or no net impact.

Alternatives to this proposed rule have been examined and rejected. The Department considered continuing to rely on the current system, in which medical support enforcement activities are pursued only through optional cooperative agreements between the State IV–D agency and the State Medicaid agency. However, as stated earlier in the preamble, most States have not elected to enter into such agreements, and, therefore, medical support enforcement efforts have been minimal. Another rejected option was to have the Medicaid agencies establish new and separate systems for these medical support activities. However, this would result in unnecessary expense and duplication of effort, since the IV–D agencies are already locating absent parents and collecting certain information anyway. The alternative which has been selected in these proposed regulations will provide great benefits to Federal and State governments at minimal burden to State IV–D agencies.

Under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), we are required to prepare a regulatory flexibility analysis for those rules which will have a significant economic impact on a substantial number of small entities. This proposed rule will not have a significant economic impact on a substantial number of small entities. Its principal impact is on State IV–D agencies (who will be required to expend minimal additional effort), and third party payors. Although this rule can be expected to result in additional third party payments of over $100 million annually, this amount represents a small fraction of one percent of costs (and premiums for) health insurance, and will not have a significant economic impact. Therefore, a regulatory flexibility analysis is not required.

List of Subjects

45 CFR Parts 302 and 304

Child welfare, Grant programs/social programs.

45 CFR Part 306

Child welfare, Grant programs/social programs; Medicaid.

For the reasons set out in the preamble, Chapter III of Title 45 of the Code of Federal Regulations is proposed to be amended as follows:

PART 302—[AMENDED]

1. 45 CFR 302.80 is revised to read as follows:

§ 302.80 Medical support.

(a) The State plan may provide that the IV–D agency will secure and enforce medical support obligations under a

cooperative agreement between the IV-D agency and the State Medicaid agency. Cooperative agreements must comply with the requirements contained in Subpart A of Part 306 of this chapter.

(b) The State plan must provide that the IV-D agency shall secure medical support information and medical support obligations in accordance with the requirements contained in Subpart B of Part 306 of this chapter.

PART 304—[AMENDED]

2. Section 304.20 is amended by adding a new paragraph (b)(1) to read as follows:

§304.20 Availability and rate of Federal financial participation.

* * * * *

(b) * * *

(11) Required medical support activities as specified in Part 306, Subpart B, of this chapter.

3. Section 304.23 is amended by revising paragraph (g) to read as follows:

§ 304.23 Expenditures for which Federal financial participation is not available.

* * * * *

(g) Medical support enforcement activities performed under cooperative agreements in accordance with Part 306, Subpart A, of this chapter.

4. 45 CFR Part 306 is amended by amending the table of contents, revising § 306.0, placing the title Subpart A—Optional Cooperative Agreements after § 306.1, designating §§ 306.2 through 306.40 as Subpart A, adding the title Subpart B—Required IV-D Activities after § 306.40, and adding new §§ 306.50 and 306.51 as follows:

PART 306—MEDICAL SUPPORT ENFORCEMENT

Sec.

306.0 Scope of this part.
306.1 Definitions.

Subpart A—Optional Cooperative Agreements

306.2 Cooperative agreements.
* * * * *
306.40 Maintenance of effort.

Subpart B—Required IV-D Activities

306.50 Securing medical support information.
306.51 Securing medical support obligations.

§ 306.0 Scope of this part.

Subpart A of this part defines the requirements for an optional cooperative agreement between the IV-D agency and the Medicaid agency for the purpose of enforcing medical support obligations under section 1912 of the Act. Subpart B of this part prescribes the required medical support activities to be performed by the IV-D agency.

* * * * *

Subpart A—Optional Cooperative Agreements

* * * * *

Supart B—Required IV-D Activities

§ 306.50 Securing medical support information.

(a) If the IV-A agency does not provide the information specified in this paragraph to the Medicaid agency and if the information is available or can be obtained during the regular processing of a IV-D case for which an assignment is in effect under title IV-A of the Act (45 CFR 232.11), the IV-D agency shall obtain the following information on the case:

(1) AFDC case number, Medicaid number or the individual's social security number;

(2) Name of absent parent;

(3) Social security number of absent parent;

(4) Name and social security number of child(ren);

(5) Home address of absent parent;

(6) Name and address of absent parent's place of employment;

(7) Whether the absent parent has a health insurance policy and, if so, the policy name and number of names of persons covered.

(b) The IV-D agency shall obtain the information specified in paragraph (a) of this section upon request by an individual who applies for IV-D services under § 302.33 of this part if the information is available or can be obtained during the regular processing of the IV-D case.

(c) The IV-D agency shall provide the information obtained under paragraphs (a) and (b) of this section to the Medicaid agency by the most efficient and cost-effective means available, using manual or existing automated systems.

§ 306.51 Securing medical support obligations.

(a) With respect to cases for which there is an assignment in effect under § 232.11 of this part, the IV-D agency shall:

(1) Petition to include medical support in new or modified court or administrative orders for child support if new, employer-based medical insurance coverage is available to the absent parent at reasonable cost or if current coverage could be extended to include the child(ren) in question; and

(2) Inform the Medicaid agency when a new or modified court or administrative order for child support includes medical support and provide the health insurance policy name and number and names of persons covered if this information is available at the time the order is entered.

(3) If the health insurance policy information referred to in paragraph (a)(2) is not available at the time the order is entered, ensure that the medical coverage required by the support order is obtained by the absent parent and provide the Medicaid agency with the health insurance policy name and number and names of the persons covered.

(b) The IV-D agency shall provide the services specified in paragraph (a) of this section upon request by an individual who applies for IV-D services under § 302.33 of this part.

(Sec. 1102 of the Social Security Act (42 U.S.C. 1302) and sec. 454(3) of the Social Security Act (42 U.S.C. 654(13))

(Catalog of Federal Domestic Assistance Program No. 13.679, Child Support Enforcement Program)

Dated: July 29, 1983.

John A. Svahn,

Director, Office of Child Support Enforcement.

Approved: July 29, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-21234 Filed 8-3-83; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, 173 and 175

[Docket No. HM-184A; Notice No. 83-4]

Implementation of the ICAO Technical Instructions

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations (HMR) in order to permit the offering, acceptance and transportation by aircraft, and by motor vehicle incident to transportation by aircraft, of hazardous materials shipments conforming to the most recent edition of the International Civil Aviation Organization's (ICAO) Technical Instructions for the Safe

Transport of Dangerous Goods by Air (ICAO Technical Instructions). These amendments are necessary to facilitate the continued shipment of hazardous materials in international commerce by air when the 1984 edition of the ICAO Technical Instructions becomes effective on January 1, 1984, pursuant to decisions taken by the ICAO Council regarding implementation of Annex 18 to the Convention on International Civil Aviation.

DATE: Comments must be received on or before October 14, 1983.

ADDRESS: Address comments to: Dockets Branch, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. Comments should identify the docket and be submitted, if possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed stamped post card. The Dockets Branch is located in Room 8426, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590. Public dockets may be reviewed between the hours of 8:30 a.m. and 5:00 p.m., Monday through Friday. Telephone: (202) 426–3148.

FOR FURTHER INFORMATION CONTACT: Edward A. Altemos, International Standards Coordinator, Materials Transportation Bureau, Department of Transportation, 400 Seventh Street, SW., Washington, D.C., 20590. Telephone: (202) 426–0656.

SUPPLEMENTARY INFORMATION: On December 6, 1982, the Materials Transportation Bureau (MTB) published amendments to the Hazardous Materials Regulations (47 FR 54817) which allow under certain conditions, and with certain limitations, hazardous materials packaged, marked, labeled, classified and described and certified on shipping papers as provided in the 1983 edition of the ICAO Technical Instructions to be offered, accepted and transported by aircraft within the United States and aboard aircraft of United States registry anywhere in commerce. In addition, amendments were published to Part 175 of the Hazardous Materials Regulations to align the requirements for the loading and handling of hazardous materials aborad aircraft with those in the 1983 edition of the ICAO Technical Instructions. It was necessary that these amendments be published in order to provide consistency between the Hazardous Materials Regulations and the ICAO Technical Instructions because the ICAO Technical Instructions have become the basic standard applied to the transport of hazardous materials by air worldwide. A more detailed explanation of the reasons for this rulemaking was provided in the Notice of Proposed Rulemaking published under Docket No. HM–184 on August 2, 1982 (47 FR 33295).

Since publication of the final rule under Docket No. HM–184, ICAO has developed a number of amendments to the Technical Instructions. These amendments have been incorporated in the 1984 edition of the ICAO Technical Instructions which will become effective on January 1, 1984. In order to continue to fulfill the intent of the amendments originally published under HM–184 (i.e., to facilitate the international transportation of hazardous materials by air by insuring a basic consistency between the HMR and the ICAO Technical Instructions), the MTB believes it necessary to amend certain provisions of the HMR to reflect changes introduced in the 1984 edition of the ICAO Technical Instructions. The purpose of this rulemaking action is to propose these necessary amendments to the HMR.

Before commencing a section by section analysis of the proposed changes, the MTB believes some clarification of the rules published under HM–184 is necessary. The question has been raised as to whether these amendments permit carriers to operate in accordance with Part 5 of the ICAO Technical Instructions (Operator's Responsibilities) as opposed to Part 175 of the HMR. The MTB considers it important to stress that air carriers must fully comply with Part 175 of the HMR and that compliance with Part 5 of the ICAO Technical Instructions is not authorized in place of full compliance with Part 175 of the HMR. At the same time, however, the MTB would like to note that a series of amendments have been previously made to Part 175, and others are proposed in this notice, in order to make Part 175 consistent with the ICAO Technical Instructions to the maximum extent possible.

The following is an analysis of this proposal, by section, which provides the background behind the proposed changes:

Section 171.7

The reference to the 1983 edition of the ICAO Technical Instructions in the matter incorporated by refernce would be updated to refer to the 1984 edition.

Section 171.8

A new definition of "Competent authority" would be added. This definition is necessitated by the inclusion of this term in the proposed changes to § 173.86. The definition proposed is that already contained in Part 107 of the HMR and it currently pertains only to the regulations governing the designation of approval agencies for Intermodal Portable Tanks. However, the MTB believes that this definition has applicability to the HMR, in general, and is now proposing its inclusion in § 171.8.

Section 171.11

Several changes are being proposed to this section. First, it is proposed to amend paragraph (d)(4) to clarify the fact that the additional shipping paper entries required by § 171.11(d)(4) when hazardous materials are transported by highway pursuant to the provisions of § 171.11, only apply to those materials considered hazardous materials for transportation by highway. For instance, the name of the DOT class corresponding to the ICAO class would not be required for a material in ICAO Class 8 that is corrosive only to aluminum. In addition, it is proposed that materials in ICAO Class 6.1, Packing Group III and ICAO Class 9, other than those considered hazardous substances under the HMR, be excepted from the requirement to show the corresponding DOT class because such materials are not generally regulated for transportation by highway and because there is no single DOT class corresponding to these ICAO classifications. It is also proposed to add a new paragraph (d)(7) to this section to clarify the fact that hazardous materials shipments made under the provisions of § 171.11 must conform to any applicable United States variation published in the ICAO Technical Instructions.

Sections 172.406 and 172.512

It is proposed that these sections be amended to permit freight containers or aircraft unit load devices containing hazardous materials to be identified by a tag with a red hatched border upon which the classes of the dangerous goods contained within the freight container or unit load device is indicated. This method of indentification, which is required by Paragraph 2.7 of Part 5, Chapter 2, of the ICAO Technical Instructions, would be permitted as an alternative to the labeling or placarding currently required. However, freight containers and aircraft unit load devices would still be required to be labeled or placarded, as appropriate, for transportation by highway. It is also proposed that § 172.512 be amended to clarify the fact that if a freight container or aircraft unit load device is loaded by a carrier, it is the responsibility of the carrier to apply the required placards, labels or tag.

Section 173.6

A new paragraph (d) would be added which would prohibit the offering for transport by air of an overpack containing hazardous materials that are required by § 175.78 to be segregated when loaded aboard an aircraft. This would be consistent with a recent amendment to the ICAO Technical Instructions and is necessary in order to permit the air carrier to comploy with his loading responsibilities.

Section 173.86

Under the existing HMR, "new explosives" are considered forbidden materials until examined and approved in accordance with § 173.86. This has resulted in serious difficulties with the import of air shipments of explosives because there is no provision for the air transport of samples for examination and approval. Therefore, the time of delay incurred by shippers outside the United States in obtaining the necessary approval is prohibitive. Furthermore, the MTB believes that requiring DOT approval of all explosives imported under the provisions of the ICAO Technical Instructions is contrary to the spirit of those regulations in that the MTB should be in a position to recongnize approvals issued by the competent authority of the country in which the shipment orginiates. Naturally the MTB would expect that foreign competent authorities would provide for a similar recognition of explosives approvals issued by the DOT. Consequently, it is proposed that two new paragraphs be added to § 173.86. The first would permit the MTB to approve explosives, without examination by the Bureau of Explosives, on the basis of test data, foreign competent authority or other suitable information. The second paragraph would permit the import of explosives by either air or sea without a DOT approval provided that the Associate Director for HMR is satisfied that the approval issued by the competent authority of the country in which the shipment originates is satisfactory. Only foreign competent authority approvals would be accepted which are issued pursuant to either the UN Recommendations or national or international regulations based on, and consistent with, the UN Recommendations such as the ICAO Technical Instructions or the International Maritime Dangerous Goods Code (IMDG Code).

Section 175.10

Consistent with recently adopted changes to the ICAO Technical Instructions the existing exception from the HMR for installed carbon dioxide cylinders used to power mechanical limbs would be modified to permit passengers to carry spare cylinders, and a new exception would be added to permit passengers to carry in checked baggage not more than one catalytic hair curler containing hydrocarbon gas.

Section 175.33

The requirements for information to be contained in the notification to pilot-in command would be modified to include a specific provision to advise the pilot when hazardous materials are being carried under the terms of an exemption. Although this requirement has just been added to the ICAO Technical Instructions, such information is already required to appear in the notification by § 175.33(a)(1)(i) when a hazardous material is described on the notification in accordance with § 172.101. The proposed new paragraph would explicitly state that similar information must be included in the notification when a hazardous material is described in accordance with the ICAO Technical Instructions as permitted by § 175.33(a)(i) (ii).

Section 175.78

Note 3 to the table which provides the segregation requirments for hazardous materials loaded abroad would be amended to reflect changes to the segregation of explosives of different compatibility groups that were recently adopted by the United Nations Committee of Experts on the Treansport of Dangerous Goods and subsequently by ICAO.

Section 175.630

Paragraph (a) of this section would be revised to relax the current requirement for segregation of poisons and etiologic agents from foodstuffs by permitting poisons or etiologic agents to be carried in a closed unit load device which may be stowed adjacent to a closed unit load device containing foodstuffs. Currently a separation of one intervening unit load device is required between poisons or etiologic agents and foodstuffs, and this separation would still be required if either the poisons or etilogic agents, or the foodstuffs, are loaded in other than a closed unit load device. This change would reflect changes recently adopted for incorporation in the 1984 edition of the ICAO Technical Instructions.

Finally, it should be noted that it is the intent of the MTB that any amendment to the HMR adopted as a result of these proposals should become effective on January 1, 1984, in order to coincide with the January 1, 1984, date established by ICAO as the implementation date for the 1984 ediction of the Technical Instructions.

List of Subjects

49 CFR Part 171

Hazardous materials transportation, Incorporation by reference.

49 CFR Part 172

Hazardous materials transportation, Labeling, Packaging and containers.

49 CFR Part 173

Hazardous materials transportation, Packaging and containers.

49 CFR Part 175

Hazardous materials transportation, Air carriers.

In consideration of the foregoing, it is proposed to amend Parts 171, 172, 173 and 175 as follows:

PART 171—GENERAL INFORMATION, REGULATIONS AND DEFINITIONS

1. In §171.7, paragraph (d)(27) would be revised to read:

§ 171.7 Matter incorporated by reference

* * * * *

(d) * * *

(27) International Civil Aviation Organization Technical Instructions for the Safe Transport of Dangerous Goods by Air, DOC 9284–AN/905 (ICAO Technical Instructions), 1984 edition.

* * * * *

2. In § 171.8 a new definition for "Competent authority" would be added in appropriate alphabetical order to read:

§ 171.8 Definitions and abbreviations.

* * * * *

"Competent authority" means a national agency responsible under its national law for the control or regulation of a particular aspect of the transportation of hazardous materials (dangerous goods). The term "Appropriate authority", as used in the ICAO Technical Instructions, has the same meaning as "Competent authority". The Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, is the United States Competent Authority for purposes of this subchapter and 46 CFR Parts 64 and 146.

* * * * *

3. In § 171.11, paragraph (d)(7) would be renumbered (d)(8), paragraphs (d)(4)(ii) and (d)(4)(iii) would be renumbered (d)(4)(iii) and (d)(4)(iv) respectively, paragraph (d)(4)(i) would

be revised and new paragraphs (d)(4)(ii) and (d)(7) would be added to read:

§ 171.11 Use of ICAO Technical Instructions.

* * * * *

(d) * * *

(4) When a hazardous material, that is regulated by this subchapter for transportation by highway, is transported by motor vehicle on a public highway under the provisions of this section, the motor vehicle must be placarded in accordance with Subpart F of Part 172 of this subchapter and the shipping paper must include—

(i) With the exception of hazardous materials in ICAO Class 6.1, Packaging Group III, and in ICAO Class 9, the name of the DOT hazard class most closely corresponding to the ICAO Class in association with the basic description required by the ICAO Technical instructions unless the shipping name contains the key word or words of the hazard class of the material;

(ii) The letters "ORM–E" in association with the basic description for a material in ICAO Class 6.1, Packing Group III or in ICAO Class 9, that is also a hazardous substance;

* * * * *

(7) If a United States variation is indicated in the ICAO Technical instructions for any provision governing the transport of the hazardous material, the hazardous material is transported in conformance with that variation.

* * * * *

PART 172—HAZARDOUS MATERIALS TABLES AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

4. In § 172.512, the section heading and paragraphs (a) and (b) are revised to read:

§ 172.512 Freight containers and aircraft unit load devices.

(a) *Capacity of 640 cubic feet or more.* Each person who offers for transportation, and each person who loads and transports, a hazardous material in a freight container or aircraft unit load device having a capacity of 640 cubic feet or more shall affix to the freight container or aircraft unit load device the placards specified for the material in accordance with § 172.504. However,—

(1) The placarding exception provided in § 172.504(c)(1) applies to motor vehicles transporting freight containers and aircraft unit load devices,

(2) The placarding exception provided by paragraphs (c)(1) and (c)(2) of § 172.504 applies to each freight container and aircraft unit load device being transported for delivery to a consignee immediately following air or water shipment, and

(3) Placarding is not required on a freight container or aircraft unit load device if it is only transported by air and is identified as containing a hazardous material in the manner provided in Part 5, Chapter 2, Section 2.7, of the ICAO Technical Instructions.

(b) *Capacity less than 640 cubic feet.* Each person who offers for transportation by air, and each person who loads and transports by air, a hazardous material in a freight container or aircraft unit load device having a capacity of less than 640 cubic feet shall affix one placard of the type specified by paragraph (a) of this section unless the freight container or aircraft unit load device—

(1) is lableled in accordance with § 172.406(e)(3);

(2) Contains radioactive materials requiring the Radioactive Yellow III label and is placarded with one Radioactive placard and is labeled in accordance with § 172.406(e); or,

(3) Is identified as containing a hazardous material in the manner provided in Part 5, Chapter 2, Section 2.7, of the ICAO Technical Instructions.

When hazardous materials are offered for transportation, not involving air transportation, in a freight container having a capacity of less than 640 cubic feet, the freight container need not be placarded. However, if not placarded it must be labled in accordance with Subpart E of this part.

* * * * *

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

5. In § 173.6, a new paragraph (d) would be added to read:

§ 173.6 Shipments by air.

* * * * *

(d) No person may offer for transportation aboard aircraft an overpack containing hazardous materials which require segregation under the provisions of § 175.78 of this subchapter.

6. In § 173.86, paragraph (c)(2) would be amended by replacing the words "paragraph (d) or (e)" with the words "paragraph (d), (e), (f) or (g)", paragraph (d) would be revised by removing the words "and approval" and new paragraphs (f) and (g) be added to read:

§ 173.86 New explosives definitions; approval and notification.

* * * * *

(f) Notwithstanding the provisions of paragraph (b) or (d) of this section, the Associate Director for Hazardous Materials Regulation may approve a new explosive on the basis of appropriate information supplied to him by a shipper or manufacturer or on the basis of approvals issued for the explosive by the competent authority of a foreign government, or may authorize the transportation of an explosives sample for the purpose of examination by the Bureau of Explosives.

(g) Notwithstanding the provisions of paragraph (b) of this section, an explosive may be transported under the provisions of §§ 171.11, 171.12 or 176.11 without the approval of the Associate Director for Hazardous Materials Regulation provided that the Associate Director for Hazardous Materials Regulation has acknowledged, in writing, the acceptability of an approval issued by the competent authority of a foreign government pursuant to the provisions of the UN Recommendations, the ICAO Technical Instructions, the IMDG Code or other national or international regulations based on the provisions of the UN Recommendations. In such cases, a copy of the approval of the foreign competent authority, and a copy of the written acknowledgement of its acceptability must accompany the shipment.

PART 175—CARRIAGE BY AIRCRAFT

7. In § 175.10, paragraph (a)(18) would be amended and a new paragraph (a)(21) added to read:

§ 175.10 Exceptions.

(a) * * *

(18) Carbon dioxide gas cylinders worn by passengers for the operation of mechanical limbs and spare cylinders of a similar size for the same purpose in sufficient quantities to insure an adequate supply for the duration of the journey.

* * * * *

(21) Catalytic hair curlers containing hydrocarbon gas, not more than one per passenger or crew member, when carried in checked baggage, provided that the safety cover is securely fitted over the heating element. Gas refills for such curlers are not permitted in checked or carry-on baggage.

8. In § 175.33, a new paragraph (a)(6) would be added to read:

§ 175.33 Notification of pilot-in-command.

(a) * * *

(6) An indication, when applicable, that a hazardous materal is being carried under terms of an exemption.

§ 175.78 [Amended]

9. In § 175.78, Note 3 to Table 1 would be revised by removing the period at the end of the note and adding the words "except that compatibility groups C, D and E may be stowed together. Explosives of ICAO Division 1.4, Compatibility Group S may be stowed with explosives of all compatability groups with the exception of A and L."

10. In § 175.630, paragraph (a) would be revised to read:

§ 175.630 Special requirements for poisons and etiologic agents.

(a) Hazardous materials bearing the POISON or ETIOLOGIC AGENT label may not be carried in the same compartment of an aircraft with material which is marked as or known to be foodstuffs, feed, or any other edible material intended for consumption by humans or animals unless either the poisons or etiologic agents and the foodstuffs, feed, or other edible materials are loaded in separate unit load devices which, when stowed on the aircraft, are not adjacent to each other, or the poisons or etiologic agents are loaded in one closed unit load device and the foodstuffs, feed or other edible materials are loaded in another closed unit device.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53, App. A to Part 1 and paragraph (a)(4) of App. A to Part 106)

Note.—The Materials Transportation Bureau has determined that this document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034) or require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, et seq.). I certify that this proposal would not, if adopted, have a signficant economic impact on a substantial number of small entities because the overall economic impact of this proposal would be minimal. A regulatory evaluation and environmental assessment are available for review in the docket.

Issued in Washington, D.C., on July 29, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 21158 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-60-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for the Pedate Checker-Mallow (Sidalcea Pedata) and Slender-Petaled Mustard (Thelypodium Stenopetalum)

Correction

In FR Doc. 83-19112, beginning on page 32522, in the issue of Friday, July 15, 1983, on page 32524, in the third column, paragraph § 17.12 [AMENDED] and the amendatory information after should appear at the bottom of the column.

BILLING CODE 1505-01-M

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Removal of Epioblasma (=Dysnomia) Sampsoni, Sampson's Pearly Mussel, From the List of Endangered and Threatened Wildlife

Correction

In FR Doc. 83-19115, beginning on page 32534, in the issue of Friday, July 15, 1983, in the first column, in the "DATES" paragraph, in the second line "September 123" should read "September 13".

BILLING CODE 1505-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 681

Western Pacific Spiny Lobster Fisheries

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

ACTION: Notice of availability of fishery management plan amendment.

SUMMARY: NOAA issues this notice that the Western Pacific Fishery Management Council has submitted Amendment 1 to the Fishery Management Plan for the Spiny Lobster Fisheries of the Western Pacific Region for review by the Secretary of Commerce. Copies of the amendment may be obtained from the address below.

DATE: Comments on the amendment should be submitted on or before October 14, 1983.

ADDRESS: All comments should be sent to Floyd S. Anders, Jr., Acting Director, National Marine Fisheries Service, NMFS, Southwest Region, 300 South Ferry Street, Room 2016, Terminal Island, California 90731.

Copies of the amendment are available upon request from Kitty Simonds, Acting Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, Suite 1506, Honolulu, Hawaii 96813, 808-523-1368.

FOR FURTHER INFORMATION CONTACT: James J. Morgan (NMFS Regional plan coordinator), 213-548-2518.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it develops to the Secretary of Commerce (Secretary) for review and approval or disapproval. This act also requires that the Secretary, upon receiving the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or plan amendment.

This amendment proposes measures for managing the domestic commercial fisheries for spiny lobster in the fishery conservation zone off of the main Hawaiian Islands. On July 25, 1983, the environmental assessment for this amendment was filed with the Environmental Protection Agency.

Proposed regulations, based on this amendment will be published within 30 days.

Dated: August 1, 1983.

Joe P. Clem,

Division Chief, Fees, Permits, and Regulations Division, National Marine Fisheries Service.

[FR Doc. 83-21197 Filed 8-1-83; 4:51 pm]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 151
Thursday, August 4, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

1983 Crop Soybean Preliminary Loan and Purchase Rate

AGENCY: Agricultural Stabilization and Conservation Service (ASCS), USDA.

ACTION: Notice of Determination of 1983 Crop Soybean Preliminary Level of Price Support.

SUMMARY: The purpose of this notice is to announce that the preliminary level of price support for the 1983 soybean crop is $5.02 per bushel. This determination is required to be made by the Agricultural Act of 1949, as amended by the Agriculture and Food Act of 1981.

EFFECTIVE DATE: August 2, 1983.

FOR FURTHER INFORMATION CONTACT: Orville I. Overboe, Agricultural Economist, Analysis Division, ASCS-USDA, P.O. Box 2415, Washington, D.C. 20013, Telephone (202) 447-4417. Since this is a preliminary determination calculated in accordance with the statutory formula, the requirement on an Impact Analysis has been waived.

SUPPLEMENTARY INFORMATION: This notice has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been designated "not major." It was designated "not major" because it will not result in: (1) An annual effect on the economy of $100 million or more; (2) major increases in costs or prices for consumers, individual industries, Federal, State or local Government agencies, or geographic regions; or (3) significant adverse impacts on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign based enterprises in domestic or export markets.

The title and number of the federal assistance program that this notice applies to are: Title—Commodity Loans and Purchases; Number—10.051 as found in the Catalog of Federal Domestic Assistance.

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

Section 201(g)(1) of the Agricultural Act of 1949, as amended, provides that the price of soybeans for each of the 1982 through 1985 marketing years shall be supported through loans and purchases at a level equal to 75 percent of the simple average price received by farmers for soybeans for each of the preceding five marketing years, excluding the high and low valued years, except that the support price may not be less than $5.02 per bushel. However, if the Secretary determines that the simple average price producers receive for soybeans in any marketing year is not more than 105 percent of the level of loans and purchases for such marketing year, the support level may be reduced for the next marketing year by the amount which is determined to be necessary to maintain domestic and export markets for soybeans, except that the price support level cannot be reduced by more than 10 percent in any year nor below $4.50 per bushel.

Section 201(g)(1) also provides that the Secretary must make a preliminary announcement of the level of price support no earlier than 30 days prior to September 1, the beginning of the marketing year, based upon the latest information and statistics then available. The Secretary must make a final announcement of such level as soon as full information and statistics are available on prices for the five years preceding the beginning of the marketing year. The final level of price support must be announced no later than October 1 of the marketing year to which the announcement applies. The final level of support cannot be less than that of the preliminary announcement.

Determination

The simple average price received by farmers for soybeans for each of the preceding five years, excluding the high and low valued years, is $6.39 per bushel. This determination is based on the following data:

(1)

SIMPLE-AVERAGE SOYBEAN PRICES

[Dollars per bushel]

1978	$6.83
1979	6.29
1980	7.50
1981	6.05
1982	5.65

[1] Projected.

(2) Average of the five years, excluding the low valued year (1982) and the high valued year (1980): ($6.83 + $6.29 + $6.05)/3 = $6.39 per bushel.

(3) The preliminary price support level calculation is $6.39 × .75 = $4.79. The calculated preliminary price support level of $4.79 per bushel is less than the statutory minimum level of $5.02 per bushel. The simple average price of soybeans received by producers during the marketing year 1982 ($5.65) exceeded one hundred and five percent of the 1982 price support level for soybeans ($5.02 × 1.05 = $5.27). There is, therefore, no basis for reducing the preliminary price support level for soybeans below the statutory minimum level of $5.02 per bushel. Accordingly, the preliminary 1983-crop soybean price support level is $5.02 per bushel.

(Sec. 201(g) of the Agricultural Act of 1949, as amended (7 U.S.C. 1446(g))

Signed at Washington, D.C. on July 26, 1983.

John R. Block,

Secretary.

[FR Doc. 83-21128 Filed 8-1-83; 8:45 am]
BILLING CODE 3410-05-M

CIVIL AERONAUTICS BOARD

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922.

Extension

Title of the Collection of Information: Part 248, "Submission of Audit and Reconciliation Reports."

Agency form Number: None.

How often the Collection of Information must be filed: Annually.

Who is asked or required to report: Certificated Air Carriers.

Estimate of number of annual responses: 60.

Estimate of number of annual hours needed to complete the collection of information: 15.

Jack M. Calloway,

Chief, Data Requirements Section, Information Management Division, Office of Comptroller.

July 27, 1983.

[FR Doc. 83-21236 Filed 8-3-83; 8:45 am]

BILLING CODE 6320-01-M

Announcement of Proposed Collection of Information Under the Provisions of the Paperwork Reduction Act

Agency clearance officer from whom a copy of the collection of information and supporting documents is available: Robin A. Caldwell (202) 673-5922.

Extension

Title of the Collection of Information: CAB Form 300—Registration or Amendments under Part 380 of the Economic Regulations of the Civil Aeronautics Board.

Agency Form Number: 300.

How often the Collection of Information must be filed: Nonrecurring.

Who is asked or required to report: Foreign Charter Operators.

Estimate of number of annual responses: 24.

Estimate of number of annual hours needed to complete the collection of information: 12.

Jack M. Calloway,

Chief, Data Requirements Section, Information Management Division, Office of Comptroller.

July 29, 1983.

[FR Doc. 83-21237 Filed 8-3-83; 8:45 am]

BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Annual Wholesale Trade Survey.

Form Numbers: Agency—B-450, B-451; OMB—0607-0195.

Type of Request: Revision of a currently approved collection.

Burden: 8,300 respondents; 1,890 reporting hours.

Needs and Uses: This survey is the only continual source of annual wholesales, inventories, inventory valuation methods, and purchases, and is the only complete sample mailout to obtain the firms' methods of inventory valuations. These data are used in estimating the gross national product and for benchmarking monthly sales and inventory data.

Affected Public: Small businesses or organizations.

Frequency: Annually.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Tim Sprehe, 395-4814.

Agency: Bruceau of the Census.

Title: Special Census Enumeration Schedule and Address Register.

Form Numbers: Agency—SC-19, SC-19A; OMB—0607-0368.

Type of Request: Revision of a currently approved collection.

Burden: 350,000 respondents; 98,000 reporting hours.

Needs and Uses: The special census program is a service offered and performed contractually by the Bureau for states, counties, and other governmental units that require current population and housing counts between decennial censuses. Data are used by many states as a basis for the distribution of funds to local governments, and are also used as an input to the calculations of revenue sharing estimates.

Affected Public: Individuals or households.

Frequency: As requested.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Tim Sprehe, 395-4814.

Agency: Bureau of the Census.

Title: Survey of Government Employment.

Form Numbers: Agency—E-1, 2, 3, 4, 6, 7, 9; OMB—N/A.

Type of Request: New collection.

Burden: 28,698 respondents; 15,991 reporting hours.

Needs and Uses: This survey provides information on government employment and payrolls by state, by type of government, and by function. Data are collected by mail canvass of individual governments. Results are published for general statistical use, used to develop public sector components of the GNP, and provide data for administering USDA and DHUD grants.

Affected Public: State or local governments.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Tim Sprehe, 395-4814.

Agency: International Trade Administration.

Title: Titanium Sponge and Ingot.

Form Numbers: Agency—ITA-9045; OMB—N/A.

Type of Request: New collection.

Burden: 20 respondents; 20 reporting hours.

Needs and Uses: This survey will be used to obtain current production and production capacity for titanium sponge and ingot for national stockpile management and mobilization planning.

Affected Public: Businesses or other for-profit.

Frequency: Nonrecurring.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Foreign Fishing Vessel Reports.

Form Numbers: Agency—N/A; OMB—0648-0075.

Type of Request: Revision of the currently approved collection.

Burden: 1,600 respondents; 50,000 reporting hours.

Needs and Uses: Radio messages of vessel activities are used for monitoring and enforcement of fishery regulations. Logbooks are used to determine quarterly fees paid by foreign fishermen. Summarized reports are used for biological analysis of stocks. This collection is being revised to include Western Pacific precious corals.

Affected Public: Businesses or other for-profit.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Logbook Family of Forms.

Form Numbers: Agency—88-59, 88-140, 88-170; OMB 0648-0016

Type of Request: Revision of the currently approved collection.

Burden: 2,393 respondents; 8,978 reporting hours.

Needs and Uses: Data are used to monitor fisheries managed under fishery management plans. This collection is being revised to include the Western Pacific Coral Fishery.

Affected Public: Businesses or other for-profit.

Frequency: On occasion, weekly, monthly.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Federal Fisheries Permit.

Form Numbers: Agency—88-155/88-156; OMB—0648-0097.

Type of Request: Revision of the currently approved collection.

Burden: 10,000 respondents; 5,000 reporting hours.

Needs and Uses: The application provides information required for issuance of a permit to domestic fishermen engaged in fishing in the U.S. Conservation Zone. The permit is used to enumerate participants and monitor the level of fishing activity. This collection is being revised to include Western Pacific coral fishermen.

Affected Public: Business or other for-profit.

Frequency: On occasion, annually.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: Patent and Trademark Office (PTO).

Title: Application for Registration to Practice Before PTO.

Form Numbers: Agency—PTO-158; OMB—0651-0001.

Type of Request: Extension of the currently approved collection.

Burden: 1,000 respondents; 500 reporting hours.

Needs and Uses: Information collected is used to determine candidates' qualifications to practice before PTO.

Affected Public: Individuals or households, Federal Agencies or employees.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: Patent and Trademark Office (PTO).

Title: Declaration of Assistance Received

Form Numbers: Agency PTOL-284; OMB—0651-0002.

Type of Request: Extension of the currently approved collection.

Burden: 80 respondents; 7 reporting hours.

Needs and Uses: The information is used to advise patent applicants who receive assistance from an unregistered person that the person is not qualified to represent patent applicants before PTO. Information may also be used as basis for legal action against unqualified persons under 35 U.S.C. 33.

Affected Public: Individuals.

Frequency: Other (After patent application is filed).

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ken Allen, 395-3785.

Agency: Patent and Trademark Office (PTO).

Title: Data sheet—Roster of Patent Attorneys and Agents.

Form Numbers: Agency—PTO-107A; OMB—0651-0003.

Type of Request: Extension of the currently approved collection.

Burden: 3,150 respondents; 262 reporting hours.

Needs and Uses: The information collected is used to provide PTO and the public with current information on attorneys and agents registered to practice before PTO.

Affected Public: Individuals or households, Federal Agencies or employees.

Frequency: Once every 5 years.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Ken Allen, 395-3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals; (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Ed Michals,

Department Clearance Officer.

[FR Doc. 83-21169 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Members of the Bureau of the Census Performance Review Board

The following individuals will serve as members of the Bureau of the Census Performance Review Board:

1. Barbara Bailar
2. O. Bryant Benton, Jr.
3. Roger H. Bugenhangen
4. William P. Butz
5. Jerome A. Mark
6. Katherine K. Wallman

Dated: July 27, 1983.

C. L. Kincannon,

Acting Director, Bureau of the Census.

[FR Doc. 83-21227 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Order No. 217]

Resolution and Order Approving Application of the Board of Commissioners, Lake Charles Harbor and Terminal District for Foreign-Trade Zone in Calcasieu Parish, Louisiana, Within Lake Charles Customs Port of Entry

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Lake Charles Harbor and Terminal District, a political subdivision of the State of Louisiana, filed with the Foreign-Trade Zones Board (the Board) on October 1, 1982, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zones in Calcasieu Parish, Louisiana, within the Lake Charles Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal involves open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board' is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant To Establish, Operate, and Maintain a Foreign-Trade Zone in Calcasieu Parish, Louisiana, Within the Lake Charles Customs Port of Entry

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones inports of entry of the United States, to expedite and encourage foreign Commerce, and for other purposes," as amended (19 U.S.C. 81a-81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board of Commissioners of the Lake Charles Harbor and Terminal District (the Grantee), a political subdivision of the State of Louisiana, has made application (filed October 1, 1982) in due and proper form to the Board, requesting the establishment, operation, and maintenance of a foreign-trade zone at the Port of Lake Charles, Calcasieu Parish, Louisiana, within the Lake Charles Customs port of entry;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations (15 CFR Part 400) are satisfied;

Now, therefore, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 87 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the foreign-trade zone shall be commenced by the grantee within a reasonable time from the date of issuance of the grant, and prior to

thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone site in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The Grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C. this 22nd day of July 1983, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Malcolm Baldrige,

Chairman and Executive Officer.

Attest:

Dennis Pucinelli,

Acting Executive Secretary.

[FR Doc. 83-21165 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 220]

Resolution and Order Approving Application of the County of Erie, New York, for Special-Purpose Subzone in Webster, New York, Adjacent to Rochester Customs Port of Entry

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the County of Erie, New York, grantee of Foreign-Trade Zone 23, filed with the Foreign-Trade Zones Board (the Board) on March 1, 1983, requesting special-plant subzone status for the photocopier manufacturing plant of Xerox Corporation in Webster, Monroe County, New York, adjacent to the Rochester Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Webster, New York, Adjacent to the Rochester Customs Port of Entry.

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes", as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board; regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the County of Erie, New York, grantee of Foreign-Trade Zone No. 23, has made application (filed March 1, 1983, Docket 3–83, 47 FR 9895) in due and proper form to the Board requesting a special-purpose subzone at the photocopier manufacturng plant of Xerox Corporation in Webster, Monroe County, New York, adjacent to the Rochester Customs port of entry;

Whereas, notice of said applications has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied;

Now, therefore, in accordance with the application filed March 1, 1983, the Board hereby authorizes the establishment of a subzone at Xerox's Webster, New York plant, designated on the records of the Board as Foreign-Trade Subzone No. 23A at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the Regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and District Army Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zone Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, D.C. this 29th day of July 1983 pursuant to Order of the Board.

Foreign-Trade Zones Board.

Lawrence J. Brady,

Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.

Attest:

Dennis Pucinelli,

Acting Executive Secretary.

[FR Doc. 83-21166 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

International Trade Administration

Cornell University; Decision of Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in

Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number: 82-00381. Applicant: Cornell University, Department of Chemistry, Baker Laboratory, Ithaca, New York 14853. Instrument: Excimer Laser, EMG 101. Manufacturer: Lambda Physik GmbH and Company, West Germany. Intended use of Instrument: See notice on page 52488 in the **Federal Register** of November 22, 1982.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the foreign instrument was ordered (November 12, 1981). Reasons: The foreign instrument provides six watts average power, ten megawatts peak power and operation on F_2. The National Bureau of Standards advises in its memorandum dated July 15, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use which was being manufactured in the United States at the time the foreign instrument was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which was being manufactured in the United States at the time the foreign instrument was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-21170 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

The Johns Hopkins Hospital; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number: 83-125. Applicant: The Johns Hopkins Hospital, Department of Anesthesiology, Baltimore, MD 21205. Instrument: TMR 32/200 Superconductive Magnet System. Manufacturer: Oxford Instruments, United Kingdom. Intended use of instrument: See notice on page 5578 in the **Federal Register** of February 7, 1983.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument, which upgrades an existing nuclear magnetic resonance system, has a bore of 30 centimeters (cm) and a magnetic field homogeneity of 0.4 parts per million over 4 cm d.s.v. (diameter spherical volume). The National Institutes of Health advises in its memorandum dated June 20, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-21171 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

New York University Medical Center; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517). A copy of the record pertaining to this decision is available for public review between 8:30 AM and 5:00 PM in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number: 83-131. Applicant: New York University Medical Center, 550 First Avenue, New York, NY 10016. Instrument: BB P2000 Freeze Etching Plant BAF 400D and Accessories. Manufacturer: Balzers Union, Liechtenstein. Intended use of instrument: See notice on page 13214 in the **Federal Register** of March 30, 1983.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument is a complete system that includes a fine advance microtome and a low angle rotary shadowing device within the vacuum chamber. It also includes an optical system for monitoring the microtomy. The National Institutes of Health advises in its memorandum dated July 8, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purposes, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-21172 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

University of Florida; Decision on Application for Duty-Free Entry of Scientific Instrument

The following is a decision on an

application for duty-free entry of a scientific instrument pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897) and the regulations issued pursuant thereto (15 CFR Part 301 as amended by 47 FR 32517).

A copy of the record pertaining to this decision is available for public review between 8:30 am and 5:00 pm in Room 1523, Statutory Import Programs Staff, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C. 20230.

Docket Number: 83-151. Applicant: University of Florida, Health Center, Receiving Department, Box J145-JHMHC, Gainesville, FL 32610. Instrument: Surface Balance with Monolift. Manufacturer: Mayer Feintechnik, West Germany. Intended Use of Instrument: See notice on page 13215 in the **Federal Register** of March 30, 1983.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, is being manufactured in the United States. Reasons: The foreign instrument can: (1) Compress and transport molecular monolayers, (2) bring subphases of different composition into contact, and (3) isolate deposited monolayers. The National Institutes of Health advises in its memorandum dated July 8, 1983 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 83-21173 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Announcing Intent To Prepare a Programmatic Environmental Impact Statement/Announcement of Scoping Meeting, Next Generation Weather Radar (NEXRAD)

AGENCY: National Weather Service; NOAA, Commerce.

ACTION: Department of Commerce, National Oceanic and Atmospheric Administration, National Weather Service intent to prepare a Programmatic Environmental Impact Statement (PEIS) for use in decisionmaking regarding the proposed Next Generation Weather Radar System. A scoping meeting will be held on September 9, 1983.

SUMMARY: The National Oceanic and Atmospheric Administration, U.S. Department of Commerce, will prepare a PEIS for use in decisionmaking regarding the proposed Next Generation Weather Radar System. A scoping meeting will be held on September 9, 1983.

This notice of intent is published pursuant to the regulations of the Council on Environmental Quality in Title 40, Code of Federal Regulations section 1501.7 on implementation of the National Environmental Policy Act (NEPA).

The Department of Commerce will serve as the lead agency in the supervision and preparation of the PEIS. The Federal Aviation Administration, Department of Transportation, and the U.S. Air Force, Department of Defense, will serve as the cooperating agencies.

The PEIS covered by this notice will describe the proposed project and the nature, range, degree, and extent of impacts which may be associated with it. The draft PEIS is scheduled to be completed by February 9, 1984. Upon issuance of the draft statement, a public hearing (scheduled for April 9, 1984) is planned to obtain comments on the draft statement. The final environmental statement is scheduled to be published on or about October 1, 1984.

In connection with the development of this PEIS, the Commerce Department will hold a scoping meeting to determine the nature, extent, and scope of the issues and concerns that should be addressed in the PEIS related to the proposed action. The purpose of the scoping process, among other things, is to reduce paperwork in the PEIS process and focus impact statements on significant environmental issues, while limiting or eliminating the consideration of those that are not significant or beneficial in decisionmaking. This scoping is planned to include affected Federal, Regional, State and Local agencies, organizations, interest groups, and the general public in the geographic areas potentially affected by the proposed project. After a brief description of the nature and extent of the proposed action, individuals, organizations and governmental agencies will be invited to submit views on issues to be included in the PEIS and on the approach for analyzing and evaluating the identified issues.

Oral statements will be received. However, in order that all persons desiring to present statements have an equal opportunity to express their views, it is requested that all persons limit their oral comments to approximately ten (10) mimutes. The cooperation and assistance of persons in conforming to this request will be appreciated.

FOR FURTHER INFORMATION CONTACT: Written statements and exhibits will be accepted by the Department of Commerce official conducting the hearing, or they may be mailed to Mr. John Porter, Wx7, NEXRAD JSPO, National Weather Service, 8060 13th St., Silver Spring, MD 20910 (301/427-7150).

SUPPLEMENTARY INFORMATION: NEXRAD is a tri-agency program jointly sponsored and funded by the Departments of Commerce, Defense, and Transportation, with the Department of Commerce assigned the leadership role by the Office of Management and Budget.

The program is structured to meet the common needs of the three participating agencies for an improved weather radar system which will support agency responsibilities to reduce losses of life and property resulting from a number of severe weather conditions. The new system is also required as a replacement for obsolete weather radar equipment which will have been in use for almost 30 years by the time the first NEXRAD operational units become available. The new NEXRAD system will use Doppler principles to improve the reliability of detection, reduce the false alarm rate, and sharply increase warning lead time for tornadoes, which are a major threat to life and property over much of the United States. It will also improve the reliability and precision of detection and warning for a number of other life threatening weather phenomena such as severe thunderstorms and flash floods. These improvements result from the use of Doppler techniques, which for the first time allow direct measurement of wind strength and direction, and, also

from substantial advances in the automation of threat recognition and rapid dissemination of warnings made possible by the availability of accurate wind velocity information.

NEXRAD radars are currently planned for installation throughout the continental United States. The identification and selection of sites for those installations is a major task requiring surveys of available and alternative sites, selection against a number of criteria, and the planning and preparation of necessary facilities at each site in coordination with the planned radar installation schedule. Contractor-conducted site surveys will begin in the summer of 1983 and extend over a nominal 4-year period. In addition to environmental impact considerations, criteria for site selection will include the following:

(a) Proximity to current or planned weather service forecast offices,

(b) Proximity to designated high priority commercial airports,

(c) Proximity to designated high value airbases,

(d) Continental U.S. area/volume coverage,

(e) Minimization of total number of radar systems required, and

(f) Limited redundant coverage in high threat tornado and hurricane areas.

Meeting Date

The scoping meeting will be held on September 9, 1983, beginning at 1 p.m. in Room 6802, Herbert Hoover Building (Main Commerce Building), 14th & Constitution Avenue, Washington, D.C. For further information regarding the scoping meeting, the PEIS, and associated NEPA activities pertaining to the proposed NEXRAD project, please contact Mr. Porter at the above noted location.

Dated: August 4, 1983.

Anthony F. Durham,

Director, NEXRAD Joint System Program Office.

[FR Doc. 83-21093 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammal Research; Issuance of Permit

On May 20, 1983, Notice was published in the **Federal Register** (48 FR 22777) that an application had been filed with the National Marine Fisheries Service by Ms. Elizabeth A. Mathews, Center for Coastal Marine Studies, University of California, Santa Cruz 95064, for a permit to collect skin biopsy samples from up to 100 live humpback whales (*Megaptera novaeangliea*), and collect samples from dead cetaceans in Alaska.

Notice is hereby given that on July 29, 1983, and as authorized by the provisions of the Marine Mammal Protection Act or 1972 (16 U.S.C. 1361–1407) and the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Services issued a permit to Ms. Elizabeth A. Mathews for the collection of biopsies from up to 50 humpback whales subject to certain conditions set forth in the permit.

As required by the Endangered Species Act of 1973 issuance of this permit is based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject to the permit, and (3) will be consistent with the purposes and policies set forth in Section 2 of the Endangered Species Act of 1973.

The Permit is available for review in the following offices: Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and Regional Director, Alaska Region, National Marine Fisheries Service, 709 West 9th Street, P.O. Box 1668, Juneau, Alaska 99802.

Dated: July 29, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-21249 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-22-M

Taking of Marine Mammals; Issuance of Permit

On March 24, 1983, Notice was published in the **Federal Register** (48 FR 12416), that an application had been filed with the National Marine Fisheries Service by Ocean Park Limited, Wong Chuk Hang Road, Aberdeen, Hong Kong, for a permit to take five (5) bottlenose dolphins (*Tursiops truncatus*) for the purpose of public display.

Notice is hereby given that on July 28, 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 Public Display Permit for the above taking to Ocean Park, 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, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: July 28, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-21250 Filed 8-3-83; 8:34 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcing Additional Import Levels for Certain Cotton Textile Products From Brazil

July 28, 1983.

Effective on August 1, 1983, the Chairman of the Committee for the Implementation of Textile Agreements (CITA), under authority contained in the Bilateral Cotton, Wool, and Man-Made Fiber Textile Agreement of March 31, 1982 between the Governments of the United States and the Federative Republic of Brazil and E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs. For further information contact Ronald J. Sorini, International Trade Specialist (202/377–4212).

Background

A CITA directive dated March 11, 1983 (48 FR 11143) established levels of restraint for certain specified categories of cotton and man-made fiber textile products, produced or manufactured in Brazil, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on April 1, 1983. Effective on August 1, 1983, that directive is being amended to include import control levels for cotton textile products in Categories 313 (sheeting), 317 (twill and sateen), 319 (carded duck), and 320 (other woven fabrics), exported during the same twelve-month period. Imports during the April 1–July 31, 1983 period will also be charged to the levels.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175) and May 3, 1983 (48 FR 19924).

Walter C. Lanahan,

Chairman for the Implementation of Textile Agreements.

July 28, 1983.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury,
Washington, D.C. 20229.

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of March 11, 1983 from the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain cotton and man-made fiber textile products, produced or manufactured in Brazil.

Effective on August 1, 1983, you are directed to amend the directive of March 11, 1983 to include the following levels of restraint:

(In square yards)

Category	12-month level of restraint[1]
313	26,215,000
317	9,737,000
319	7,490,000
320	4,000,000

[1]The levels of restraint have not been adjusted to reflect any imports after March 31, 1983. Charges for the April 1-May 31, 1983 period amounted to 751,339 square yards in Category 313; 375, 421 square yards in Category 317; 392,523 square yards in Category 319; and 131,111 square yards in Category 320.

The Committee for the Implementation of Textile Agreement has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman for the Implementation of Textile Agreements.

[FR Doc. 83-21149 Filed 8-3-83; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Tuesday and Wednesday, September 13-14, 1983, Plaza West, Rosslyn, VA.

The entire meeting, commencing at 1300 hours each day is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on chemical and biological warfare.

M. S. Healy,

OSD Federal Register Liason Officer, Department of Defense.

August 1, 1983.

[FR Doc. 83-21224 Filed 8-3-83; 8:45 am]

BILLING CODE 3810-01-M

Defense Intelligence Agency Advisory Committee; Closed Meeting

Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a closed meeting of a Panel of the DIA Advisory Committee has been scheduled as follows: Monday, 29 August 1983, Plaza West, Rosslyn, Va.

The entire meeting, commencing at 0900 hours is devoted to the discussion of classified information as defined in Section 552b(c)(1), Title 5 of the U.S. Code and therefore will be closed to the public. Subject matter will be used in a special study on reconnaissance requirements.

August 1, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 1, 1983.

[FR Doc. 83-21225 Filed 8-3-83; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Channel Improvements at Pascagoula Harbor, Mississippi

AGENCY: Army Corps of Engineers, DOD.

ACTION: Notice of Intent to Prepare a DEIS.

SUMMARY: 1. *Proposed Action:* The proposed action is to prepare a DEIS to evaluate the environmental impact of providing channel inprovements at Pascagoula Harbor, Mississippi.

2. *Alternatives:* The following basic alternatives will be evaluated:

a. No action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Deepening and widening of the Pascagoula Harbor project channels to include depths up to 55 feet.

c. Various dredged material disposal concepts including: uplands, Gulf of Mexico, thin layering within Mississippi Sound, barrier island nourishment, island creation and diked disposal in shallow water areas adjacent to the mainland.

3. *Scoping Process:* a. The scoping process, as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS will be determined through the scoping process. The agencies and individuals' views and concerns will be obtained through personal, telephone, and mail contacts in lieu of a formal scoping meeting.

b. Coordination with the US Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in July 1984.

ADDRESS: Questions about the proposed action and DEIS can be answered by: Dr. Susan Ivester Rees, PD-ES, U.S. Army Engineer District, Mobile, P.O. Box 2288, Mobile, Alabama 36628.

Dated: July 22, 1983.

Ronald A. Krizman,

Lieutenant Colonel, CE Acting District Engineer.

[FR Doc. 83-21218 Filed 8-3-83; 8:45 am]

BILLING CODE 3710-CR-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket Nos. ERA-FC-79-003a and ERA-FC-80-021; ERA case Nos. 65006-9095-21-22 and 65006-9095-22-22]

Proposed Mofification of Orders Granting Permanent Peakload Exemptions to Modesto Irrigation District, McClure Station Units 1 and 2, Modesto, California

AGENCY: Economic Regulatory Administration, Energy.

ACTION: Notice and Proposed Modification of Orders Granting Permanent Peakload Exemptions to Modesto Irrigation District, McClure Station, Units 1 and 2, California.

SUMMARY: In response to a request dated May 26, 1983, from Modesto Irrigation District (Modesto), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has commenced a proceeding under the Powerplant and Industrial Fuel Use Act of 1978, 42 U.S.C. 8301 *et seq.* ("FUA" or "the Act"), and 10 CFR Part 501, Subpart G, to modify the permanent peakload exemptions granted by Order ("Order") to two combustion turbine powerplants identified as McClure Units 1 and 2, which are owned and operated by Modesto at its McClure Station, Modesto, California.

Based upon its review of Modesto's modification request, ERA is proposing

to modify each of the two McClure unit Orders on the basis of its determination that significantly changed circumstances, as defined in 10 CFR 501.102(b), exist with respect to the applicability of the original exemptions. Accordingly, ERA is hereby giving notice to all parties to the original proceeding of their right, pursuant to 10 CFR 501.101(d), to file a written response to ERA's proposal within 30 days of the publication of this Notice in the **Federal Register** (see DATE section, below). If no responses are received within this period, the Order modification, as proposed, for each combustion turbine shall become final upon the expiration of the period, without further action by ERA. A detailed discussion of the Orders and Modesto's request modification thereof is provided in the SUPPLEMENTARY INFORMATION section below.

DATE: Written responses to ERA's proposed modification of the Modesto Orders must be received by ERA no later than September 19, 1983.

ADDRESS: Written responses must be addressed to Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, GA-093, 1000 Independence Avenue, S.W., Washington, D.C. 20585. The case numbers, FC 65006-9095-21-22 and 22-22, should be printed on the outside of the envelope and the documents contained therein.

FOR FURTHER INFORMATION CONTACT:

Edward J. Peters, Jr., Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA-073, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone (202) 252-8162

Allan Stein, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6B-222, 1000 Independence Avenue, S.W., Washington, D.C. 20585, Telephone (202) 252-2967

SUPPLEMENTARY INFORMATION: On April 25, 1980 and December 29, 1980, ERA issued Orders exempting Modesto's McClure Unit 1 and McClure Unit 2, respectively, located at its McClure Station in Modesto, California, from the prohibitions of Title II of FUA. Section 210 of FUQA prohibits both the use of natural gas or petroleum as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source (10 FR 503.2). Modesto's exemption petitions were filed and the permanent exemptions were granted under § 503.41 of ERA's interim rules for new facilities and Section 212(g) of FUA, which provide for permanent peakload exemptions for new electric powerplants. Subject to the terms and conditions set forth in the Order, the permanent exemptions permitted the use of natural gas/oil to meet peakload requirements in each of the combustion turbine powerplants.

By letter dated May 26, 1983, Modesto requested that ERA modify the Order for McClure Unit 1 to delete the reporting requirements of the following terms and conditions:

"A. Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with McClure 1. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 1 for peakload purposes (e.g., 8:00–10:00 am and 3:00–6:00 pm during the June-September period, etc.). Estimates of the hours in which Modesto expects to operate McClure 1 during the first 12-month period shall be furnished to ERA within thirty days from the date of this order.", and

"C. Modesto shall comply with the reporting requirements set forth in 10 CFR 503.41(e). In addition, Modesto shall report, on an annual basis, actual peakload operation of McClure 1 during the previous year and whenever such operation occurs in non-specified periods (hours), other than the periods of operation estimated pursuant to Item A above, Modesto shall report the reason(s) for such operation."

Further, Modesto requested that ERA modify the Order for McClure Unit 2 to delete the reporting requirements of the following terms and conditions:

"A. Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with the McClure Unit 2. Modesto shall provide annual estimates of the expected periods (hours during specific months) of operation of McClure 2 for peakload purposes (e.g. 8:00–10:00 am and 3:00–6:00 pm during the June-September period, etc.). Estimates of the hours during which Modesto expects to operate McClure 2 during the first 12-month period shall be furnished within 30 days from the date of this Order.", and

"B. Modesto shall comply with the reporting requirements set forth in 10 CFR 503.41(a)."

Modesto based its request on the fact that, since the issuance of the Orders with the stated annual reporting requirements, DOE has issued final rules amending § 503.41 of the interim rules by deleting the reporting requirements for a facility operating under a peakload powerplant exemption (46 FR 59872, December 7, 1981).

As requested, ERA has, pursuant to 10 CFR § 501.101(a), commenced a proceeding to modify the above-described exemption Orders. The procedures and criteria governing this proceeding are found in 10 CFR Part 501, Subpart G. Based upon the information contained in Modesto's modification request and upon the record as a whole, ERA proposes:

(1) To find that the revision of Section 503.41 in the final rules published on December 7, 1981, described *supra*, constitutes a significantly changed circumstance that warrants modification of the Orders, as provided by 10 CFR 501.102(b);

(2) To modify the McClure Unit 1 exemption Order issued on April 25, 1980 (45 FR 29629, May 5, 1980), to delete all of the language of Term and Condition A following the sentence, "Modesto shall not produce more than 74,850,000 Kwh during any 12-month period with McClure 1.", and to delete Term and Condition C in its entirety; and

(3) To modify the McClure Unit 2 exemption Order issued on December 29, 1980 (46 FR 1014, January 5, 1981) to delete all of the language of Term and Condition A following the sentence, "Modesto shall not produce more than 74,850,000 KWH during any 12-month period with the McClure Unit 2.", and to delete Term and Condition B in its entirety.

Parties to each original Order proceeding are hereby notified of ERA's proposed modification of the Orders exempting Modesto's peakload powerplants, McClure Units 1 and 2, from the prohibitions of Section 201 of FUA and of their right pursuant to 10 CFR 501.101(d) to file a response thereto within 30 days after the publication of this Notice in the **Federal Register**. If ERA receives no responses within the allotted period, the Order modifications shall become final as proposed, without further ERA action, upon expiration of that period.

Issued in Washington, D.C. on July 27, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-21119 Filed 8-3-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

ANR Michigan Storage Co.; Amendment

[Docket No. CP82-478-001]

July 29, 1983.

Take notice that on June 17, 1983, ANR Michigan Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-478-001 an amendment to its application filed in Docket No. CP82-478-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect a fifty percent reduction in storage service to be provided to ANR Storage Company (ANR) for the account of Transcontinental Gas Pipe Line Corporation (Transco) and to reflect a change in facilities required to render such reduced service, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection. Applicant states that this application, as amended, supersedes in its entirety the application filed on August 1, 1982, in Docket No. CP82-478-000.

Applicant states that on January 27, 1983, the National Energy Board of Canada (NEB) issued its omnibus decision concerning numerous export applications and that such decision authorized the export of lesser quantities at Niagara Falls than had been requested by the Canadian exporters which had contracted to sell gas to Transco. The purpose of this amendment is to reflect a 50 percent reduction in the level of storage service proposed and a change in facilities required to render such reduced storage service in order to conform such storage service to the quantities of gas authorized for export by the NEB as well as to the commitment for service which recently have been received from Transco's storage customers, it is said.

Applicant states that as a result of the foregoing, Applicant and ANR would enter into a gas storage agreement (storage agreement), which replaces in its entirety a *pro forma* gas storage agreement filed in Exhibit P to Applicant's application in Docket No. CP82-478-000 and which reflects a 50 percent reduction in the amount of storage service to be provided to ANR for the account of Transco, a change in the monthly storage charge, and a change in commencement date. It is explained that the terms of the storage agreement are substantially similar to the terms of the gas storage agreement dated May 17, 1983, between ANR and Transco.

Applicant states that the storage agreement provides that in 1985 and subsequent summer periods (April 1-October 31), ANR would redeliver to Applicant for storage up to 10,000,000 Mcf natural gas at daily volumes up to 75,000 Mcf at a proposed point of interconnection in Grand Traverse County (Whitewater Delivery Point), together with a volume of gas for compressor fuel usage equal to 1.0 percent of gas received. It is explained that during the 1985-1986 and subsequent winter periods (November 1-March 31), Applicant would redeliver to ANR at the Whitewater Delivery Point thermally equivalent volumes less the aforementioned 1.0 percent compressor fuel at a daily rate up to 150,000 Mcf, reduced by a volume of gas for compressor fuel usage equal to 0.3 percent of the volume so redelivered.

Provision has been made in the storage agreement for excess daily deliveries and redeliveries, for out-of-period deliveries and redeliveries of such daily quantities of gas as are mutually agreeable, and for ANR to defer the redelivery of all or any part of the gas stored thereunder from one winter period to the next. Provision has also been made for deliveries and redeliveries of such volumes in excess of 10,000,000 Mcf of gas during any contract year as are mutually agreeable at the charge for such excess deliveries and with the compressor fuel requirements set forth in the storage agreement.

As consideration for providing the storage service, Applicant would charge ANR a monthly fee based on the estimated cost of constructing, owning and operating the facilities. Such monthly fee is estimated at $595,916 (in 1983 dollars). Further, it is explained that the storage agreement continues to provide for a one-time adjustment of this fee upward or downward, not later then six months prior to the commencement of storage service to reflect the then current estimate of the cost of providing such storage service. The term of the storage agreement between ANR and Applicant would be twenty years commencing on April 1, 1985, or such other date as specified in the storage agreement and is identical to that for the gas storage agreement between ANR and Transco, it is said.

In order to render this gas storage service, Applicant proposes to develop and operate only the Whitewater 36/36A storage fields in Whitewater Township in Grand Traverse County, Michigan. Applicant asserts that when developed these fields would have a total working storage capacity 10,000,000 Mcf.

In order to develop and operate the storage fields, Applicant proposes at the Whitewater 36/36A fields to rehabilitate two existing wells, to drill and complete ten new gas wells, and to construct a gathering system and appurtenances. Applicant further proposes to construct and operate a 5,400 horsepower class compressor station along with gas heating, metering and regulating facilities and facilities for the removal of the water and liquid hydrocarbons which may be present in the gas during withdrawal operations.

Applicant estimates that the total cost of the above-described facilities will be $26.9 million (in 1983 dollars)

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 19, 1983 file with the Federal Energy Regulatory Commission, Washington D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21102 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-4200-001]

ANR Storage Co.; Amendment

July 29, 1984.

Take notice that on June 17, 1983, ANR Storage Company (Applicant), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP82-420-001 an amendment to its application in Docket No. CP82-420-000 pursuant to Section 7(c) of the Natural Gas Act so as to reflect a fifty percent reduction in storage service required by Transcontinental Gas Pipe Line Corporation (Transco) and to reflect a change in the facilities required to render such reduced storage service, all as more fully set forth in the amendment which is on filed with the Commission and open to public inspection. Applicant states that this application, as amended,

supersedes in its entirety the application filed on July 15, 1982, in Docket No. CP82-420-000.

Applicant states that on January 27, 1983, the National Energy Board of Canada (NER) issued its omnibus decision concerning numerous export applications and that such decision authorized the export of lesser quantities at Niagara Falls than had been requested by the Canadian exporters which had contracted to sell gas to Transco. The purpose of the instant amendment is to reflect a 50 percent reduction in the level of storage service in order to conform such storage service to the quantities of gas authorized for export by the NEB as well as to the commitments for service which recently have been received from Transco's storage customers, it is said.

Applicant states that as a result of the foregoing, Applicant and Transco have entered into a new gas storage agreement (gas storage agreement), which supersedes in its entirety a prior gas storage agreement filed in Exhibit P to Applicant's application in Docket No. CP82-420-000 and which reflects a 50 percent reduction in the amount of storage service to be provided for Transco, a resultant change in monthly storage charge, and a change in compressor fuel required.

Applicant states that the gas storage agreement provides that during the 1985 and subsequent summer periods (April 1 through October 31), Transco would cause Great Lakes Gas Transmission Company (Great Lakes) to deliver to Applicant for storage up to 10,000,000 Mcf of natural gas at daily volumes up to 75,000 Mcf at an existing interconnection of facilities of Applicant and Great Lakes in Crawford County, Michigan (Crawford Delivery Point), together with a volume of gas for compressor fuel usage equal to 1.2 percent of the gas so delivered. It is explained that the gas storage agreement further provides that during the 1985-1986 and subsequent winter periods (November 1 through March 31), Applicant would make thermally equivalent volumes of gas available to Great Lakes at the Belle River Mills redelivery point in St. Clair County, Michigan, at a daily volume up to 150,000 Mcf reduced by a volume of gas for compressor fuel usage equal to 2.06 percent of the volume so delivered.

Provision has been made in the gas stoage agreement for excess daily deliveries and redeliveries when Applicant is able to do so without jeopardizing its ability to meet its other obligations, for out-of-period deliveries and redeliveries of such daily quantities of gas as are mutually agreeable, and for Transco to defer the redelivery of all or any part of the gas stored thereunder from one winter period to the next. Provision has also been made for deliveries and redeliveries of such volumes in excess of 10,000,000 Mcf of gas during any contract year as are mutually agreeable at the charge for such excess deliveries and with the compressor fuel requirements set forth in the gas storage agreement.

Applicant states that as consideration for providing this storage service, Transco will pay Applicant a monthly fee based upon the estimated cost of constructing, owning and operating the facility to be installed and other cost incurred by Applicant to render the service. Such monthly fee is estimated at $891,049 (in 1983 dollars). Further, it is explained that the gas storage agreement provides for a one time adjustment of this fee, upward or downward, not later than six months prior to the commencement of storage service to reflect the then current estimate of the cost of providing such storage service. The term of the gas storage agreement between Applicant and Transco is twenty years commencing on April 1, 1985, or such other date as specified in the gas storage agreement, it is said.

Applicant submits that the reduced storage service would necessitate the installation of certain new facilities. Applicant proposes to construct and operate 15.7 miles of 20-inch O.D. pipeline and appurtenant facilities extending westerly from the current terminus of Applicant's pipeline near Rapid River 35 storage field in Kalkaska County, Michigan, to an interconnection with facilities which are proposed to be constructed by ANR Michigan Storage Company (ANR Michigan) in Grand Traverse County, Michigan. Applicant indicates that enroute this pipeline would also interconnect with existing facilities of Michigan Consolidated Gas Company (Michigan Consolidated), in Kalkaska County, Michigan. A 2,000 horsepower class compressor station which would be constructed at the proposed interconnection with Michigan Consolidated and a meter station adjacent to the proposed compressor station, is also proposed.

Applicant estimates that the total cost of the described facilities would be $8.9 million (in 1983 dollars).

Applicant will enter into a contract with ANR Michigan under which the latter will provide a storage service to Applicant for the account of Transco. Such an arrangement follows the gas storage agreement between Applicant and Transco and maintains contractual responsibility on behalf of Applicant to Transco for the overall 10,000,000 Mcf storage service. ANR Michigan is making appropriate amendment to its related application filed with the Commission in Docket No. CP87-478-000 seeking authority to develop certain reserviors in Grand Traverse County, Michigan, for the new gas storage service.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before August 19, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21103 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-409-000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Request Under Blanket Authorization

July 29, 1983.

Take notice that on July 12, 1983, Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Arkla), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-409-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Arkla proposes to construct and operate two sales taps and related appurtenant facilities, one on its line 8-A and the other on its line 0, to permit the direct sales of natural gas to Mr. Leonard Cox and Mr. & Mrs William B. Coy, respectively, under the authorization issued in Docket Nos. CP82-340-000 and CP82-340-001 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Arkla states that the peak day volumes of gas to be delivered to each of these proposed customers by the proposed facilities is estimated to be

approximately 1 Mcf with an estimated 90 Mcf being delivered annually. Arkla further states that these volumes are *de minimis* when compared with Arkla's 1982 peak day and annual deliveries of 1,513,930 Mcf and 394,607,813 Mcf, respectively. Arkla further asserts that the volumes proposed for delivery to Mr. Cox in Beckham County, Okalahoma, and to Mr. & Mrs. Coy in Latimer County, Oklahoma, would be used for residential consumption. These volumes would be billed at the retail rates applicable under Arkla's effective rates as filed with the Okalahoma Corporation Commission. It is estimated that the cost to construct the proposed facilities will be approximately $1,280 each.

Any person or the Commmission'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. 83-21104 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-430-000]

Arkansas Louisiana Gas Co., a Division of Arkla, Inc.; Application

July 29, 1983.

Take notice that on July 19, 1983 Arkansas Louisiana Gas Company, a division of Arkla, Inc. (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP83-430-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of a tap and related facilities on its line J in the vicinity of Weiner, Arkansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the requested facilities are estimated to cost $47,150.00 and would be operated to serve the Weiner Area Gas Distribution System, which Applicant is in the process of acquiring. Applicant states that approximately 219 residential and commercial customers and 4 industrial (grain dryer) customers are presently served by the distribution system. The annual and peak day requirements on the Weiner Area Gas Distribution System are estimated to be 73,260 Mcf and 1,525 Mcf, respectively. Applicant further states that its gas supplies are adequate to meet these requirements and would afford the Weiner area customers much needed peak demand flexibility.

Applicant states that the Weiner Area Gas Distribution System has been receiving its gas supply from the City of Harrisburg, Arkansas, which, in turn, purchases its supply from Texas Eastern Transmission Corporation (Texas Eastern). Applicant also states that during periods of peak usage, which occur during rice drying season in September and October of each year and again during the winter heating months, the City of Weiner is unable to receive sufficient quantities of the gas made available by Texas Eastern to the City of Harrisburg due to physical constraints on the Harrisburg system.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 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. 83-21105 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS71-697-001, et al.]

Burk Royalty Co., Energy Reserves Group, Inc., et al.; Applications for "Small Producer" Certificates[1]

July 29, 1983.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations therunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 16, 1983 file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intevene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intevene 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 Fedeal Energy Regulatory Commission by Section 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intevene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date Filed	Applicant
CS71-697-001	[1] 7/19/83	Burk Royalty Co. (Energy Reserves Group, Inc.), 1000 Petroleum Building, P.O. Box BRC Wichita Falls, Texas 76307.
CS83-72-001	[2] 7/19/83	Taylor Energy Company, (Shell Offshore Inc.), The 2-3-4 Loyola Building, New Orleans, Louisiana 70112.
CS83-91-000	5/26/83	APMC Properties, a South Carolina limited partnership, 400 Writer Square, 1512 Larimer Street, Denver, Colorado 80202.
CS83-93-000	7/3/83	Thomas Stanley Senter, 6930 Brookhaven Way, Citrus Heights, California 95610.
CS83-94-000	6/13/83	Enex Oil & Gas Income Program I-Series 5 whose General Partner is Enex Resources Corporation, One Kingwood Place, Suite 202, Kingwood, Texas 77339
CS83-95-0003	6/13/83	Enex Oil & Gas Income Program I-Series 6 whose General Partner is Enex Resources Corporation, One Kingwood Place, Suite 202, Kingwood, Texas 77339
CS83-96-000	6/13/83	La Parita Oil & Gas Inc., P.O. Box 392, Rosenberg, Texas 77471.
CS83-97-000	7/1/83	Producers Operating Co., Inc., 510 Texas Commerce Bank Bldg., Amarillo, Texas 79109.
CS83-98-000	7/5/83	Geotrends Corp. P.O. 341, Box Lake Charles, Louisiana 70602.
CS83-99-000	7/7/83	Quinoco Oil and Gas, Inc., 3601 E. Florida Avenue, Suite 300, Denver, Colorado 80210.
CS83-100-000	7/12/83	Southern States Energy, Inc., P.O. Box 66, Midkiff, Texas 79755.
CS83-101-000	7/18/83	W. B. Martin & Associates, Inc., 2110 North Sullivan, Farmington, New Mexico 87401
CS83-102-000	7/21/83	Graham Energy, Ltd., P.O. Box 8056, Metairie, Louisiana 70011.
CS83-103-000	7/21/83	Eugene S. and Jaralee Aoy, 821 N. Sargent Ave., Glendive, Montana 59330.

[1] By assignment dated September 1, 1982, Burk Royalty Co., acquired interest from Energy Reserves Group, Inc.
[2] Taylor Energy Company acquired the interests of Shell Offshore Inc.

[FR Doc. 83-21106 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-413-000]

Commonwealth Edison Co.; Refund Report

July 29, 1983

Take notice that on July 5, 1983, Commonwealth Edison, ("ComEd"), submitted for filing a refund report in compliance with the Commission's Letter Order dated May 26, 1983.

ComEd states that the refund is for excessive meter rental charges collected since October, 1973, from the City of Naperville, Illinois.

The amount of the refund was $73,074.00, including interest.

Copies of the Refund Report have been sent to the City of Naperville and to the Illinois Commerce Commission.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before August 8, 1983. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21107 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-407-000]

East Tennessee Natural Gas Co.; Request Under Blanket Authorization

July 29, 1983.

Take notice on July 8, 1983, East Tennessee Natural Gas Company (East Tennessee), P.O. Box 10245, Knoxville, Tennessee 37919, filed in Docket No. CP83-407-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that East Tennessee proposes to construct and operate certain metering facilities in order to establish a new delivery point to its existing resale customer, Loudon Utilities (Loudon), in Monroe County, Tennessee, under the authorization issued in Docket No. CP82-412-000 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.

East Tennessee proposes to construct and operate metering and delivery facilities costing an estimated $50,000 in order to establish a new delivery point for its existing customer, Loudon, adjacent to East Tennessee's Main Line Valve 3218-1A on East Tennessee's 3200 line near the intersection of that line and Tennessee State Highway 72 in Monroe County, Tennessee. East Tennessee states that the new delivery point would enable Loudon to serve the Town of Vonore, which curently does not have gas service, and Tennesee Valley Authority Tellico Lake industrial properties currently under development. East Tennessee asserts that all gas to be sold to Loudon through the proposed new facility would be within Loudon's existing contract volume and/or curtailment period quantity entitlement.

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. 83-21108 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-513-002]

Gasdel Pipeline System Inc. and Transcontinental Gas Pipe Line Corp.; Amendment

July 29, 1983.

Take notice that on July 18, 1983 Gasdel Pipeline System Incorporated (Gasdel), P.O. Box 570, 80 Park Plaza, Newark, New Jersey 07101, and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251 (Applicants), filed jointly in Docket No. CP82-513-002 petition to amend the order, issued March 17, 1983, in Docket Nos. CP82-513-000 and CP82-513-001 pursuant to Section 7 of the Natural Gas Act so as to authorize the actual interest to be acquired by Gasdel from Transco in certain measuring and regulating facilities, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

It is stated that as a result of an error in Exhibit K of the application of Gasdel in Docket No. CP82-513-000, the Commission's order of March 17, 1983, erroneously listed Gasdel as acquiring a

25 percent interest in the ARCO North Padre Island Block 956 measuring and regulating station, when it fact Gasdel's interest in these facilities would be 7.91 percent. Applicants therefore, desire that the existing order be amended so as to reflect properly the agreed-upon interest of Gasdel in such measuring and regulating facilities.

Any person desiring to be heard or to make protest with reference to said petition to amend should on or before August 19, 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. 83-21109 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES83-57-000]

Gulf States Utilities Co.; Notice of Application

July 29, 1983.

Take notice that on July 19, 1983, Gulf States Utilities Company (Applicant) filed an application seeking an order under Section 204(a) of the Federal Power Act authorizing the Applicant to issue not more than $100 million of First Mortgage Bonds, via negotiated placement. Such Securities are proposed to be issued in one or more series over a two-year period pursuant to Commission policy announced in Release FE1228 dated November 24, 1982.

Any person desiring to be heard or to make any protest with reference to this application should, on or before August 18, 1983, file with Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with 18 CFR 385.211 or 385.214, respectively. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21110 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 7059-000]

J. N. and H. E. Foster and R. Z. Walker; Exemption From Licensing

July 29, 1983

A notice of exemption from licensing of small hydroelectric project known as Lower Cold Springs Project No. 7059, was filed on February 7, 1983, by J. N. and H. E. Foster and R. Z. Walker. The proposed hydroelectric project would have an installed capacity of 95 kW and would be located on Lower Cold Springs in Siskiyou County, California.

Pursuant to §§ 4.109(c) and 375.308(ss) of the Commission's regulations, and subject to the terms and conditions set forth in Section 4.111 of the Commission's regulations, the Director, Office of Electric Power Regulation, issues this notification that the above project was exempted from licensing as of March 9, 1983.

Lawrence R. Anderson,

Director, Office of Electric Power Regulation.

[FR Doc. 83-21111 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-418-000]

Lone Star Gas Co., a Division of ENSERCH Corp.; Application

July 29, 1983

Take notice that on July 14, 1983, Lone Star Gas Company, a Divison of ENSERCH Corporation (Applicant), 301 South Harwood Street, Dallas, Texas 75201, filed in Docket No. CP83-418-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of 16.3 miles of replacement pipeline and for permission and approval to abandon 16.4 miles of transmission pipeline, all in north Texas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to replace 15.5 miles of 16-inch pipeline and 0.8 mile of 18-inch pipeline located in north Texas, Line b, with 16.3 miles of 16-inch pipeline. Applicant estimates the cost of this project, which would be constructed over 3 years, to be $3,400,000. Applicant states that it would finance the project with funds currently on hand.

Applicant also proposes to abandon its Navy Line which consists of 16.4 miles of 10-inch pipeline located in north Texas. The Navy Line would be abandoned upon completion of the Line B replacement. Applicant estimates that it would cost about $1,000 to abandon the Navy Line.

Applicant states that the subject proposal would improve system operations, reduce gas loss, and increase safety.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 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 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 required 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21112 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP74-147-003]

Michigan Wisconsin Pipe Line Co. and Midwestern Gas Transmission Co.; Petition To Amend

July 29, 1983

Take notice that on June 20, 1983, Michigan Wisconsin Pipe Line Company (Michigan Wisconsin), One Woodward Avenue, Detroit Michigan 48226, and Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP74-147-003 a petition to amend further the order issued September 24, 1974,[1] in Docket No. CP74-147, as amended, pursuant to Section 7(c) of the Natural Gas Act, so as to authorize an extension of the gas exchange service that they have been performing on behalf of certain of their distributor customers, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Michigan Wisconsin and Midwestern state that the order of September 24, 1974 (52 FPC 819), as amended March 15, 1979 (6 FERC ¶ 61,236), authorized the exchange of natural gas through March 31, 1983, pursuant to the terms of an exchange agreement, dated August 30, 1973, as amended June 1, 1978, among Michigan Wisconsin, Midwestern, and Wisconsin Gas Company (Wisconsin Gas). It is further stated that the purpose of this exchange was to effectuate a gas sale and exchange between certain distributor customers of Michigan Wisconsin and Midwestern.

It is asserted that by order issued June 23, 1975, in Docket Nos. CP75-155, *et al.* (53 FPC 2198), as amended, Wisconsin Gas was authorized to exchange liquefied natural gas (LNG) with Northern States Power Company (Northern States) through March 31, 1983, pursuant to the terms of a sale and exchange agreement dated July 16, 1973, as amended February 28, 1974, between Wisconsin Gas, a Michigan Wisconsin gas purchase customer, and Northern States, a Midwestern gas purchase customer. It is indicated that under the terms of this agreement, Wisconsin Gas receives LNG from Northern States' LNG facility in Eau Claire County, Wisconsin, to augment Wisconsin Gas' gas supply, in exchange for natural gas which Wisconsin Gas causes to be delivered to Northern States. It is explained that in order to accomplish this sale and exchange, Wisconsin Gas, pursuant to the terms of the aforesaid exchange agreement, reduces its receipt of gas from Michigan Wisconsin, and causes Michigan Wisconsin to reduce its receipt of gas from Midwestern at Midwestern's existing point of delivery to Michigan Wisconsin located in Marshfield, Wisconsin. It is further explained that Midwestern, in turn, delivers to Northern States, at its existing point of delivery to Northern States on its Fargo sales lateral in Cass County, North Dakota, for the account of Michigan Wisconsin, a quantity by which Michigan Wisconsin reduces its receipts from Midwestern. Pursuant to the exchange agreement, exchange gas delivered by Midwestern to Northern States is limited to a seasonal volume (November 15 through March 31) of up to 150,000 Mcf and to a maximum daily volume of 5,000 Mcf, it is said.

Michigan Wisconsin and Midwestern state that they have recently been advised that the sale and exchange agreement between Wisconsin Gas and Northern States was amended on May 24, 1983, to extend its term for an additional period of time. Accordingly, it is stated, the exchange agreement among Wisconsin Gas, Michigan Wisconsin, and Midwestern was amended by the parties on March 31, 1983, to extend its term indefinitely. Michigan Wisconsin and Midwestern have filed the instant petition to amend their authorization so as to reflect this extended term of service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 19, 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. 83-21113 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Docket No. CP83-433-000]

Northwest Central Pipeline Corp.; Request Under Blanket Authorization

July 29, 1983.

Take notice that on July 20, 1983, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 25128, Oklahoma City, Oklahoma 73125, filed in Docket No. CP83-433-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) that Northwest Central proposes to abandon and reclaim metering and appurtenant facilities in Barton County, Kansas, and the transportation of gas through said facilities under the authorization issued in Docket No. CP82-479-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest Central states that the DeWerff Brothers of Ellinwood, Kansas, have advised that gas service is no longer needed at this location. The estimated cost to reclaim these facilities is $390, with an estimated salvage value of $80, it is said.

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. 83-21114 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-428-000]

Producer-Suppliers of Transco Gas Supply Co. and Transcontinental Gas Pipe Line Corp.; Application

July 29, 1983.

Take notice that on July 18, 1983, Transco Gas Supply Company (Gasco) and Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas, on behalf of producer-

suppliers currently selling gas to Applicants filed in Docket No. CP83–428–000 an application pursuant to Section 7 of the Natural Gas Act for blanket permission and approval for partial abandonment of certificated sales to Gasco and Transco under Sections 102(d) and 107 of the Natural Gas Policy Act of 1978 (NGPA) and for a blanket certificate of public convenience and necessity authorizing the sale in interstate commerce of such partially abandoned reserves to existing customers of Transco, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that on April 13, 1983, Transco filed with the Commission a settlement of Transco's rate proceeding in Docket No. RP83–11–000 and RP83–30–000 (Settlement Agreement), which settlement was approved by Commission letter order dated April 28, 1983. It is asserted that as an integral part of that settlement, Transco has implemented an experimental Industrial Sales Program (ISP) whereunder Transco arranges, as agent for its customers, gas supplies to be purchased by eligible customers for the purposes of keeping natural gas prices competitive with the prices of alternate fuels and of maintaining historical throughout levels on Transco's system. It is further asserted that the ISP program is intended to permit continued service to some markets which otherwise would switch from gas to other fuels, thereby forestalling futher erosion of markets on Transco's system. It is said that in order to implement the ISP program, Gasco and Transco obtained on behalf of its producer-suppliers limited-term abandonment and sales certificate authorizations.

It is asserted that as a part of the Settlement Agreement, Transco also agreed to assist its customers by transporting gas purchased directly by such customers. In order to participate, it is stated, a customer must meet one of two criteria. First, it is stated, for quantities within Transco's authorized firm sale level, a customer must demonstrate that there exists in its service territory a market which cannot be served from Transco either because the ISP quantities for which it is eligible are insufficient or because the ISP posted price is not competitive in this market. Second, it is stated, for quantities in excess of Transco's authorized firm sales level for such customer, Transco agrees to transport such additional quantities of gas as the customer arranges for delivery into Transco's system, to the extent that such transportation is not inconsistent with the goals of the ISP program. It is further stated that the ISP program transportation rate is applicable to the first category of transportation arrangements and Transco's Rate Schedule T rate plus the appropriate percentage of fuel is the applicable transportation rate for the second category of transportation arrangements.

By the subject application, it is stated that Transco and Gasco propose the temporary release of reserves from system dedication and the temporary sale of such quantities directly to customers for those producers which elect to sell their certificated Section 102(d) and Section 107 gas supplies at competitive prices and which agree to relieve Transco of its take or pay obligation *pro tanto*. Transco, it is asserted, would agree to transport such quantities as the producers and customers agree upon.

It is asserted that for any such transportation Transco would charge the same transportation rate (currently 30.1 cents per dt in Zone 1, 30.6 cents in Zone 2, and 32.1 cents per dt in Zone 3, plus 6.1 percent for fuel) as is charged for ISP transportation within authorized firm levels of service. It is further asserted that Transco will also transport under the instant program quantities which, when combined with sales and ISP deliveries, exceed the authorized firm sales level for the particular customer. For any such transportation, it is asserted, Transco would charge the applicable Rate Schedule T rate (currently 25.3 cents per dt in Zone 1, 25.9 cents per dt in Zone 2, and 26.4 cents per dt in Zone 3), plus fuel.

It is requested that the Commission waive those filing requirements of §§ 157.30, 157.24, and 157.25 of its Regulations under the Natural Gas Act which have not been met by the subject application, and accept in lieu thereof comparable information in monthly reports similar to the reports required under Article II, Part B, Paragraph 11 of the settlement agreement in Docket No. RP83–11–000.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 15, 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 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 Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21115 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-398-000]

Producer-Suppliers of United Gas Pipe Line Co.; Application

July 29, 1983.

Take notice that on June 30, 1983, United Gas Pipe Line Company (Applicant), on behalf of its Producer-Suppliers, P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83–398–000 an application pursuant to Section 7 of the Natural Gas Act for blanket permission and approval for partial abandonment of certificated sales to Applicant for the limited period, July 1, 1983, through October 31, 1983, and only the quantities which are in excess of Applicant's requirements and which the producer elects to sell directly to Applicant's customers under the Incentive Sales Program (ISP) and a limited-term certificate of public convenience and necessity for the aforementioned period authorizing sales which the producer elects to make directly to Applicant's customers under the ISP, all as more fully set forth in the application which is on file with the

Commission and open to public inspection.

It is stated that Applicant has proposed to implement an experimental ISP whereunder Applicant would arrange, as agent for its customers, gas supplies to be purchased by eligible customers for the purposes of keeping its natural gas prices competitive with the prices available to its customers from alternative suppliers and of historical throughput levels on Applicant's system. It is stated that all of the volumes of gas to be sold by producers pursuant to the ISP, and released by Applicant thereunder, would be sold by participating producers to existing customers of Applicant that qualify to participate in the ISP. Therefore, it is further stated, the limited-term sale by participating producers to Applicant's customers would not divert to other uses or to other markets gas that is presently utilized to serve requirements on Applicant's system. It is asserted that except to the extent that such supplies are utilized for limited scope and term of the ISP, Applicant's long-term supplies would remain the same. It is stated that the authorizations sought in this case are necessary to permit the inclusion in the ISP program, which is limited to the period, July 1, 1983 through October 31, 1983, of gas supplies which presently are dedicated to Applicant under certificates of public convenience and necessity and which its producer-suppliers voluntarily elect to divert temporarily to sales directly to Applicant's customers.

It is asserted that the operation of the ISP contemplates, among other things, that producers selling gas to United be allowed to elect voluntarily to make sales of gas under the ISP for the limited term of such program, which runs from July 1983 through October 31, 1983, of gas committed to Applicant but in excess of Applicant's current requirements. It is further asserted that to permit this temporary diversion of supplies to the ISP, Applicant has agreed to release from dedication to it those reserves which its producers make available to the ISP to the extent such quantities are in excess of the quantities then being purchased for sale under Applicant's gas purchase contracts. It is stated that the authorizations sought herein are necessary to permit the participation in the ISP of producers owning gas sold to Applicant under a certificate of public convenience and necessity. Thus, it is further stated, Applicant seeks blanket authority which will allow those of its producers that elect to participate in the ISP (and which require such authorizations) to do so in compliance with Sections 7(b) and (c) of the Natural Gas Act.

It is stated that because of the circumstances surrounding the experimental ISP, including its limited scope and term of the proposed partial abandonment and the need for expedition in implementing the ISP, Applicant requests that the Commission waive compliance with the filing requirements of §§ 157.30, 157.24, and 157.25 of the Regulations. In lieu thereof, it is stated, Applicant proposes to file substantially comparable information in periodic reports to be filed with the Commission under the terms of its application for blanket transportation authorization filed in Docket No. CP83-397-000 on June 30, 1983, to implement the ISP.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 17, 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 the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. It 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. 83-21116 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-532-000]

Southern California Edison Co.; Order Accepting Rates for Filing, Noting Interventions, Denying Waiver of Notice Requirements, and Terminating Docket

Issued: July 29, 1983.

On May 31, 1983, Southern California Edison Company (Edison) tendered for filing a proposed increase in rates for interruptible transmission service to six municipal customers.[1] Edison's agreements for interruptible transmission service provide that the rates will reflect the allowed return on total capital authorized by the California Public Utilities Commission (CPUC) in Edison's most recent retail rate proceeding. Accordingly, the company has submitted revised rates to reflect a 12.55% return on total capital as authorized by the CPUC to become effective for retail rates on January 1, 1983. Because the service at issue is interruptible in nature, Edison states that the amount of revenues produced by the proposed rates cannot be estimated. The company requests that the rates become effective as of January 1, 1983; thus, Edison has requested waiver of the notice requirements.

Notice of the instant filing was published in the **Federal Register**,[2] with comments due on or before June 27, 1983. Timely motions to intervene were filed by the City of Vernon, California and, jointly, by the Cities of Anaheim and Riverside, California. The municipalities neither contest the proposed rate level nor request that a hearing be convened. However, they do oppose Edison's request for waiver of notice. The intervenors state that since January 1, 1983, they have engaged in economy energy transactions on a split-the-savings basis, where the cost of transmission has been a component of the energy price. According to the cities, if Edison's proposed increase is permitted to become effective as of January 1, 1983, they will have to pay the additional wheeling cost for those transactions entered into between January 1 and the present without having had the benefit of including these

[1] *See* Attachment A for rate schedule designations and affected customers.

[2] 48 FR 27437 (June 15, 1983).

increased costs in their decremental cost quotes for economy purchases. Further, the cities state that Edison knew of the CPUC's decision prior to January 1, 1983, and could have filed the increase in rates prior to that date. They contend, therefore, that the company's filing is untimely and that any delay should not prejudice the customers.

On June 12, 1983, Edison filed an answer to the motions to intervene and protests. While not opposing the cities' intervention, the company does oppose their request for denial of waiver of the notice requirements. Edison asserts that it is contractually permitted to seek a January 1, 1983 effective date; that it refrained from filing the instant increase until such time as it was in a position to charge all wholesale customers the same rate for interruptible transmission service; and that any prejudice to the cities is a result of their failure to adequately protect themselves in dealing with third parties. Edison states that the impact upon the three intervenors of a retroactive increase in the transmission rate is approximately $30,000 for the period January 1, 1983 through May 31, 1983.

Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the unopposed motions to intervene serve to make Vernon, Anaheim, and Riverside parties to this proceeding.

Based on our review of the instant filing, we find that the proposed rates will not produce excessive revenues. We note that the rates are lower than other Edison rates on file for similar interruptible transmission service. Furthermore, as noted above, none of the intervenors has requested that Edison's filing be suspended or set for hearing. Accordingly, we shall accept Edison's submittal for filing without suspension.

The interruptible transmission agreements between Edison and its municipal customers contain the following provision:

> At such time as the CPUC finds a new overall rate of return on retail operations to be reasonable for Edison and authorizes rates based on such new rate of return to become effective, the rates for service hereunder shall be redetermined based on said new rate of return. Such redetermined rates for interruptible service shall be applied to service rendered hereunder on and after the day when the CPUC has authorized retail rates based on such new rate of return to become effective.

While the above provision provided the company with contractual authority to seek revisions to its wholesale rates as of the effective date of the CPUC's retail rate change, the agreements between Edison and its customers are silent as to the timing or mechanics of submitting the necessary rate change filings to this Commission. Accordingly, such rate changes are subject to the requirements of the Federal Power Act as implemented by Part 35 of the Commission's regulations. Indeed, Edison has been reminded in at least two prior dockets that the contractual language would not relieve the company of the obligation to file all rate changes pursuant to the requirements of Part 35.[3]

As indicated, the instant filing was submitted on May 31, 1983. However, the CPUC's decision authorizing a 12.55% return on total capital was issued on December 13, 1982. Nowhere in its rate filing did Edison suggest a reason for its delay of more than five months before tendering the filing. Nor do we find the explanation given by Edison in its answer to be persuasive, particularly in view of the piecemeal manner in which Edison has amended its various rate schedules to reflect the December CPUC decision.[4] While Edison still would have required waiver of notice to implement the rates as of January 1, we must conclude absent evidence to the contrary that Edison could and should have submitted the instant filing prior to or shortly after the requested effective date. Presumably, at that time, the adverse economic consequences cited by the intervenors would have been eliminated or at least mitigated. We cannot agree with Edison's suggestion that the cities acted at their peril by entering into transactions based on the filed rate level and therefore failed to adequately protect themselves. Just as Edison was required to comply with the notice and filing requirements extant in the Federal Power Act and the Commission's regulations in order to implement a new rate, the cities were entitled to rely upon these requirements, the filed rate doctrine, and the earlier Commission reminders to Edison that its contracts could not override the statutory prerequisites. Given the potential impact on the customers and their opposition to the requested waiver, we find that good cause has not been shown for waiver of the notice requirements and, therefore, we shall deny the company's request. Accordingly, we shall accept Edison's rates for filing to become effective sixty days after filing, on July 31, 1983.

The Commission orders:

(A) Edison's request for waiver of the notice requirements is hereby denied.

(B) Edison's proposed rates applicable to interruptible transmission service are hereby accepted for filing to become effective, without suspension or hearing, sixty days after filing, on July 31, 1983.

(C) Docket No. ER83-532-000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission

Kenneth F. Plumb,

Secretary.

Attachment—Southern California Edison Company, Docket No. ER83-532-000

Rate Schedule Designations

Designation	Other party
(1) Supplement No. 5 to Rate Schedule FERC No. 130 (Supersedes Supplement No. 4).	City of Anaheim.
(2) Supplement No. 2 to Rate Schedule FERC No. 160 (Supersedes Supplement No. 1).	City of Azusa.
(3) Supplement No. 2 to Rate Schedule FERC No. 159 (Supersedes Supplement No. 1).	City of Banning.
(4) Supplement No. 2 to Rate Schedule FERC No. 162 (Supersedes Supplement No. 1).	City of Colton.
(5) Supplement No. 5 to Rate Schedule FERC No. 129 (Supersedes Supplement No. 4).	City of Riverside.
(6) Supplement No. 2 to Rate Schedule FERC No. 149.	City of Vernon.

[FR Doc. 83-21120 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[3] By letters dated June 26, 1981 (Docket Nos. ER81-506-000 and ER81-540-000) and February 23, 1982 (Docket No. ER82-231-000), the Director of the Commission's Office of Electric Power Regulation accepted for filing the interruptible transmission agreements for service to Anaheim, Riverside, and Vernon. These letters specifically reminded Edison of its obligation to file all changes under Part 35.

[4] Edison has other transmission and facilities use agreements on file with the Commission which contain identical rate of return adjustment provisions. On January 10, 1983 (Docket No. ER83-244-000), January 24, 1983 (Docket No. ER83-278-000), and May 3, 1983 (Docket No. ER83-493-000), Edison filed similar increases in charges under those agreements to reflect the 12.55% rate of return authorized by the CPUC on December 13, 1982. We recognize that in those dockets, Edison requested and was granted waiver of the notice requirements. However, two of those submittals were filed shortly after the State commission decision and in none of those instances did the affected customers object to waiver or allege adverse economic consequences.

[Docket No. CP83-396-000]

Texas Gas Transmission Corp.; Applicatiion

July 29, 1983.

Take notice on June 30, 1983, Texas Gas Transmission Corporation (Applicant), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP83-396-000 an application pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 and § 284.107 of the Commission's

Regulations for authority to transport natural gas by exchange on behalf of Louisiana Resources Company (LRC) for a term of fifteen years, 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 would receive up to 125,000 Mcf equivalent of natural gas per day and associated liquefiables on an interruptible basis at existing receipt points in southwestern Louisiana. Applicant would redeliver equivalent volumes to LRC in central Louisiana by exchange.

Applicant further states that Faustina Pipe Line Company (Faustina), an affiliate of LRC, proposes to construct a pipeline that would interconnect with Applicant's existing system in Vermillon and Lafayette Parishes, Louisiana. Applicant also requests authority to redeliver gas for the account of LRC to Faustina when and if Faustina's proposed pipeline becomes operational.

Applicant states that the above-described arrangement allows Applicant to move gas into its mainline system more efficiently. Therefore, Applicant proposes that all gas received and delivered under this arrangement shall be done at no charge to LRC.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 19, 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. 83-21121 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-10-M

[Docket No. CP83-397-000]

United Gas Pipe Line Co.; Application

July 29, 1983.

Take notice that on June 30, 1983, United Gas Pipe Line Company (Applicant), P.O. Box 1478, Houston, Texas 77001, filed in Docket No. CP83-297-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the implementation of an experimental Incentive Sales Program (ISP) and the transportation of natural gas for certain customers thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

By the subject application, Applicant seeks blanket authorization to transport, on an interruptible basis, natural gas at a rate of 50.0 cents per Mcf for those of its direct sale customers participating in the ISP. Applicant would retain 2.8 percent of the volumes received for fuel and company-used gas, it is asserted. It is further asserted that transportation on behalf of local distribution companies participating in the program would be conducted pursuant to Section 311(a)(1) of the Natural Gas Policy Act of 1978 (NGPA), Subpart B of Part 284 of the Commission's regulations, and on behalf of interstate pipeline customers of Applicant pursuant to Applicant's blanket certificate issued under Section 284.221 of the Regulations at a rate of 35.0 cents per Mcf with 2.8 percent retainage of gas transported as reimbursement for fuel and company-used gas. It is stated that Applicant seeks waiver of the limitation in Part 284 that the gas be delivered for the system supply of the local distribution company or the interstate pipeline so that such transportation of ISP gas may be implemented.

Applicant states that this transportation service would be rendered for a limited term ending on October 31, 1983, concurrently with the term of the ISP. Applicant further states that it would serve as agent for the purchaser and transport such gas as is available under the ISP, redelivering equivalent quantities, less fuel, at existing delivery points.

It is asserted that all existing customers of Applicant are entitled to participate to the extent that, absent a price reduction, the industrial consumer receiving the gas (directly from Applicant or through resales) would burn fuel oil or alternate gas supplies (other than supplies it would purchase from other interstate pipeline companies). In addition, Applicant states, each resale customer must certify that the volumes it arranges for the qualifying industrial consumer would be delivered to the qualifying industrial consumer at rates based on the delivered cost of the ISP gas and not upon the rolled-in cost of all of that resale customer's supplies.

Applicant asserts that not later than the 15th day of each month, each of Applicant's customers which intends to arrange for the purchase of ISP gas during the subsequent month would nominate a volume or volumes of ISP gas for purchase during the subsequent month and would provide its estimate of the maximum price(s) (delivered to Applicant's customer) at which the volume of volumes of gas can be marketed. Applicant further asserts that if the volume of gas available to the ISP is less than the volume of ISP gas requested by qualifying industrial consumers at delivered prices at or above the delivered price resulting from application of the posted price, the available volumes would be allocated among such qualifying customers in proportion to the volume each requested at delivered prices at or above the delivered price resulting from application of the posted price.

Applicant states that on or about the 20th day of each month, it would review the ISP nominations and all available information concerning potential supplies for ISP and would determine a posted price at which it would offer to acquire gas as Agent for the participating customers. Applicant further states that each supplier selling gas to the ISP would be paid the lowest of (a) the posted price, (b) the applicable maximum lawful price under the NGPA, or (c) the contract price. Applicant further states that if the ISP supplier is not directly connected to Applicant's system, the supplier must pay any additional costs incurred to deliver the gas to Applicant's system.

Applicant avers that if the volume of gas tendered to the ISP exceeds the ISP market requirements, to the extent operationally and administratively feasible and not inconsistent with applicable laws or regulations, Applicant, as agent, would acquire gas for its customers in the following order of priority and in the following order within each priority, accepting all gas tendered from one priority category before accepting any gas tendered from the next lower category:

Priority 1: Gas attributable to any supplies currently committed to Applicant under arrangements which qualify as first sales under the NGPA (Committed Gas) for which Applicant has exercised a market or economic out to reduce the contract price or under which the supplier has voluntarily agreed to reduce the price or take requirements. Committed Gas within this category would be purchased in order of original contract price (*i.e.*, the price which would be effective but for the exercise of market or economic out or contract amendment) with the highest contract price being purchased first.

Priority 2: Committed Gas which is not included in Priority 1. Gas within Priority 2 would be purchased in order of currently effective contract price with highest contract price being purchased first.

Priority 3: Gas from any other source willing to tender gas to the ISP at prices equal to or below the posted price.

Applicant states that notwithstanding any other provision of the above stated acquisition of gas for ISP, the volume of Committed Gas subject to Section 104 of the NGPA which may be acquired under the ISP shall not exceed, on an accumulated basis beginning July 1, 1983, 9,000,000 Mcf per month.

Applicant further states that each customer which nominates ISP gas at delivered prices at or above the delivered price resulting from application of the posted price, fuel adjustment and ISP delivery charge would pay, or cause to be paid, to Applicant, as agent, its *pro rata* share (based on the volumes of ISP gas delivered to such customer) of an amount determined by applying the posted price to all ISP gas delivered to Applicant during the month. It is asserted that each direct industrial customer receiving ISP gas would pay an ISP delivery charge of 50.0 cents for each Mcf of ISP gas delivered to it by Applicant and that the ISP delivery charge for all ISP gas purchased by or through a pipeline or local distribution company served by Applicant would be 35.0 cents per Mcf. Applicant would retain 2.8 percent of the ISP volumes transported as reimbursement for fuel and company-used gas.

Applicant states that to the extent that any gas is acquired by the ISP at a price less than the posted price, all net revenues which result from the difference between that acquisition cost and the sale at rates based on the posted price would be credited to Applicant's Account No. 191. Applicant further states that all ISP delivery revenues, whether generated by transportation services rendered to direct industrial customers under the requested authorization or to resale customers under Part 284 of the Commission's regulation, would be retained by Applicant subject to ultimate determination of this proper disposition of those revenues in Docket Nos. RP82-57 and/or RP83-52.

It is further asserted that the ISP would be in effect from July 1, 1983, through October 31, 1983.

It is stated that the Staff and other interested parties would meet informally with Applicant to evaluate the experience in operating under the ISP and to make any mutually agreeable modifications to the implementation procedures. It is further stated that it is understood and agreed that such changes in ISP implementation procedures as the parties may agree upon would not require further approval by the Commission unless the Commission's Staff determines that approval of the Commission is required.

It is asserted that if a customer cannot participate in the ISP because the particular requirements of its market do not permit it to purchase gas at the delivered price under the ISP, Applicant would transport any gas supplies which that customer may arrange to purchase from other sources, subject to available existing capacity and the following terms and conditions: (1) the gas to be transported must be acquired by or to serve an existing industrial customer which, absent a price reduction, would burn an alternative fuel or an alternative gas supply (other than gas it would purchase from other interstate pipeline companies) or which has a special hardship requiring a lower cost gas supply; (2) the rate to be paid for transportation of such gas would be the applicable ISP delivery charge and, in addition, Applicant would retain for fuel and company-used requirements 2.8% of the gas delivered to Applicant; and (3) in order to reduce Applicant's take-or-pay exposure to its producer-suppliers, to the maximum extent possible, such gas volumes to be transported would be gas purchased from suppliers of Applicant which have agreed to credit such deliveries toward satisfaction of any take-or-pay or minimum take provisions in that supplier's agreements with Applicant. Applicant further states that in the event a customer requests transportation hereunder attributable to purchases from producer reserves not committed to Applicant (Uncommitted Gas) or from a producer which is not a supplier so agreeing to credit such deliveries to Applicant, then such customer shall furnish Applicant with a written notice of such proposed purchase, setting forth the quantities to be purchased, the price to be paid for such quantities (as well as the ultimate city gate cost) and a description of any other significant terms of the arrangement. Applicant asserts that upon receipt of such notice, Applicant would within five days notify in writing all of its producer-suppliers which have agreed to participate in the ISP program and to credit any deliveries thereunder toward satisfaction of any take-or-pay or minimum-take provisions of their contracts with Applicant that such producers are being provided with the opportunity to market Committed Gas quantities to be released by Applicant in lieu of the proposed Uncommitted Gas purchases.

Applicant states that it would not be obligated to transport hereunder gas purchased from interstate pipeline companies operating within Applicant's service area or from any interstate pipeline companies.

Any person desiring to be heard or to make any protest with reference to said application should on or before August 17, 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 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 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. 83-21122 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP75-155-002]

Wisconsin Gas Co.; Petition To Amend

July 29, 1983.

Take notice that on June 10, 1983, Wisconsin Gas Company (Wisconsin Gas), 626 East Wisconsin Avenue, Milwaukee, Wisconsin 53202, filed in

Docket No. CP75-155-002 a petition pursuant to Section 7(c) of the Natural Gas Act (NGA) to amend the order issued June 23, 1975 [1] (53 FPC 2198), in Docket No. CP75-155, as amended on March 15, 1979 (6 FERC ¶61,236), so as to extend the term of a gas sale and exchange arrangement, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

The order of June 23, 1975, as amended, authorized Wisconsin Gas to exchange gas pursuant to a sale and exchange agreement (Agreement) between Wisconsin Gas and Northern States Power Company (NSP) that was dated July 16, 1973, and amended on February 28, 1974. It is stated that under the terms of this Agreement, Northern States Power Company (Wisconsin) [NSP (Wis)] delivers quantities of liquefied natural gas (LNG) to Wisconsin Gas, and that Wisconsin Gas pays back Northern States Power Company (Minnesota) [NSP (Minn)] twice the equivalent quantity of gas that it receives from NSP (Wis). This arrangement was to extend through March 31, 1983, it is said.

It is explained that on May 24, 1983, Wisconsin Gas and NSP concluded a second addendum to their earlier Agreement, which provided for an extension of the sale and exchange arrangement between them from September 1, 1983, through March 31, 1984. It is submitted that during this period, NSP (Wis) would deliver LNG to Wisconsin Gas up to an equivalent of 75,000 Mcf of natural gas on a best-efforts basis, in return for which Wisconsin Gas would pay back twice the equivalent volume of natural gas to NSP (Minn), at a rate of up to 5,000 Mcf per day.

The instant application to amend accordingly requests Commission authorization to extend the authorized exchange of natural gas for LNG between Wisconsin Gas and NSP for an additional period of one year, through March 31, 1984.

Wisconsin Gas further requests that the Commission declare that its operations continue to be exempt from the provisions of the Natural Gas Act, except for the service for which authorization is specifically sought herein, in accordance with Section 1(c) of the Act.

Winconsin Gas states that it originally contracted with Michigan Wisconsin Pipe Line Company (Michigan Wisconsin) and with Midwestern Gas Transmission Company (Midwestern) to deliver its payback gas to NSP (Minn), pursuant to an exchange agreement dated August 30, 1973 (and first amended on June 1, 1978), which arrangement was certificated on September 24, 1974, in Docket No. CP74-147, as amended. Michigan Wisconsin and Midwestern are also concurrently filing a joint application in Docket No. CP74-147-003 for authorization to exchange gas and to transport it on behalf of Wisconsin Gas and NSP for an exteneded term.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before August 19, 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. 83-21123 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

[1] This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

[Project Nos. 1984-011, et al.]

Wisconsin River Power Co., et al.; Applications Filed With the Commission

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Amendment of License—Revised Exhibit R.

b. Project No: 1984-011.

c. Date Filed: May 31, 1983.

d. Applicant: Wisconsin River Power Company.

e. Name of Project: Castle Rock—Pentenwell Project.

f. Location: Adams, Juneau, and Wood Counties, Wisconsin on the Wisconsin and Yellow Rivers.

g. Filed Pursuant to: Provisions of Article 23 of the License for Project No. 1984.

h. Contact Person: Max O. Andrae, President, Wisconsin River Power Company, P.O. Box 50, Wisconsin Rapids, Wisconsin 54494.

i. Comment Date: September 12, 1983.

j. Description of Project: Wisconsin River Power Company has filed a revised Exhibit R in compliance with Article 23 of the license. The Licensee has conducted a study, pursuant to Article 23, for a management plan of certain designated areas near Petenwell Dam. The management plan would affect approximately 1,228 acres and provide the protection of existing wildlife, particularly the bald eagle.

k. This notice also consists of the following standard paragraphs: B, C, and D1.

2a. Type of Application: Non-Project Use of Project Lands and Water.

b. Project No: 2230-002.

c. Date Filed: February 22, 1983.

d. Applicant: City and Borough of Sitka, Alaska.

e. Name of Project: Blue Lake Project.

f. Location: Sitka, Alaska on the Medvetcha River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Bernard J. Christensen, Senior Engineering Manager, USR Engineers, 2615 Fourth Avenue, Seattle, Washington 98121.

i. Comment Date: September 8, 1983.

j. Description of Project: Applicant proposes to weld a 20-inch-diameter tee into the penstock at penstock station 3+50 above the powerhouse. A 20-inch butterfly valve would be installed on the tee and an 84-inch butterfly valve would be installed, in the penstock at penstock station 2+80 above the powerhouse. The proposed tee would supply up to 13 cfs of water for the public water supply of the City and Borough of Sitka.

k. This notice also consists of the following standard paragraphs: B and C.

3a. Type of Application: Exemption (under 5 MW).

b. Project No: 3265-002.

c. Date Filed: July 5, 1983.

d. Applicant: The New Hampshire Water Resources Board and Steels Pond Hydro, Inc.

e. Name of Project: Steels Pond Project.

f. Location: On the North Branch of the Contoocook River in Hillsborough County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Delbert F. Downing, Chairman, New Hampshire Water Resources Board, 37 Pleasant Street, Concord, New Hamsphire 03301 and Moody C. Dole, Steels Pond Hydro, Inc., P.O. Box 8, Campton, New Hampshire 03223.

i. Comment Date: September 16, 1983.

j. Description of Project: The proposed project would consist of: (1) The 173-foot-long and 20-foot-high concrete gravity Steels Pond Dam impounding a reservoir with negligible storage capacity; (2) rehabilitation of existing headgates; (3) a new 66-inch-diameter and 1,550-foot-long steel penstock; (4) a new powerhouse with an installed capacity of 963 kW; (5) a new 1,100-foot-long transmission line; and (6) other appurtenances. Applicants estimate an average annual generation of 3,040,000 kWh.

k. Purpose of Project: Project energy would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

4a. Type of application: Application for License (under 5MW).

b. Project No: P-3756-001.

c. Date Filed: February 28, 1983.

d. Applicant: City of Bountiful, Utah.

e. Name of Project: East Canyon.

f. Location: On the East Canyon Creek, in Morgan County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: W. Berry Hutchings, Manager, City of Bountiful Light and Power, 198 South 200 West, Bountiful, Utah 84010.

i. Comment Date: October 11, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Bureau of Reclamation's East Canyon Dam and would consist of: (1) A new 42-inch-diameter outlet conduit to be constructed through the dam; (2) a new 48-inch-diameter steel penstock 380 feet long; (3) a new powerhouse at the north bank of the creek with two turbine-generator units with a total installed capacity of 2,000 kW; (4) a 30.5-mile-long transmission line; and (5) other appurtenances. Applicant estimates an average annual generation of 7,958,000 kWh. This application was filed during the term of Applicant's preliminary permit for Project No. 3756.

k. Purpose of Project: Project energy would be used by Applicant for municipal purposes.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D1.

5a. Type of application: License (Under 5 MW).

b. Project No: 4444-001.

c. Date Filed: February 7, 1983.

d. Applicant: Trans Mountain Construction Co.

e. Name of Project: Blue Valley Ranch Hydro Project (Unit #2).

f. Location: Blue River in Grand County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Herbert C. Young, 123 S. Paradise Road, Golden, Colorado 80401.

i. Comment Date: October 11, 1983.

j. Description of Project: The proposed project would be run-of-river and would consist of: (1) An existing irrigation diversion wingdam, approximately 100 feet long and 5 feet high, constructed of boulders and to be upgraded; (2) a new power canal, approximately 500 feet long, 16 feet wide and 10 feet deep, located near the right river bank and leading to (3) a new powerhouse containing 3 turbine-generator units having a total rated capacity of 190 kW; (4) draft tubes returning flow to the river approximately 500 feet downstream of the wingdam; (5) a new 14.4-kV transmission line, approximately ½ mile long; and (6) appurtenant facilities. The Applicant estimates the average annual energy output would be 927,810 kWh. Project energy would be sold to the Tri-State Generation and Transmission, Inc. This application for license was filed during the term of the Applicant's preliminary permit for Project No. 4444.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

6a. Type of application: Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity.

b. Project No: 6566-003.

c. Date Filed: June 20, 1983.

d. Applicant: Aquenergy Systems, Inc.

e. Name of Project: Woodside II Hydro Project.

f. Location: On the Twelve Mile Creek in Pickens County, South Carolina.

g. Filed Pursuant to: Section 408, Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Ralph Walker, Jr., President, P.O. Box 8991, Greenville, South Carolina 29604.

i. Comment Date: September 16, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing stone dam approximately 80-foot-long by 30-foot-high; (2) a small reservoir with a storage capacity of 57 surface acres; (3) a new steel penstock approximately 28-foot-long; (4) an existing 28-foot-long by 31-foot-wide concrete powerhouse; (5) a stone masonry tailrace; (6) transmission lines; and (7) appurtenant facilities. The Applicant estimates the maximum capacity of the project would be 740 kW with an average annual generation of 5,200 MWh. All power generated would be sold to a local utility company.

k. Purpose of Exemption—An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

7a. Type of application: Exemption Under 5 MW.

b. Project No: 7097-000.

c. Date Filed: February 23, 1983.

d. Applicant: Olympus Energy Corporation.

e. Name of Project: Rainbow Creek.

f. Location: On Rainbow Creek, a tributary of the Sitkum River, near Forks, in Clallam County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Jerome E. Livingston, Olympus Energy Corporation, P.O. Box 1090, Bothell, Washington 98011.

i. Comment Date: September 14, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 5-foot-high, 25-foot-long concrete diversion structure at elevation 1,200 feet; (2) a 9,000-foot-long, 42-inch-diameter steel pipeline; (3) a 1,500-foot-long, 42-inch-diameter steel penstock; (4) a powerhouse containing two turbine-generator units with a total installed capacity of 3.0 MW and an average annual generation of 18.4 GWh; and (5) 10 miles of 35-kV transmission line. Project power would be sold to a public utility. The project would be located entirely on Olympic National Forest lands.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

a. Type of Application: Exemption Under 5 MW.

b. Project No: 7098-000.

c. Date Filed: February 23, 1983.

d. Applicant: Olympus Energy Corporation.

e. Name of Project: North Sitkum.

f. Location: On the North Sitkum River, near Forks, in Callam County, Washington.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Jerome E. Livingston, Olympus Energy Corporation, P.O. Box 1090, Bothell, Washington 98011.

i. Comment Date: September 12, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 5-foot-high, 25-foot-long concrete diversion structure at elevation 1,325 feet; (2) a 14,300-foot-long, 48-inch-diameter steel pipeline; (3) a 1,500-foot-long, 48-inch-diameter penstock; (4) a powerhouse containing two turbine-generator units with a total installed capacity of 2.7 MW and an average annual generation of 16.5 GWh; and (5) 12 miles of 35-kV transmission line. Project power would be sold to a public utility. The project would be located entirely on Olympic National Forest lands.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

a. Type of Application: 5 MW Exemption.

b. Project No: 7148-000.

c. Date Filed: March 15, 1983.

d. Applicant: Acton Turbo Electric.

e. Name of Project: Assabet Dam Hydroelectric Project.

f. Location: On the Assabet River, in the town of Acton in Middlesex County, Massachusetts.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*), and Part I of the Federal Power Act.

h. Contact Person: Mr. Kenneth L. King, c/o NAVTEC, INC., 527 Great Road, Littleton, Massachusetts 01460.

i. Comment Date: September 12, 1983.

j. Description of Project: The project would consist of: (1) An existing stone and timber dam 13 feet high and 78 feet long; (2) an impoundment behind the dam with a surface area of approximately 25 acres and negligible storage capacity; (3) three existing timber head gates controlling flow of water to the penstocks; (4) two existing 6-foot-diameter steel penstocks, 40 feet long; (5) an existing brick powerhouse 18 feet by 22 feet, housing one generating unit which would have an

installed generating capacity of 178 kW; (6) a proposed 30-foot-long transmission line at 480 volts; and (7) appurtenant facilities. The owner of the dam and project site is Mr. Roland Prescott. The Applicant estimates that the average annual energy output would be approximately 797,000 kWh.

k. Purpose of Project: The Applicant anticipates that energy will be sold to the Boston Edison Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

a. Type of Application: Exemption (5 MW or Less).

b. Project No: 7223-000.

c. Date Filed: April 14, 1983.

d. Applicant: STS Consultants, Ltd.

e. Name of Project: Fallasburg Dam.

f. Location: Kent County, Michigan.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Mark Sundquist, STS Consultants, Ltd., 3001 S. State Street, Suite 1014, Ann Arbor, Michigan 48104.

i. Comment Date: September 14, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing reservoir with a surface area of 184 acres and a storage capacity of 2,000 acre-feet at power pool elevation of 673.7 feet m.s.l.; (2) an existing rock filled dam that is approximately 35 feet high; (3) an existing powerhouse containing two generating units rated at 450 kW each for a total capacity of 900 kW; (4) proposed transmission facilities; and (5) appurtenant facilities. The estimated average energy output would be 4,500,000 kWh.

k. Purpose of Project: Power produced at the project will be sold to the Montana Power Company.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

a. Type of Application: Preliminary Permit.

b. Project No: 7286-000.

c. Date Filed: May 17, 1983.

d. Applicant: Beulah Associates.

e. Name of Project: Beulah Power Project.

f. Location: On North Fork Malheur River in Malheur County, Oregon.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Tom Forbes, P.O. Box 421, Mercer Island, WA 98040, with a copy to: Joel Rector, Esquire, 4832 Colony Circle, Salt Lake City, Utah 84117.

i. Comment Date: October 7, 1983.

j. Description of Project: The proposed project, to be located at the base of the U.S. Bureau of Reclamation's existing Agency Valley Dam, would consist of a powerhouse with a rated capacity of 2 MW producing about 5.2 million kWh annually. A 69-kV, 2.5-mile-long transmission line would connect the powerhouse to the Idaho Power Company's existing line. The Applicant seeks a 36-month permit to study the feasbility of constructing and operating the project and to prepare an FERC license application. No new road would be required to conduct the studies. The estimated cost of conducting the studies is about $125,000.

k. Purpose of Project: The project power would be sold to either the Idaho Power Company or to the Bonneville Power Administration.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

12a. Type of Application: Preliminary Permit.

b. Project No: 7347-000.

c. Date Filed: June 8, 1983.

d. Applicant: Tuolumne Regional Water District.

e. Name of Project: Pinecrest.

f. Location: Tuolumne County, California; South Fork Stanislaus River.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Gary Egger, Tuolumne Regional Water District, P.O. Box 728, Sonora, California 95370.

i. Comment Date: September 15, 1983.

j. Competing Application: Project No. 6938-000 Date Filed: 12/16/82.

k. Description of Project: The proposed project would utilize the flow released from the existing Strawberry Reservoir owned and operated by the Pacific Gas and Electric Company (PG&E) as a flow regulation component of FERC Project No. 2130 and consist of: (1) A 24-inch-diameter, 200-foot-long-penstock; (2) a powerhouse with a total installed capacity of 400 kw; and (3) a 1300-foot-long, 4-kv transmission line connecting with an existing PG&E transmission line. A preliminary permit does not authorize construction. The applicant seeks a 36-month permit to study the feasibility of constructing and operating the project. These studies would not require construction of new roads and are estimated to cost $110,000. The proposed project would affect United States lands within the Stansilaus National Forest.

l. Purpose of Project: The estimated annual output of 2.46 million kwh would be sold to PG&E.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, D2.

13a. Type of Application: Preliminary Permit.

b. Project No: 7389-000.

c. Date Filed: June 21, 1983.

d. Applicant: Hydro-West, Inc.

e. Name of Project: Range Queen Power Station.

f. Location: On the White River in Rio Blanco County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Eric Jacobson, President, Hydro-West, Inc., Box 2162, Grand Junction, Colorado 81502.

i. Comment Date: October 3, 1983.

j. Description of Project: The proposed project would not use a dam or reservoir and would involve the repairing and subsequent use of existing facilities, owned by the White River Electric Association. The development would consist of: (1) An existing rockfill weir diversion structure; (2) an existing 7,920-foot-long earth channel; (3) a new powerhouse containing either an existing 500-kW turbine or a proposed 500-kW turbine, depending on the outcome of the feasibility study; (4) a new 3-wire, 600-foot-long transmission line to be interconnected with an existing 3-phase, 13,200-volt line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 3,942,000 kWh.

k. Purpose of Project: The most likely market for the energy derived at the proposed project would be either the Public Service Company of Colorado or the White River Electric Association.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $37,000.

14a. Type of Application: Preliminary Permit.

b. Project No: 7391-000.

c. Date Filed: June 21, 1983.

d. Applicant: Power Plant Services.

e. Name of Project: Israel River Project.

f. Location: Israel River in Coos County, New Hampshire.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)—825(r).

h. Contact Person: Gregory S. Cloutier, Power Plant Services, RR1 Box 2, Jefferson, New Hampshire 03583.

i. Comment Date: September 30, 1983.

j. Description of Project: The proposed project would consist of: (1) An existing timber crib dam (currently breached) 16 feet high and 200 feet long with a concrete dam abutment with channel gates 20 feet high and 50 feet long on the north river bank; (2) a reservoir having negligible storage and a surface area of 2.2 acres at a normal water surface elevation of 900 feet m.s.l.; (3) an existing power channel 12 feet deep, 18 feet wide, and 390 feet long; (4) a proposed powerhouse containing two generating units with a total capacity of 400 kW; (5) an existing discharge channel 12 feet deep, 18 feet wide and 780 feet long; and (6) appurtenant facilities. Applicant estimates that the average annual generation would be 2,000,000 kWh. The existing dam and project facilities are owned by the Public Service Company of New Hampshire.

k. Purpose of Project: All project power would be sold to the Public Service Company of New Hampshire.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time the Applicant would perform studies to determine the feasibility of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under permit would be $50,000.

15a. Type of Application: Preliminary Permit.

b. Project No: 7395–000.

c. Date Filed: June 23, 1983.

d. Applicant: W. M. Lewis and Associates, Inc.

e. Name of Project: East Fork Lake Dam Hydro Project.

f. Location: On the East Fork of the Little Miami River near Clermont County, Ohio.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James S. Sigg, W. M. Lewis and Associates, Inc., 750 Fifth Street, P. O. Box 1383, Portsmouth, Ohio 45662.

i. Comment Date: September 30, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' East Fork Dam and Reservoir, and would consist of: (1) A proposed penstock extending from the outlet works downstream; (2) a new powerhouse with a total installed capacity of 8 MW; (3) a new tailrace; (4) transmission lines; and (5) appurtenant facilities. Applicant estimates that the average annual energy generation would be 42 GWh. All power generated would be sold to a local utility.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. *Proposed Scope of Studies under Permit*—Applicant has requested a 36-month permit to prepare a definitive project report, including preliminary designs, and economic feasibility studies, hydrological studies, environmental and social studies, and soil and foundation data. The cost of the aforementioned activities along with obtaining agreements with other Federal, State, and local agencies, is estimated to be $50,000.

m. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

16a. Type of Application: Preliminary Permit.

b. Project No: 7396–000.

c. Date Filed: June 23, 1983.

d. Applicant: County of Los Alamos, New Mexico.

e. Name of Project: Abiquiu.

f. Location: On Rio Chama in Rio Arriba County, New Mexico.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Ronald C. Jack, 2300 Trinity Drive, P.O. Box 30, Los Alamos, New Mexico 87544.

i. Comment Date: October 3, 1983.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Abiquiu Dam and would consist of: (1) A new 11-foot-diameter steel liner within the existing 12-foot-diameter outlet conduit; (2) a new bypass; (3) a new powerhouse containing two generating units having a total rated capacity of 8,000-kW operated under a 167-foot head and at a flow of 670 cfs; (4) a modified tailrace; (5) a new transmission line; and (6) appurtenant facilities.

k. Purpose of Project: Applicant would integrate the power produced into its power distribution system. Applicant estimates that the average annual energy output would be 37.5 million kWh.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months, during which time it would perform studies and would prepare an application for an FERC license. Applicant estimates the cost of the work under the permit would be $100,000.

17a. Type of Application: Preliminary Permit.

b. Project No: 7409–000.

c. Date Filed: June 28, 1983.

d. Applicant: Fairview City Corporation.

e. Name of Project: Cottonwood Creek Project.

f. Location: Cottonwood Creek, tributary to Sanpitch River in Sanpete County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Eddie Cox, Mayor and Mr. Kent Miner, City Manager, P.O. Box 97, Fairview, Utah 84629.

i. Comment Date: October 11, 1983.

j. Description of Project: The proposed project would not use a dam or reservoir and would consist of: (1) A proposed 20 x 40-foot diversion structure, diverting water from Cottonwood Creek at the confluence of Left Fork and Blind Fork; (2) a proposed 9,300-foot-long penstock; (3) a new powerhouse containing a single generating unit having a rated capacity of 973 kW; (4) an existing 12.46-kV transmission line; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 2,550,000 kWh.

k. Purpose of Project: The energy derived at the proposed project would be used for municipal purposes by the Applicant.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $5,000.

18a. Type of Application: Preliminary Permit.

b. Project No: 7428–000.

c. Date Filed: July 6, 1983.

d. Applicant: Geldart Enterprises, Inc.

e. Name of Project: Bog River.

f. Location: Bog River, St. Lawrence County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Howard Geldart, Geldart Enterprises, Inc., 3916 Ralph Street, Seaford, L.I., New York 11783.

i. Comment Date: October 7, 1983.

j. Description of Project: The proposed project would consist of two small developments. The upper development would include: (1) The existing Upper Lows Dam, a concrete gravity structure 18 feet high and 150 feet long; (2) Lows Lake with a surface area of 4,600 acres and a maximum storage capacity of 19,500 acre feet at 1,742 feet msl; (3) a reconstructed powerhouse containing one or more turbine/generator units with a total capacity of 100 kW; and (4) a 13.2-kV transmission line approximately 10 miles long. The lower development would include: (1) The Lower Lows Dam, an existing concrete buttress structure 23 feet high and 250 feet long; (2) Hitchins Pond with an area of 367 acres and a maximum storage capacity of 1,835 acre-feet at 1,723 feet msl; (3) a 150-foot-long penstock; (4) an existing powerhouse; (5) a renovated, horizontal-shaft turbine/generator unit with a capacity of 250 kW; and (6) a short, low voltage transmission line to be rebuilt.

k. Purpose of Project: The average annual generation of 1.95 million kWh would be sold to the local electric utility company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposed Scope and Cost of Studies under Permit: Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform surveys and geological investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under the permit would be $30,000.

19a. Type of Application: Preliminary Permit.

b. Project No: 7433–000.

c. Date Filed: July 7, 1983.

d. Applicant: Grisdale Hill Company.

e. Name of Project: Sun River Diversion Dam.

f. Location: Lewis and Clark Counties, Montana.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William S. Fowler, Mitex, Inc., 91 Newbury Street, Boston, Massachusetts 02116 or Ms. Joy Leon, Morrison and Foerster, 1920 N Street NW., Washington, D.C. 20036.

i. Comment Date: October 3, 1983.

j. Description of Project: The proposed project would consist of: (1) A proposed trash rack; (2) a proposed pressure bifurcation; (3) a proposed tunnel and penstock; (4) a proposed 1.6 MW capacity powerhouse; (5) a

proposed transmission line; and (6) appurtenant facilities. The Applicant estimates the average annual energy output to be 10,100,000 kWh. The Applicant would utilize an existing diversion dam and lands owned by the Bureau of Reclamation and the U.S. Forest Service, respectively.

k. Proposed Scope of Studies under Permit—A preliminary permit, if issued, does not utilize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months to conduct feasibility studies, prepare final design plans, and a license application, along with obtaining agreements with the U.S. Forest Service and the Bureau of Reclamation. Applicant estimates the cost of this work would be $80,000.

l. Purpose of Preliminary: A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and exminations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for license.

m. This notice also consists of the following standard paragraphs: A5, A7, B, C, and D2.

20a. Type of Application: Preliminary Permit.

b. Project No: 7435–000.

c. Date Filed: July 8, 1983.

d. Applicant: The City of Alabama.

e. Name of Project: Claiborne Lock and Dam.

f. Location: On the Alabama River in Monroe County, Alabama.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Arnold Fieldman, Channing D. Strother, Jr., Goldberg, Fieldman & Letham, P. C., 1100 Fifteenth Street NW., Washington, D.C. 20005.

i. Comment Date: October 3, 1983.

j. Competing Application: Project No. 7231, Date Filed: April 18, 1983. Notice Expiration Date: July 25, 1983.

k. Description of Project: The proposed project would utiiize the existing Army Corps of Engineers' Claiborne Lock and Dam and consist of: (1) A proposed powerhouse which will contain an installed generating capacity of 15 MW; (2) a proposed 10-mile-long, 44-kV transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual energy generation to be 57.5 GWh.

l. Purpose of Project: Power produced by the project will be used by the Applicant.

m. This notice also consists of the following standard paragraphs: A8, A9, B, C, and D2.

n. *Proposed Scope of Studies under Permit:*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $80,000.

o. *Purpose of Preliminary:*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and exminations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

21a. Type of Application: Preliminary Permit.

b. Project No: 7436–000.

c. Date Filed: July 11, 1983.

d. Applicant: Onondaga County Water Authority.

e. Name of Project: Otisco Lake Reservoir Project.

f. Location: Otisco Lake and Nine Mile Creek in Onondaga County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: James J. Welch, Administrator Director, Onondaga County Water Authority, P.O. Box 9, Syracuse, New York 13211.

i. Comment Date: October 6, 1983.

j. Description of Project: The proposed project would consist of: (1) The existing Otisco Lake Reservoir Dam, a concrete and masonry structure 18 feet high and 426 feet long; (2) a reservoir with a surface area of 512 acres, a storage capacity of 2,000 acre-feet and normal water surface elevation of 788.2 feet U.S.G.S. datum; (3) a new intake structure; (4) a new powerhouse containing one generating unit with a capacity of 55 kW; and (6) appurtenant facilities. The Applicant estimates the average annual generation would be 120,000 kWh. The dam and existing project facilities are owned by the Applicant.

k. Purpose of Project: All project power would be sold to the New York State Gas & Electric Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope and Cost of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 24 months, during which time the Applicant would perform studies to determine the feasibity of the project. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimated the cost of the studies under permit would be $35,000.

a. Type of Application: 5 MW Exemption.

b. Project No: 7345–000.

c. Date Filed: June 6, 1983.

d. Applicant: Manti City Corporation.

e. Name of Project: Manti Canyon Upper Project.

f. Location: Manti Creek in Sanpete County, Utah.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980 (16 U.S.C. 2705 and 2708 *as amended*).

h. Contact Person: Patrick M. Hanlon, Esq., Shea & Gardner, 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

i. Comment Date: September 6, 1983.

j. Description of Project: The Upper Manti project is currently a constructed operating unlicensed project. Most of the project is located within the Manti-Lasal National Forest. Proposed improvements as described in the exemption application include: (1) Modifications to the existing powerhouse; (2) removal of the existing 500 kW turbine/generator unit; (3) installation of a proposed turbine/generator unit with a capacity of 1,508 kW; (4) construction of a 150-foot-long, 36 to 42-inch-diameter overflow line; (5) removal and abandonment of a 10-foot-long overflow line and a 150-foot-long overflow ditch; (6) construction of an overflow box; and (7) construction of an energy dissipator. Existing project works to remain in use include: (1) Nine collection pipelines varying from 3 to 6 inches in diameter and aggregating 10,495 feet in length; (2) a 10 to 12-inch-diameter, 28,000-foot-long, steel and iron penstock; (3) a 9,650-foot-long, 2.4-kV transmission line; and (4) appurtenant facilities. The proposed improvements will increase the average annual energy from 3,013 MWh to 9,720 MWh.

k. Purpose of Project: Project energy is and will continue to be used by the city in their power system.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

a. Type of Application: Preliminary Permit.

b. Project No: 7419–000.

c. Date Filed: July 5, 1983.

d. Applicant: Metropolitan District Commission.

e. Name of Project: Cochrane Dam.

f. Location: Charles River, Charles River Village, Norfolk County, Massachusetts.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Alfred F. Ferullo, Director of Environmental Quality, MDC, 20 Somerset Street, Boston, Massachusetts 02108.

i. Comment Date: September 26, 1983.

j. Description of Project The proposed project would consist of: (1) An existing 170-foot-long, 8-foot-high masonry dam; (2) an existing 80-acre reservoir at elevation 105 feet M.S.L. with no usable storage capactiy; (3) an existing 30-foot-long masonry diversiion structure; (4) a new powerhouse containing a single 312-kW turbine-generator; (5) an existing 300-foot-long tailrace channel; (6) a new 300-foot-long transmission line; and (7) appurtenant facilities. The project is owned by the Applicant. The project would generate up tp 1,311,000 kWh annually.

k. Purpose of Project: Energy produced at the project would be sold to Boston Edison Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

m. Proposeds Scope of Studies under Permit: Applicant seeks issuance of a preliminary permit for a period of 18 months, during which time it would perform surveys and geologic investigations, determine the economic feasibility of the project, reach final agreement on sale of project power, secure financing commitments, consult with Federal, State, and local government agencies concerning the potential environmental effects of the project, and prepare an application for FERC license, including an environmental report. Applicant estimates the cost of studies under permit would be $65,000.

a. Type of Application: Preliminary Permit.

b. Project No: 7408–000.

c. Date Filed: June 28, 1983.

d. Applicant: Fairview City Corporation.

e. Name of Project: Birch Creek.

f. Location: On the Birch Creek Tributary to the Sanpitch River in Sanpete County, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Eddie Cox, Mayor and Mr. Kent Miner, City Manager, P.O. Box 97, Fairview, Utah 84629.

i. Comment Date: October 3, 1983.

j. Description of Project: The proposed project would not use a dam or reservoir, and there are no existing facilities. The development would consist of: (1) A proposed 20 x 30-foot diversion structure, diverting water from Birch Creek at the confluence of the North and South Forks; (2) a proposed 4,400-foot-long penstock; (3) a new powerhouse containing a single generating unit having a rated capacity of 135 kW; (4) a new 12.46-kV, 4-wire transmission line; and (5) appurtenant facilities. The applicant estimates that the average annual energy output would be 622.7 MWh.

k. Purpose of Project: The energy derived at the proposed project would be utilized by the Applicant for municipal purposes.

l. This notice also consists of the following standard paragraphs: A5, A7, A9,. B, C and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $5,000.

25a. Type of Application: Preliminary Permit.

b. Project No: 7413–000.

c. Date Filed: June 29, 1983.

d. Applicant: Dam 14 Development Ltd.

e. Name of Project: Kentucky River Lock and Dam No. 14.

f. Location: On the Kentucky River in Lee County, Kentucky.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Kenneth Lever, 4900 IDS Center, Minneapolis, Minnesota 55402.

i. Comment Date: October 3, 1983.

j. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Kentucky River Lock and Dam No. 14 and consist of: (1) A proposed powerhouse to contain an installed generating capacity of 4 MW; (2) a proposed transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual average generation to be 13.0 GWh.

k. Purpose of Project: The Applicant anticipates marketing the power output to the Kentucky Utility Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $50,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

26a. Type of Application: Conduit Exemption.

b. Project No: 6778–001.

c. Date Filed: March 18, 1983.

d. Applicant: Marcos Ranches.

e. Name of Project: N–32.

f. Location: N–32 Canal, near Jerome, in Jerome County, Idaho.

g. Filed Pursuant to: Section 30 of the Federal Power Act, 16 U.S.C. 823(a).

h. Contact Person: Mr. Gerald Martens, Route # 3, Jerome, Idaho 83338.

i. Comment Date: September 12, 1983.

j. Description of Project: The proposed project would utilize an existing diversion structure on N–32 Canal and would consist of: (1) A concrete inlet structure at elevation 3512 feet; (2) a 2,200-foot-long, 30-inch-diameter pipeline; (3) a 1,400-foot-long, 24-inch-diameter penstock; and (4) a powerhouse containing two turbine-generator units with a total installed capacity of 550 kW and an average annual generation of 2.4 GWh. The project utilizes irrigation return flow from the North Side Canal Company to the Snake River via the N–32 lateral. Project power would be sold to a public utility.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragrahs: A3, A9, B, C and D3b.

27a. Type of Application: Major License (Under 5 MW).

b. Project No: 7320–000.

c. Date Filed: May 31, 1983.

d. Applicant: Niagara Mohawk Power Corporation.

e. Name of Project: Chasm.

f. Location: On the Salmon River in the Town of Malone, Franklin County, New York.

g. Filed Pursuant to: 16 U.S.C. 791(a)–825(r).

h. Contact Person: John W. Keib, Niagara Mohawk Power Corporation, 300 Erie Boulevard West, Syracuse, New York 13202.

i. Comment Date: September 26, 1983.

j. Description of Project: The existing run-of-river project consists of: (1) A 201-foot-long 32-foot maximum height concrete gravity-type dam having a spillway section with crest elevation 1283.8 feet m.s.l. about 100 feet long surmounted by 2-foot flashboards and having an intake section with steel trash racks and headgates; (2) a reservoir having a surface area of 9 acres and a net storage capacity of 30 acre-feet at normal pool elevation 1285.8 feet m.s.l.; (3) a riveted-steel pipeline comprising an 8-foot-diameter 99-foot-long section and a 7-foot-diameter 2,038-foot-long section and a 6-foot-diameter 1,243-foot-long section; (4) a powerhouse containing three generating units having a total rated capacity of 3,350-kW operated under a 268-foot head and at a flow of 195 cfs; (5) a 20-foot-wide 850-foot-long tailrace; and (6) appurtenant facilities.

l. Purpose of Project: Project energy is used by Applicant to service its customers within its franchise area. Applicant estimates the annual generation averages 24,218,000 kWh.

m. This notice also consists of the following standard paragrahs: A3, A9, C, B and D1.

28a. Type of Application: Major License (Over 5 MW).

b. Project No: 6379–001.

c. Date Filed: May 9, 1983.

d. Applicant: City of Rochester.

e. Name of Project: Rochester Upper Falls.

f. Location: On the Genessee River in Monroe County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Peter A. Korn, City Manager, City Hall, 30 Church Street, Rochester, New York 14614.

i. Comment Date: September 1, 1983.

j. Competing Application: Project No. 2582–000. Date Filed: August 31, 1982.

k. Description of Project: The proposed project would consist of: (1) The existing Central Avenue Dam 11 feet high and 305 feet long; (2) a reservoir having a normal pool elevation of 482.64 feet City of Rochester datum, a surface elevation of 20 acres, and negligible storage capacity; (3) a new intake structure; (4) a headrace consisting of two 17 feet high by 14 feet wide box culverts 300 feet long; (5) a new forebay structure; (6) a new 14-foot-diameter steel penstock 173 feet long;

(7) a new powerhouse containing one generating unit with a capacity 14.2 MW; (8) enlargement of the existing Station #2 tailrace; (9) a new 13.8-kV transmission line 1,200 feet long; and (10) appurtenant facilities. The City of Rochester owns the Central Avenue Dam. The Applicant estimates the average annual generation would be 39.3 GWh and the project would cost $19,700,000.

l. Purpose of Project: All project power would be sold to Rochester Gas & Electric Corporation.

m. This notice also consists of the following standard paragrahs: A4, B and C.

29a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No.: 6738–000.

c. Date Filed: October 1, 1982.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Canyon Creek No. 2.

f. Location: Whatcom County, Washington; Canyon Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would consist of: (1) A screened intake structure at the stream bed diverting water at an elevation of 2,430 feet; (2) a 9,900-foot long, 66-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 1,700-kW; (4) a switchyard; and (5) a 69-kV, 0.08-mile-long transmission line. The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 11.01 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

30a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No.: 6720–001.

c. Date Filed: May 17, 1983.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Panther Creek No. 1.

f. Location: Whatcom County, Washington; Panther Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would consist of: (1) A screened intake structure at the stream bed diverting water at an elevation of 2,430 feet; (2) a 11,000 foot long, 54-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 2,900-kW; (4) a switchyard; and (5) a 15-kV, 0.06-mile-long transmission line. The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 18.79 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragrapha: A1, A9, B, C, and D3a.

31a. Type of Application: License for a Major Water Project (5MW or less).

b. Project No.: 4238–001.

c. Date Filed: April 13, 1983.

d. Applicant: The Racehorse Company.

e. Name of Project: Racehorse Creek Project.

f. Location: On Racehorse Creek, tributary of North Fork Nooksack River, near Maple Falls, in Whatcom County, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. William L. Devine, President, W.L.D. Glacier Energy Company, P.O. Box 68, 8040 Mt. Baker Highway, Maple Falls, Washington 98266.

i. Comment Date: September 22, 1983.

j. Description of Project: The proposed project would consist of: (1) A 9-foot-high, 60-foot-long concrete diversion structure at elevation 1800; (2) a 36-inch-diameter, 11,500-foot-long diversion pipeline; (3) a 36-inch-diameter, 3,752-foot-long steel penstock; (4) a powerhouse to contain one generating unit with a rated capacity of 4,400 kW and; (5) a 1.5-mile-long, 55-kV transmission line to connect to an existing Puget Power Company transmission line. The Applicant estimates the average annual energy production of the project to be 17.73 GWh. The total cost of the project is estimated to be $8.4 million.

k. This notice also consists of the following standard paragraphs: A2, A, B, C, and D1.

32a. Type of Application: License (under 5 MW).

b. Project No.: 7266–000.

c. Date Filed: May 9, 1983.

d. Applicant: Colorado Hydro-Power Corporation (c/o National Hydro Corporation).

e. Name of Project: Taylor Park Hydro Project.

f. Location: On Taylor River in Gunnison County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: George L. Smith, Project Manager, National Hydro Corporation, P.O. Box 1016, Idaho Falls, Idaho 83402; and Brian French, Manager of Engineering, National Hydro Corporation, 77 Franklin Street, Boston, MA 02110.

i. Comment Date: September 26, 1983.

j. Description of Project: The proposed project would utilize the existing Bureau of Reclamation's Taylor Park Dam and Reservoir and would consist of: (1) A new 60d-inch steel penstock utilizing the existing outlet works near the right dam abutment; (2) a new powerhouse containing 2 turbine-generator units rated at 2,400 kW and 1,200 kW for a total rated capacity of 3,600 kW; (3) a tailrace returning flow to the river in the outlet works channel; (4) a switchyard and connection to an existing transmission line to be upgraded; and (5) appurtenant facilities. The Applicant estimates that the average annual energy output would be 13,550,000 kWh. Project energy would be sold to local utilities.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

33a. Type of Application: Exemption from Licensing.

b. Project No. 6677–000.

c. Date Filed: September 7, 1982.

d. Applicant: Intermountain West, Inc.

e. Name of Project: Oxbow Bend Hydroelectric Project.

f. Location: On South Fork Payette River, near Lowman, within Boise National Forest, in Boise County, Idaho.

g. Filed Pursuant to: Section 408 of the Energy Security Act, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Bruce W. Blaser, Intermountain West, Inc., 4378 Kitsap Street, Boise, Idaho 83703.

i. Comment Date: September 1, 1983.

j. Competing Application: Project No. 6329–000 Application filed on May 13, 1982. Notice of Application was issued on June 28, 1982, and expired on September 7, 1982.

k. Description of Project: The proposed project would consist of: (1) An existing diversion structure; (2) an inlet structure; (3) a 1,000-foot-long existing tunnel; (4) a 90-foot-long penstock; (5) a powerhouse to contain one generator unit with a rated capacity of 2,172 kW; and (6) a 14-mile-long, 34.5-kV transmission line to connect to an existing Idaho Power Company transmission line. The Applicant estimates that the average annual energy generation of 8.18 GWh would be sold to local utilities.

l. This notice also consists of the following standard paragraphs: A2, A9, B, C, and D3a.

34a. Type of Application: Preliminary Permit.

b. Project No. 7144–001.

c. Date Filed: June 6, 1983.

d. Applicant: Raymond N. Gload.

e. Name of Project: Sprite Creek Power Project.

f. Location: On Sprite Creek, in Fulton County, near Stratford, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Raymond N. Gload, 1154 Waverly Place, Schenectady, New York 12308.

i. Comment Date: September 22, 1983.

j. Description of Project: The project would consist of: (1) An existing dam approximately 350 feet long and 40 feet high composed of natural rock and concrete; (2) an existing reservoir with normal surface elevation of 1543 feet above M.S.L., and a storage capacity of 6244 acre-feet; (3) approximately 18,500 feet of proposed penstock, 60 inches in diameter, constructed either of steel or reinforced concrete; (4) a renovated powerhouse approximately 60 feet long and 30 feet wide, housing one or more turbine/generators with a total capacity of 4177 kW; (5) a proposed 12,500-volt transmission line approximately 5500 feet in length; and (6) appurtenant facilities. Applicant estimates that the average annual energy generation would be 36,485,400 kWh. The owner of the dam is the New York State Department of Environmental Conservation.

k. Purpose of Project: The Applicant anticipates that energy will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks

issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare and application for an FERC license. Applicant estimates the cost of the studies under the permit would be $30,000.

35a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No. 6718–000.

c. Date Filed: September 27, 1982.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Canyon Creek No. 3.

f. Location: Whatcom County, Washington; Canyon Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would consist of: (1) A screened intake structure at the stream bed diverting water at an elevation of 2,830 feet; (2) a 16,800-foot-long, 66-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 2,400-kW; (4) a switchyard; and (5) a 15-kV, 0.95-mile-long transmission line. The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 15.55 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraph: A1, A9, B, C, and D3a.

36a. Type of Application: Exemption from Licensing (5 MW or less).

b. Project No. 6722–001.

c. Date Filed: May 17, 1983.

d. Applicant: Northwest Resources Generating Company.

e. Name of Project: Ruby Creek No. 1.

f. Location: Whatcom County, Washington; Ruby Creek.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Raymond Michener, P.O. Box 2176, Tri-Cities, Washington 99302.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would consist of: (1) A screened intake structure at the stream bed diverting water at an elevation of 1,880 feet; (2) a 7,400-foot-long, 84-inch-diameter penstock; (3) a powerhouse with a total installed capacity of 2,500-kW; (4) a switchyard; and (5) a 69-kV, 2.95-mile-long transmission line. The proposed project would affect United States lands within the Okanogan National Forest.

k. Purpose of Project: The estimated annual output of 16.20 million kWh generated by the project would be sold to the Seattle City Light.

l. This notice also consists of the following standard paragraph: A1, A9, B, C, and D3a.

37 a. Type of Application: Major License (under 5 MW).

b. Project No: 4512–001.

c. Date Filed: May 27, 1983.

d. Applicant: City of Bountiful, Utah.

e. Name of Project: Joes Valley Dam.

f. Location: At Seely Creek and Joes Valley Reservoir, in Emery County, near Orangeville, Utah.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. W. Berry Hutchings, Manager, City of Bountiful Light and Power, 198 South 200 West, Bountiful, Utah 84010.

i. Comment Date: September 16, 1983.

j. Description of Project: The proposed project would utilize the existing Bureau of Reclamation Joes Valley Dam, Reservoir, and Outlet works and would consist of: (1) A new 45-foot-diameter penstock connecting the proposed powerhouse with the existing outlet works; (2) a new concrete block powerhouse, approximately 26 feet by 36 feet housing three turbine-generator units with a total installed capacity of 3,000 kW; (3) construction of either a 12-foot-wide access road, or a bridge over the existing outlet stilling basin, giving access to the powerplant; (4) a proposed 12,500-volt transmission line, ranging in distance from 6 miles to 10.5 miles, interconnecting with the existing Utah Power and Light Company distribution system, and (5) other appurtenances. Applicant estimates an average annual energy generation of 9,516,000 kWh. This license application was filed during the term of the Applicant's preliminary permit for Project No. 4512.

k. Purpose of Project: The Energy generated at the proposed project would be utilized by the City of Bountiful for municipal purposes.

1. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

38 a. Type of Application: Conduit Exemption.

b. Project No: 7358–000.

c. Date Filed: June 13, 1983.

d. Applicant: Salt Lake City Water Conservancy District.

e. Name of Project: 11400 South Project.

f. Location: 11400 South Pump Station on the Cross Valley Water Transmission Pipeline in the Town of Draper, Salt Lake County, Utah.

g. Filed Pursuant to: Section 30 of the Federal Power Act (16 U.S.C. 823(a)).

h. Contact Person: Mr. Richard P. Bay, Salt Lake City Water Conservancy District, P.O. Box 15618, Salt Lake City, Utah 84115.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would be located on a treated water supply pipeline currently under construction and would consist of: (1) A 20-foot-long, 24-inch-diameter steel pipeline; (2) a 30-foot-long, 24-inch-diameter steel pipeline; (3) one reversible pump-turbine with a capacity of 260 kW; and (4) appurtenant facilities. The estimated average annual generation would be 1,960 MWh.

k. Purpose of Project: Project energy would be sold to Utah Power & Light Co.

1. This notice also consists of the following standard paragraphs: A3, B, C and D3b.

m. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

39 a. Type of Application: Exemption Under 5 MW.

b. Project No: 7192–000.

c. Date Filed: April 4, 1983.

d. Applicant: Steven W. Ricketts.

e. Name of Project: Canyon Creek.

f. Location: On Canyon Creek, near Georgetown, in El Dorado County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Steven W. Ricketts, 6375 Auburn Blvd., Citrus Heights, California.

i. Comment Date: September 6, 1983.

j. Description of Project: The proposed run-of-river project would consist of: (1) A 32-inch-high, 32-foot-long diversion structure at elevation 1750 feet; (2) a 4,800-foot-long, 16-inch-diameter steel pipeline; (3) a 2,200-foot-long, 16-inch-diameter steel penstock; (4) a powerhouse containing a single turbine-generator unit with a rated capacity of 675 kW and an average annual generation of 2.0 GWh; (5) a 50-foot-long, 16-inch-diameter buried pipe tailrace; and (6) 4,320 feet of 12.5-kV transmission line. Project power would be sold to Pacific Gas and Electric Company. The project would affect Bureau of Land Management lands.

An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption form licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

40 a. Type of Application: Preliminary Permit.

b. Project No: 7412–000.

c. Date Filed: June 29, 1983.

d. Applicant: Dam 13 Development Ltd.

e. Name of Project: Kentucky River Lock and Dam No. 13.

f. Location: On the Kentucky River in Lee County, Kentucky.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Mr. Kenneth Lever, 4900 IDS Center, Minneapolis, Minnesota 55402.

i. Comment Date: October 3, 1983.

j. Description of Project: The proposed project would utilize the existing Army Corps of Engineers' Kentucky River Lock and Dam No. 13 and consist of: (1) A proposed powerhouse to contain an installed gnerating capacity of 4.5 MW; (2) a proposed transmission line; and (3) appurtenant facilities. The Applicant estimates the average annual energy generation to be 21.0 GWh.

k. Purpose of Project: The Applicant anticipates marketing the power output to the Kentucky Utility Company.

1. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The Applicant seeks issuance of a preliminary permit for a period of 36 months. During this time the significant legal, institutional, engineering, environmental, marketing, economic and

financial aspects of the project will be defined, investigated, and assessed to support an investment decision. The report of the proposed study will address whether or not a commitment to implementation is warranted, and, if findings are positive, the Applicant intends to submit a license application. The Applicant's estimated total cost for performing these studies is $100,000.

n. *Purpose of Preliminary Permit*—A preliminary permit does not authorize construction. A permit, if issued, gives the Permittee, during the term of the permit, the right of priority of application for license while the Permittee undertakes the necessary studies and examinations to determine the engineering, economic, and environmental feasibility of the proposed project, the market for power, and all other information necessary for inclusion in an application for a license.

41a. Type of Application: Amendment of License.

b. Project No. 2934–004.

c. Date Filed: March 24, 1983.

d. Applicant: New York State Electric & Gas Corporation.

e. Name of Project: Upper Mechanicville.

f. Location: On the Hudson River in Saratoga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Kathy Stall, New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghamton, New York 13902.

i. Comment Date: September 1, 1983.

j. Competing Application: Project No. 4684–001. Date Filed: February 2, 1982.

k. Description of Project: The project as licensed consists of: (1) The existing New York State Department of Transportation owned Upper Mechanicville dam 19 feet high and 700 feet long with a 2.5-foot-high flashboards; (2) a reservoir with a surface area of 260 acres, a storage capacity of 9,425 acre-feet and normal water surface elevation of 68.82 feet m.s.l.; (3) an intake channel with two reinforced concrete guide walls and three 35-foot-diameter cofferdam walls constructed of sheet piling; (4) a powerhouse containing two generating units with a total capacity of 16.8 MW; (5) a tailrace 1,200 feet long and 120 feet wide with a bi-level bottom; (6) a 34.5-kV transmission line 1.10 miles long; and (7) appurtenant facilities. The estimated annual generation of the project is 76,800,000 kWh.

The Applicant proposes to amend the license by: (1) Replacing the 2.5-foot-high flashboards with 6-foot-high crest gates; (2) increasing the reservoir to a normal water surface elevation of 72.6 feet USGS datum, with a surface area of 360 acres and storage capacity of 10,735 acre-feet; and (3) increasing the generating capacity of the powerhouse to 18.5 MW. The estimated annual generation would be increased to 95,100,000 kWh. The estimated project cost would be $42,712,000.

l. Purpose of Project; All project power would be used to meet the Applicant's system needs.

m. This notice also consists of the following standard paragraphs: A4, B, C and D1.

42a. Type of Application: Conduit Exemption.

b. Project No. 7330–000.

c. Date Filed: June 2, 1983.

d. Applicant: Tehachapi-Cummings County Water District.

e. Name of Project: Power Recovery No. 1.

f. Location: Tehachapi, Kern County, California.

g. Filed Pursuant to: Section 30 of the Federal Power Act.

h. Contact Person: Mr. Robert Jasper, Tehachapi-Cummings County Water District, 22901 Banducci Road, P.O. Box 326, Tehachapi, California 93581–0326.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would consist of: (1) A bypass conduit at the existing pressure reducing station at Station 826+70 of the 27-inch-diameter pipeline which imports water from the California Aqueduct; (2) a single turbine-generator unit with a rated capacity of 0.46 kW and an average annual generation of 150,000 kWh; and (3) 100 feet of 12.0-kV transmission line. Project power would be sold to Southern California Edison Company. Applicant estimates the cost of construction at $77,165.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D3b.

43a. Type of Application: Exemption (Under 5 MW).

b. Project No. 7279–000.

c. Date Filed: May 16, 1983.

d. Applicant: Howard Paul Luckey.

e. Name of Project: Luckey Hydro.

f. Location: Natural Springs near Hornbrook, in Siskiyou County, California.

g. Filed Pursuant to: Section 408 of the Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Mr. Howard P. Luckey, P.O. Box 889, Yreka, California 96097.

i. Comment Date: September 1, 1983.

j. Description of Project: The proposed project would consist of: (1) Six natural springs diverted at their source on the Luckey Ranch to a common tank with a 60-cubic-foot capacity; (2) an 800-foot-long, 14-inch-diameter steel penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 50 kW and an average annual generation of 0.294 GWh; (4) an 18-inch-diameter, 60-foot-long, steel pipe tailrace discharging into Cold Creek, a Klamath River tributary; and (5) 2,000 feet of 12.0-kV transmission line. Project power would be sold to Pacific Power & Light Company. Applicant estimates the cost of construction at $55,000.

An exemption if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C and D3a.

44a. Type of Application: Exemption for Small Hydroelectric Power Project of 5 MW or Less Capacity.

b. Project NO: 7086–001.

c. Date Filed: June 13, 1983.

d. Applicant: Confederated Salish and Kootenai Tribes of the Flathead Reservation.

e. Name of Project: Boulder Creek Hydro Project.

f. Location: On the Boulder Creek in Lake County, Montana.

g. Filed Pursuant to: Section 408, Energy Security Act of 1980, 16 U.S.C. 2705 and 2708 *as amended.*

h. Contact Person: Thomas E. Pablo, Chairman, Confederated Salish and Kootenai Tribes of the Flathead Reservation, P.O. Box 278, Pablo, Montana 59855.

i. Comment Date: August 29, 1983.

j. Description of Project: The proposed Boulder Creek Hydro Project located on the Flathead Indian Reservation would consist of: (1) A proposed 16-foot-long by 60-inch-high concrete diversion structure; (2) a small diversion pool of .15 acres; (3) a new 1,100-foot-long buried penstock; (4) a proposed 22-foot-long by 16-foot wide reinforced concrete powerhouse; (5) transmission lines; (6) appurtenant facilities. The Applicant estimates the capacity of the project would be 320 KW with an average annual generation of 1,842 MWH. All power generated would be sold to a local utility company.

k. This notice also consists of the following standard paragraphs: A1, A9, B, C, and D3a.

l. Purpose of Exemption: An exemption, if issued, gives the Exemptee priority of control, development, and operation of the project under the terms of the exemption from licensing, and protects the Exemptee from permit or license applicants that would seek to take or develop the project.

Competing Applications

A1. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in the project, or a notice of intent to file such an application. Any qualified small hydroelictric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A2. Exemption for Small Hydroelectric Power Project under 5MW Capacity—Any qualified license or conduit exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license or conduit exemption application that proposes to develop at least 7.5 megawatts in that project, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license or conduit exemption

application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit and small hydroelectric exemption will not be accepted in response to this notice.

A3. License or Conduit Exemption—Any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing license, conduit exemption, or small hydroelectric exemption application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

This provision is subject to the following exception: if an application described in this notice was filed by the preliminary permittee during the term of the permit, a small hydroelectric exemption application may be filed by the permittee only (license and conduit exemption applications are not affected by this restriction).

A4. License or Conduit Exemption—Public notice of the filing of the initial license, small hydroelectric exemption or conduit exemption application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing application for license, conduit exemption, small hydroelectric exemption, or preliminary permit, or notices of intent to file competing applications, must be filed in response to and in compliance with the public notice of the initial license, small hydroelectric exemption or conduit exemption application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit: Existing Dam or Natural Water Feature Project—Anyone desiring to file a competing application for preliminary permit for a proposed project at an existing dam or natural water feature project, must submit the competing application to the Commission on or brfore 30 days after the specified comment date for the particular application (see 18 CFR 4.30 to 4.33 (1982)). A notice of intent to file a competing application for preliminary permit will not be accepted for filing.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A. Preliminary Permit: No Existing Dam—Anyone desiring to file a competing application for preliminary permit for a proposed project where no dam exists or where there are proposed major modifications, must submit to the Commission on or before the specified comment date for the particular application, the competing application itself, or a notice of intent to file such an application. Submission of a temely notice of intent allows an interested person to file the competing preliminary permit application no later than 60 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.33 (a) and (d).

A7. Preliminary Permit—Except as provided in the following paragraph, any qualified license, conduit exemption, or small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing license, conduit exemption, or small hydroelectric exemption application or a notice intent to file such an application. Submission of a timely notice of intent to file a license, conduit exemption, or small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing license application must conform with 18 CFR 4.33 (a) and (d).

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit applications on notices of intent. Any competing preliminary permit application, or notice of intent to file a competing preliminary permit application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing preliminary permit applications or notices of intent to file a preliminary permit may be filed in response to this notice.

Any qualified small hydroelectric exemption applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, either a competing small hydroelectric exemption application or a notice of intent to file such an application. Submission of a timely notice of intent to file a small hydroelectric exemption application allows an interested person to file the competing application no later than 120 days after the specified comment date for the particular application.

In addition, any qualified license or conduit exemption applicant desiring to file a competing application may file the subject application until: (1) A preliminary permit with which the subject license or conduit exemption application would compete is issued, or (2) the earliest specified comment date for any license, conduit exemption, or small hydroelectric exemption application with which the subject license or conduit exemption application would compete; whichever occurs first.

A competing licensee application must conform with 18 CFR 4.33 (a) and (d).

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either: (1) A preliminary permit application or (2) a license, small hydroelectric exemption, or conduit exemption application, and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions To Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "COMMENTS," "NOTICE OF INTENT TO FILE COMPETING APPLICATION," "COMPETING APPLICATION," "PROTEST" or "MOTION TO INTERVENE," as applicable, and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.. An additional copy must be sent to: Fred E. Springer, Chief, Project Management Branch, Division of Hydropower Licensing, Federal Energy Regulatory Commission, Room 208 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L. 88-29, and other applicable statutes. No other formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for fiing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service, the National Marine Fisheries Service, and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: August 1, 1983.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21244 Filed 8-3-83; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL TRADE COMMISSION

Granting of Request for Early Termination of the Waiting Period Under the Premerger Notification Rules

Section 7A of the Clayton Act, 15 U.S.C. 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Federal Trade Commission and the Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the **Federal Register**.

The following transactions were granted early termination of the waiting period provided by law and the premerger notification rules. The grants were made by the Federal Trade Commission and the Assistant Attorney General for the Antitrust Division of the Department of Justice. Neither agency intends to take any action with respect to these proposed acquisitions during the applicable waiting period:

Transaction	Waiting period terminated effective
(1) 83-0482—Texas Oil and Gas Corporation's proposed acquisition of assets of Terra Resources, Incorporated, (Pacific Lighting Corporation, UPE).	July 21, 1983.
(2) 83-0486—The Dexter Corporation's proposed acquisition of voting securities of Bethesda Research Laboratories, Incorporated.	July 20, 1983.
(3) 83-0500—Metropolitan Life Insurance Company's proposed acquistion of voting securities of Seafirst Leasing Corporation, (Seafirst Corporation, UPE).	July 22, 1983.
(4) 83-0513—Lorimar's proposed acquisition of voting securities of K & E Holdings, Incorporated.	July 20, 1983.
(5) 83-0515—The Pillsbury Company's proposed acquisition of voting securities of Stokely-Van Camp, Incorporated.	July Do.
(6) 83-0516—Peabody International Corporation's proposed acquisition of voting securities of Desk-Perera U.S., Inc., Desk-Parera Canada, Inc., Desk-Perera Saipan, Inc., and Desk-Perera Gaum, Inc., (Mr. Nicholas L. Deak, UPE).	July 19, 1983.
(7) 83-0518—Cargill, Incorporated's proposed acquisition of voting securities of Georgetown Texas Steel Corporation, (Mr. Charles Gielen, UPE).	July 21, 1983.
(8) 83-0520—Madison Fund Incorporated's proposed acquisition of voting securities of Conquest Exploration Company.	July 19, 1983.
(9) 83-0521—Verenigine AGO's proposed acquisition of voting securities of United Standard Asset Growth Corporation.	July 21, 1983.
(10) 83-0526—Warner-Lambert Company's proposed acquisition of assets of McBain Instruments, Incorporated.	Do.
(11) 83-0530—Merrill Lynch and Company Incorporated's proposed acquisitioe of voting securities of Securities Options Corp., (Lawrence J. Blum, UPE).	Do.
(12) 83-0531—Merrill Lynch and Company Incorporated's proposed acquisition of voting securities of Securities Options Corporation, (Erwin M. (Eisen, UPE).	Do.
(13) 83-0545—F. W. Woolworth Company's proposed acquisition of voting securities of Holtzman's Little Folk Shop Incorporated.	Do.
(14) 83-0487—American Can Corporation's proposed acquisition of voting securities of Voyager Group, Incorporated.	July 15, 1983.
(15) 83-0496—Fort Howard Paper Company's proposed acquisition of voting securities of Maryland Cup Corporation.	July 14, 1983.
(16) 83-0527—Farm House Foods Corporation's proposed acquisition of voting securities of Drug Systems, Incorporated, (CasaBlanca Industries, Incorporated, UPE).	July 15, 1983.
(17) 83-0528—CasaBlanca Industries, Incorporated's proposed acquisition of voting securities of White Drug Enterprises, Incorporated, (Farm House Foods Corporation).	Do.

For Further Information Contact: Patricia A. Foster, Compliance Specialist, Premerger Notification Office, Bureau of Competition, Room 301, Federal Trade Commission, Washington, D.C. 20580, (202) 523-3894.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 83-21266 Filed 8-3-83; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Reimbursement for Prescription Drugs Under Federally Assisted Health Programs; Maximum Allowable Cost-Estimated Acquisition Cost Programs and Related Policy Issues

The Department of Health and Human Services (DHHS) announces that a public meeting will be held on September 12, 1983 in Washington, D.C., to receive information and opinions from interested persons on the issue of reimbursement for prescription drugs under Federally assisted health programs.

HHS established procedures for setting a reimbursement limit for drugs prescribed through HHS funded health programs under 45 CFR Part 19, with conforming regulations published for the Medicaid and Medicare programs. These are generally referred to as the Maximum Allowable Cost (MAC) and Estimated Acquisition Cost (EAC)

programs. These prescription drug reimbursement programs are applicable to all programs supported in whole or in part by Federal financial assistance. These programs include Medicaid, Medicare, and Public Health Service programs.

The meeting will be chaired by Robert B. Helms, Deputy Assistant Secretary for Planning and Evaluation/Health, and will commence at 9:00 a.m. in Room 800—Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, D.C. 20201.

For further information contact: Katheleen Means, Acting Director, Health Financing Policy Analysis Division, Office of the Assistant Secretary for Planning and Evaluation, Room 432–E, HHH Bldg., 200 Independence Ave., SW., Washington, D.C. 20201.

Supplementary Information: The Secretary of Health and Human Services established a Task Force to review the methods the Federal government uses to reimburse for prescription drugs purchased under Federally-assisted health care programs. The Task Force will review all of the regulations pertaining to prescription drug reimbursement. It is composed of representatives from the Health Care Financing Administration (HCFA), the Office of the Assistant Secretary for Health (OASH), the Office of the General Counsel (OGC) and the Office of the Assistant Secretary for Planning and Evaluation (ASPE).

This Task Force will meet to receive information and obtain interested parties' views on the impact of this program on beneficiaries of these health programs, health care and pharmaceutical providers, State Medicaid agencies, and the Federal government. While the meeting is to be general in nature, the Task Force would like specific information on the following questions:

1. Is this program meeting its stated original goals?

2. What general difficulties do State Medicaid agencies have in implementing and monitoring Federally required prescription drug reimbursement rules? What specific difficulties do State Medicaid agencies have in implementing and monitoring particular aspects of these policies (e.g., the MAC limits, the EAC limits, dispensing fee limits, etc.)?

3. Does the MAC program impede access to drug prescription services for Federal program beneficiaries?

4. How does the program affect retail pharmacy operations?

5. What possible long-term effects will this program have on the various segments of the pharmaceutical industry?

6. What benefits have these policies provided to the Federal government? What benefits can these policies be expected to provide in the future?

Those persons who want to make a presentation at the meeting should submit a written request to Kathleen Means (at the address listed above) for a time slot. The request for participation should be submitted before August 30, 1983, and should include:

1. Name, address and telephone number of the person who wants to make a presenation;

2. Affilliation, if any;

3. A summary of the presentation; and

4. The approximate amount of time required for the presentation. A maximum of 20 minutes will be allowed for any individual presentation. Written statements may be of any length.

The time available for the meeting will be allocated among the individuals who request an opportunity for a presentation. An agenda for the meeting with scheduled speaking times will be mailed to participants prior to the meeting. Participants are asked to submit 6 copies of their oral statements to the Task Force on the day of the meeting. Elaboration of remarks may also be submitted for inclusion in the record of the meeting.

For those not able to attend the meeting, written comments may be sent to Kathleen Means (at the address listed above).

Dated: July 28, 1983.

Robert J. Rubin,

Assistant Secretary for Planning and Evaluation.

[FR Doc. 83-21144 Filed 8-3-83; 8:45 am]

BILLING CODE 4150-04-M

Public Health Service

National Toxicology Program; Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation; Meeting

Notice is hereby given of a meeting of the Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, National Toxicology Program (NTP) Board of Scientific Counselors, U.S. Public Health Service, to be held on August 23, 1983, HHS North Auditorium, 330 Independence Avenue, SW., Washington, D.C. The meeting will begin at 9:00 a.m. and end at approximately 4:00 p.m. The meeting will resume on August 24, at 9:00 a.m. if additional time for public comment is required. The meeting is open to the public.

The meeting will be held to review the progress of the Ad Hoc Panel Subgroups as defined at the May 17, 1983, meeting (48 FR 19476 and to receive comments from interested parties.

Items to be discussed include, but are not limited to:

Subgroup on Techniques to Supplement or Foreshorten Cancer Tests: Frederica Perera, Chairperson

—Rationale for Development of Short-Term Tests by NTP
—Criteria for Selecting Tests for Review and Recommendation
—Evaluation of Short-Term Tests

Subgroup on Data Required From Prechronic Studies: Andrew Sivak, Chairperson

—Chemical Nomination and Selection Process
—Suitability of F344 Rat and B6C3F[1] Mouse
—Dose Range, Number of Doses, Administration Route and Vehicle
—Role of Pharmacokinetics in Short-Term Tests

Subgroup on Design of Chronic Studies: Robert A. Scala, Chairperson

—Definition of Cancer and Other Endpoints
—Routes of Exposure, Number of Doses and Species, and Duration
—Quality Control and General Pathology Requirements
—Data Interpretation (will be delayed until September)
—Error Rates
—Terminology for Evaluated Conclusions

Subgroup on Regulatory Aspects: Ian Munro and Sanford Miller, Co-Chairpersons

—Bioassay Data As Basis for Regulatory Decisions
—Confounding Variables in Bioassay Results

The Ad Hoc Panel seeks comments and views on these and any additional areas for their consideration. Those wishing to make public presentations on these and other issues related to the work of the Ad Hoc Panel are encouraged to do so. These presentations should be limited to ten-minute oral presentations. Persons wishing to make oral presentations must contact the Panel Secretary, Ms. Riley, at the address below no later than close of business August 19, 1983: Ms. Janet Riley, Secretary to the Panel, Ad Hoc Panel on Chemical Carcinogenesis Testing and Evaluation, P.O. Box 12233, Research Triangle Park, NC 27709.

Oral presentations should be supported by written documents that can be left with the Ad Hoc Panel for their use in preparing their draft report. With respect to the written documents, the Ad Hoc Panel will need to make use of the best thinking and evaluation of the scientific and public community at large. The positions offered in these documents should be well referenced by published literature citations so that they will have maximum usefulness to the subgroups in generating a series of scientifically supportable recommendations.

Attendance is limited only by space available. For further information regarding the meeting, please contact the Panel Secretary, Ms. Riley, at the above address or telephone 919/541-7621 or FTS 629-7621. The official Government representative for this meeting will be Dr. David P. Rall, NTP.

Dated: July 28, 1983.

David P. Rall,

Director, National Toxicology Program.

[FR Doc. 83-21100 Filed 8-3-83; 8:45 am]

BILLING CODE 4140-01-M

National Toxicology Program; Cancellation of the Technical Report on Dichloromethane; Meeting

The DRAFT Technical Report (TR 254) on the Carcinogenesis Bioassay of Dichloromethane (Methylene Chloride, CAS No. 75-09-2) in F344/N Rats and B6C3F$_1$ Mice (Gavage Study) will not be published as an NTP Technical Report. This decision is based on some recently discovered significant discrepancies in experimental data that compromise a clear interpretation. Pending the results of an indepth audit, select and relevant information from these Gavage Studies may be incorporated into the future Draft Technical Report on the dichloromethane inhalation studies now in the histopathology phase.

Questions or requests for further information should be addressed to Ms. Joan Chase, National Toxicology Program, Room 835B, Westwood Towers, Bethesda, Maryland 20205; telephone (301) 496-1152, FTS 496-1152.

Dated: July 28, 1983.

David P. Rall, Ph. D.,

Director, National Toxicology Program.

[FR Doc. 83-21101 Filed 8-3-83; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Alaska Land Use Council; Meeting

As required by the Alaska National Interest Lands Conservation Act (ANILCA), Pub. L. 96-487, dated December 2, 1980, Section 1201, Paragraph (h), the Alaska Land Use Council will meet at 9:00 a.m., Wednesday, August 31, 1983, at 1689 C Street, Room 107, in the South Kaloa Building, Anchorage, Alaska. The agenda will include status reports on the Bristol Bay Cooperative Management Plan, the Kantishna Hills Dunkle Mine Study, the Denali Scenic Highway Study, Title XI Regulations (transportation and utility systems), and a review of the Council's Regulation Review Policy.

For further information, please contact: Alaska Land Use Council, P.O. Box 120-100120, Anchorage, Alaska 99510; (907) 272-3422, (907) 271-5485 (FTS).

Dated: July 28, 1983.

Vernon R. Wiggins,

Co-Chairman, Alaska Land Use Council.

[FR Doc. 83-21219 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-10-M

Bureau of Land Management

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. Comments 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: 43 CFR 5400.0-3, Timber volume report.

Bureau Form Number: 5460-15.

Frequency: Once for each timber sale contract.

Description of Respondents: Timber sale purchasers of Federal timber.

Annual Responses: 900.

Annual Burden Hours: 450.

Bureau clearance officer (alternate): Linda Gibbs 202-653-8853.

June 28, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-21207 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[NM 56495 OK]

Coal Exploration License; Oklahoma

July 28, 1983.

United States Department of the Interior, Bureau of Land Management, Santa Fe, New Mexico 87501. Pursuant to coal exploration license application NM 56495 OK members of the public are hereby invited to participate with Farrell-Cooper Mining Company on a pro rata cost sharing basis, in a program for the exploration of coal deposits owned by the United States of America. The lands are located in Atoka and Coal Counties, Oklahoma and are described as follows:

Ind. Meridian, Oklahoma

Coal County

T. 1 S., R. 9 E.,
Sec. 1, N½SW¼, SE¼.
T. 1 S., R. 10 E.,
Sec. 7, Lot 1, NE¼, E½NW¼, NE¼SE¼;
Sec. 8, NW¼SW¼, SE¼SW¼;
Sec. 17, E½NW¼, N½SE¼, SE¼SE¼;
Sec. 20, E½E½;
Sec. 21, W½SW¼;
Sec. 28, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 33, E½, E½NW¼, NE¼SW¼;
Sec. 34, SW¼.

Atoka County

T. 2 S., R. 10 E.,
Sec. 3, Lots 1, 2, 3, 4, S½NE¼, SE¼NW¼, NE¼NE¼SW¼, SE¼;
Sec. 10, N½NE¼, SE¼NE¼;
Sec. 11, NW¼, N½SW¼, SE¼SW¼, SE¼;
Sec. 13, N½;
Sec. 14, NE¼, NE¼NW¼.
T. 2 S., R. 11 E.,
Sec. 16, NW¼, NW¼SW¼;
Sec. 17, S½N½, N½S½;
Sec. 18, N½SE¼.

Containing 4401.55 acres.

Any party electing to participate in this exploration program shall notify in writing, both the State Director, Bureau of Land Management, P.O. Box 1449, Santa Fe, New Mexico 87501 and Farrell-Cooper Mining Company, P.O. Box 1947, Fort Smith, Arkansas 72902. Such written notice must include a justification for wanting to participate and any recommended changes in the exploiration plan with specific reasons for such changes. The notice must be received no later than 30 calendar days after the publication of this notice in the **Federal Register.**

The proposed exploration program is for the purpose of determining the quality and quantity of the coal in the area and is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. A copy of exploration plan as submitted by Farrell-Cooper Mining Company may be

examined at the Bureau of Land Management State Office, Room 3031, Joseph M. Montoya Federal Building and U.S. Post Office, South Federal Place, Santa Fe, New Mexico, and the Bureau of Land Management, 6136 East 32nd Place, Tulsa, Oklahoma.

Charles W. Luscher,

State Director.

[FR Doc. 83-21156 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-18929B]

Conveyance of Public Lands; Owyhee County, Idaho

July 27, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to Thomas R. Gluch and Antia L. Gluch, Jordan Valley, Oregon, for the following-described public lands:

Boise Meridian, Idaho

T. 6 S., R. 6 W.,
Sec. 13, SW¼NW¼NW¼SW¼, W½SW¼NW¼SW¼.

Containing 7.5 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Vincent S. Strobel,

Acting Deputy State Director for Operation.

[FR Doc. 83-21248 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Exxon Corporation's Road Hollow Project; Availability of Final Environmental Assessment (FEA), Lincoln County, Rock Springs District, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of final environmental assessment.

SUMMARY: Pursuant to Section 102(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has prepared a final environmental assessment on the Road Hollow Project in Lincoln County, Wyoming, and has made copies of the document available for public review and comment.

The FEA addresses comments concerning the draft environmental assessment and includes some additional analysis. Also contained in the document is a draft decision record.

DATE: Written comments on the final environmental assessment and draft decision record will be accepted up to and including September 9, 1983.

ADDRESSES: Written comments on the proposal and draft decision in the document are to be addressed to: Kemmerer Resource Area Manager, Bureau of Land Management, P.O. Box 632, Kemmerer, Wyoming 83101; (307) 877-3933.

A limited number of single copies of the FEA may be obtained from the above address. Copies are also available at the following location: Bureau of Land Management, Rock Springs District Office, P.O. Box 1869, Rock Springs, Wyoming 82902-1869; (307) 382-5350.

Donald Sweep,

Rock Springs District Manager.

[FR Doc. 83-21205 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Intent to Amend the Clarks Fork-Shoshone (Cody) Management Framework Plan to Include Wilderness Study

AGENCY: Bureau of Land Management, Interior.

ACTION: Wyoming: Cody Resource Area, Worland District, Intent to Prepare an Amendment to the Clarks Fork-Shoshone Management Framework Plan.

SUMMARY: The Worland District, Cody Resource Area is reviewing and will amend the wilderness component of the Clarks Fork-Shoshone MFP. This process will evaluate the wilderness suitability of the McCullough Peaks Wilderness Study Area (WSA) in order to meet BLM deadlines for wilderness evaluation.

Background standards and procedures for this MFP review and amendment preparation are the Draft Wilderness Study Policy contained in the **Federal Register** Vol. 45, No. 246, 83780-83804 of December 19, 1980; Instruction Memo No. WY-80-450 dated August 5, 1980; and Wyoming's Interim Guidelines for Wilderness Studies of June 13, 1980.

The MFP Amendment, planned for completion by September, 1984 will recommend either suitability or unsuitability of the McCullough Peaks WSA. An EIS will be prepared as an integral part of the planning process.

The McCullough peaks WSA is located in Park County, Wyoming, northeast of Cody, Wyoming and south of Powell, Wyoming.

A major issue in the planning amendment is the determination of mineral resource values (oil and gas) in relation to wilderness values of the WSA. Other issues are wild horses and State of Wyoming lands.

An interdisciplinary team will complete the review and amendment. Disciplines to be represented include archeology, geology, hydrology, range, realty, recreation, socioeconomics, soils, and wildlife.

Public participation opportunities will be provided throughout the amendment process. This will include solicitation of comments through interviews, and workshops with public interest groups and key contacts. Public involvement records from the wilderness inventory will be reviewed.

DATE: Dates and location of all public meetings, hearings and workshops will be announced through local news media and notices mailed to interested members of the public.

FOR FURTHER INFORMATION CONTACT: For further information or comment contact: John Moorhouse at the Bureau of Land Management, Worland District Office, 1700 Robertson, Worland, WY 82401; (307) 347-6151 or Tom Enright, Area Manager, Cody Area Office, P.O. Box 518, Cody, Wyoming 82414; (307) 587-2216.

Chester E. Conard,

District Manager.

[FR Doc. 83-21206 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

California Desert District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 and 94-579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet formally Thursday, August 25 and Saturday, August 27, 1983, in the Lo-Inyo Elementary School, Multi-purpose Room, 223 East Locust Street, Lone Pine, California 93545. The meetings will be held from 9 a.m. to 5 p.m. on Thursday, and from 8 a.m. to 12 p.m. on Saturday.

Agenda items of the two-day session will include the FY 1984 asset management program, implementation of the Bureau of Land Management—Mineral Management Services merger, presentation of the 1983 Desert Plan amendments preferred alternative, "snowbird" use of public lands and programs for management in California and Arizona, new right-of-way proposals for energy resources, and mining in the Inyo Mountains.

A field trip is scheduled for Friday, August 27, which includes a tour of the Inyo Mountains. Transportation for this trip is provided for staff and council

members only. Public participants are invited to join the tour, but must provide their own transportation and meals.

The meeting is open to the public, with time allotted for public comment after each subject is presented. Statements may be filed in advance to Desert Advisory Council Chairman Clayton A. Record, Jr., Public Affairs Office, 1695 Spruce Street, Riverside, California 92507.

For further information and meeting confirmation contact the California Desert District, 1695 Spruce Street, Riverside, California 92507; (714) 351–6383.

Dated: July 26, 1983.

Wesley T. Chambers,

Acting District Manager.

[FR Doc. 83-21209 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Craig District Advisory Council; Meeting

In accordance with Pub. L. 94–579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on September 2, 1983.

The meeting will begin at 10:00 a.m. at the Holiday Inn in Craig at 300 Colorado Highway No. 13.

The agenda of the meeting will include:

1. Update on Green River Hams Fork Coal Leasing.
2. Mormon Crickets.
3. District Resource Management Plans.
4. Council Recommendation on issues and problems to be addressed.
5. Statements from the public.

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 1:30 p.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement should notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by August 29, 1983.

Summary minutes of the Council Meeting will be maintained on the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: July 27, 1983.

Terry L. Plummer,

Acting District Manager.

[FR Doc. 83-21245 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Craig District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463, that a meeting of the Craig District Grazing Advisory Board will be held on September 9, 1983, at the Holiday Inn, 300 Colorado Highway 13, Craig, Colorado 81625. The meeting will convene at 10:00 a.m.

The agenda for the meeting will include: (1) Cooperative management agreements; (2) a prioritization of allotment management plans for implementation in the White River Resource Area; (3) funding for range improvements in fiscal year 1984; (4) newly written allotment management plans in the White River Resource Area; (5) the implementation schedule for the Kremmling Resource Management Plan; (6) status of range improvement projects being constructed in fiscal year 1983; (7) the expenditure of advisory board funds for range improvements.

The meeting is open to the public. Interested persons may make oral statements to the board between 10:00 and 11:00 a.m. on September 9, 1983, or file written statements for the board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by September 6, 1983. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Dated: July 26, 1983.

Terry L. Plummer,

Acting District Manager.

[FR Doc. 83-21247 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Rock Springs District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Rock Springs District Advisory Council.

SUMMARY: This notice sets forth the schedule and proposed agenda of a tour for the Rock Springs District Advisory Council.

DATES: Tour will be held September 26, 1983.

ADDRESS: Tour leaves 9:00 a.m. and returns 5:00 p.m., BLM Kemmerer Area Office, Kemmerer, Wyoming.

FOR FURTHER INFORMATION CONTACT: Donald H. Sweep, District Manager, Rock Springs District, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyoming 82902–1869; (307) 382–5350.

SUPPLEMENTARY INFORMATION: This tour will be a review of recent energy developments in the overthrust area in Southwest Wyoming. The tour will leave the BLM Kemmerer Area Office at 9:00 a.m., September 26, and return about 5:00 p.m. the same day.

The public is invited to take the tour and to address the council at any of the scheduled stops; however, no formal time is reserved solely for public comments and the BLM will not provide transport. Depending on road and weather conditions a four-wheel drive vehicle may be advisable.

Donald H. Sweep,

District Manager.

[FR Doc. 83-21252 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Salt Lake District Grazing Advisory Board; Meeting

July 27, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–2b.3 that the meeting of the Salt Lake District Grazing Advisory Board previously scheduled for August 2, 1983 has been postponed. The new date for the meeting will be September 8, 1983. The meeting will begin at 10 a.m. at the Bureau of Land Management Office at 2370 South 2300 West, Salt Lake City, Utah.

The purpose of the meeting will be to:

1. Give recommendations on range improvement fund expenditures.
2. Discuss Tooele Environmental Impact Statement.
3. Other business.

Persons wishing to attend or make statements are requested to notify Frank Olsen by September 1, 1983.

Lynn F. Williams,

Acting District Manager.

[FR Doc. 83-20098 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[M 43611]

Opening of Public Lands; Montana; Supplemental Order

July 28, 1983.

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Supplemental order providing for opening of public lands to the operation of the mineral laws.

SUMMARY: By FR Document 83–16191, appearing on page 27609, Volume 48, No. 117, dated June 16, 1983, the lands

acquired by the United States in private exchange M 43611, will be open to the operation of the public land laws, generally, at 9 a.m. on September 1, 1983. All minerals except geothermal resources were also transferred to the United States in the subject exchange. This opening order restores the lands acquired to the operation of the mineral leasing laws and the mining laws.

DATE: At 9 a.m. on September 1, 1983, the lands shall be open to the mineral leasing and mining laws, but not geothermal leasing laws, subject to valid existing right, the provisions of existing withdrawals and the requirements of applicable law.

All applications received at or prior to 9 a.m. on September 1, 1983, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

Kannon Richards,

Acting State Director.

[FR Doc. 83-21204 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Organization; Closing of Offices in New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of closing of offices in New Mexico.

SUMMARY: As a result of the transfer of all onshore management functions of the Minerals Management Service to the Bureau of Land Management by Secretarial Order No. 3087 of December 3, 1982, as amended on February 7, 1983, it has become necessary to combine some offices. The former Minerals Management Service offices in Artesia and Carlsbad, New Mexico, are being closed and their functions moved to existing Bureau of Land Management offices. The functions and personnel of the Artesia Minerals Management Service office will become part of the Carlsbad Resource Area Office, while the functions and personnel of the Carlsbad Minerals Management Service office will become part of the Roswell District Office. The physical transfer of personnel and equipment will be made on September 1 and 2, and will be effective on September 6.

EFFECTIVE DATE: August 31, 1983.

ADDRESS: Any questions or inquiries should be directed to:

State Director, New Mexico State Office, Bureau of Land Management, P.O. Box 1449, Sante Fe, New Mexico 87504; or

Roswell District Office, Bureau of Land Management, P.O. Box 1397, Roswell, New Mexico 88201; or

Carlsbad Resource Area Office, Bureau of Land Management, P.O. Box 1778, Carlsbad, New Mexico 88220.

FOR FURTHER INFORMATION CONTACT: Murray D. Norbeck (505) 988-6316.

Dated: July 29, 1983.

James M. Parker,

Acting Director.

[FR Doc. 83-21167 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 36327]

Realty Action; Sale Public Land in Gilliam County, Oregon

The following described land has been identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 43 USC 1713), at no less than the appraised fair market value:

Parcel No.	Legal description	Acreage
1	T. 1 N., R. 20 E., Will. Mer., Sec. 14, S½SW¼.	80
2	T. 2 N., R. 20 E., Will. Mer., Sec. 6, SE¼NE¼.	40
3	T. 2 N., R. 21 E., Will. Mer., Sec. 30, NE¼SE¼.	40
4	T. 2 N., R. 21 E., Will. Mer., Sec. 32, SE¼NE¼.	40

Bids are being solicited for each parcel offered for sale. Appraised values are not being published in this NORA. The value will be disclosed only at the conclusion of the sale and only for those parcels for which acceptable bids were received; i.e., appraised value or higher.

The sale will be held on October 5, 1983 10:00 a.m. at the Gilliam County Courthouse, 221 South Oregon, Condon, Oregon 97823.

These parcels are difficult and uneconomic to manage as part of the public lands and not not suitable for management by another Federal agency. There are no significant resource values which will be affected by this disposal and the sale of these parcels will allow agricultural development of suitable portions. There is no legal access to Parcels No. 1, 2 and 3. A county road runs through Parcel No. 4. The sale is consistent with the BLM's planning for the land involved and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale are:

1. A reservation for road rights-of-way will be incorporated into Parcel No. 4 patent in conjunction with the Gilliam County road network.

2. A reservation to the United States 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).

3. A reservation to the United States for oil and gas rights (43 U.S.C. 1719). A bid will also constitute an application for conveyance of those mineral interests offered for conveyance in the sale. The mineral interests being offered for conveyance have no known mineral value. The declared high bidder will be required to deposit a $50.00 nonreturnable filing fee (43 CFR 2720.1-2(c)).

4. The sale of these lands will be subject to all existing rights.

5. A preference right will be given to adjoining private landowners for Parcel Nos. 1, 2 and 3. Parcel. No. 4 will be sold competitively with no preference rights.

6. The BLM may accept or reject any and all offers, or withdraw any land or interest in land from sale if, in the opinion of the authorized officer, consummation of the sale would not be fully consistent with the Federal Land Policy and Management Act or other applicable laws.

7. Upon disqualification of an apparent high bidder, the next high bid will be honored.

The lands are being sold at public auction. Parcels No. 1, 2 and 3 are subject to a preference consideration to allow adjoining landowners the right to meet the highest sealed or oral bid. These designated bidders are Donald Ramsey for Parcel. No. 1, James Hoag and Shirley Anderson for Parcel No. 2. The two designated bidders for Parel No. 2 may continue the bidding if both choose to meet the high bid. The designated bidder for Parcel No. 3 is Howard Stone. bids for a parcel must include all the land in the parcel. Federal law requires that individuals be 18 years of age or over and a U.S. citizen, and corporations be subject to the laws of any State of the United States.

Bids must be made by the principal or his duly qualified agent, by either: (1) Sealed bids mailed or delivered to the Prineville District Office, or (2) oral bids made at the sale. Bids delivered or sent by mail must be received at the Bureau of Land Management, Prineville District Office, P.O. Box 550, Prineville, Oregon 97754, before 4:00 p.m., October 3, 1983, to be considered. Each sealed bid must be accompanied by 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 each bid. The sealed envelope must be marked in the lower left-hand corner as follows: "Public Sale Bid Parcel No. —, Serial

No. OR 36327, Sale held October 5, 1983."

If two or more envelopes are received containing valid bids of the same amount for the same parcel, the successful bid shall be determined by a drawing. The highest qualifying sealed bid on each parcel will determine the base of the oral bidding conducted the day of the sale. The highest bid price, either sealed or oral meeting the fair market value will be the sale price. In the case of Parcel No. 2, it will be the point where bidding will continue for the two designated bidders. The successful bidder will be required to pay one-fifth the full sale price together with the $50.00 non-refundable filing fee for the conveyance of minerals immediately at the close of the sale and the remainder within 30 days. Failure to submit the full sale price within 30 days shall cancel sale of the specific parcel and the bidder's deposit will be forfeited. All unsuccessful bids will be returned within 30 days of the sale date.

Parcels not sold on the day of the sale will remain available for sale until sold or withdrawn. Bids will be solicited on these parcels at the Prineville District Office during regular business hours. Interested parties bidding on these parcels shall be informed of the appraised value only when an acceptable bid has been received; i.e., appraised value or higher.

Detailed information concerning the sale, including the planning documents, land report, environmental assessment, is available for review at the Bureau of Land Management, Prineville District Office, at the above address.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the District Manager, Prineville District Office. Any adverse comments received as a result of this notice or notification to the congressional committees or delegations pursuant to Pub. L. 97-394 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. Interested parties should continue to check with the District Office to keep themselves advised of any changes.

Date of issue: July 29, 1983.

James L. Hancock,

Associate District Manager.

[FR Doc. 83-21146 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[U-47297]

Issuance of Land Sale Conveyance Document; Rich County, Utah

The United States issued a Land Sale Conveyance Document to Putnam Ranch on July 27, 1983, Patent No. 43-83-0013 for the following described land pursuant to Section 203 of the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713):

Salt Lake Meridian, Utah

T. 12 N., R. 8 E.,
Sec. 29, NW¼NE¼.
Containing 40 acres.

The lands were found to be uneconomic to manage due to their location and other characteristics and therefore were suitable for disposal.

The public interest was well served through completion of this sale.

The value of the Federal land was appraised at $8,000 and payment was received for this amount to the United States.

Dated: July 27, 1983.

Darrell C. Barnes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-21208 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 24849 (WA)]

Realty Action; Sale of Public Land in Douglas County, Washington

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value:

Williamette Meridian, Washington,

T. 25 N., R. 21 E., Section 28, W½W½ SW¼NE¼SW¼,
Aggregating 2.50 acres in Douglas County.

The land has an estimated value of $250. The appraised fair market value shall be determined before the sale.

The land will be offered for sale, by non-competitive bid, to Mr. Bill Zanol, on October 5, 1983. If Mr. Zanol does not exercise his preference right by submitting the full purchase price within 30 days of the offer, the parcel will be removed from market.

The land is being offered to Mr. Zanol, the owner of the adjoining land and improvements on the sale tract, in order to protect Mr. Zanol's investment. The tract is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency. There are no significant resource values which will be affected by this disposal. There is no legal access to this individual parcel. The parcel is zoned rural agriculture. This sale is consistent with the BLM's planning system.

The patent issued will be subject to:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. A reservation to the United States for all mineral rights (43 U.S.C. 1719).

3. The pending oil and gas lease application OR 27131 (Wa.) filed by Howell Spear.

Detailed information concerning this sale, including the planning documents, environmental assessment, land report, and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committees and delegations pursuant to Pub. L. 97-394 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 a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Date of issue: July 26, 1983.

Roger W. Burwell,

District Manager.

[FR Doc. 83-21161 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[OR-35130 (WA)]

Realty Action; Non-competitive Sale; Public Land in Okanogan County, Washington

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2750, 43 U.S.C. 1713) at no less than the appraised fair market value:

WILLAMETTE MERIDIAN, OKANOGAN COUNTY, WASHINGTON

Legal Description	Acreage
T. 38 N., R. 25 E.: Sec. 4, Lots 6, 8-10, 12-18 and 20	5.79

WILLAMETTE MERIDIAN, OKANOGAN COUNTY, WASHINGTON—Continued

Legal Description	Acreage
Sec. 5, Lots 7-10, and 15	4.24
T. 39 N., R. 25 E., Sec. 33, Lots 7, 8, 11 and 12	0.59
Total	10.62

The estimated value of the 21 parcels is approximately $1,200. The fair market value shall be determined before the sale by appraisal.

The sale lands are very small, isolated tracts completely surrounded by private land in an area to be developed as homesites. Their best use is in conjunction with the adjoining land. Therefore, because of their location and physical characteristics, the sale lands are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another federal department or agency. The sale is consistent with the Bureau's planning for the land, and the public interest would be served by offering this land for sale.

The 21 lots will be sold to the adjacent land owner. Direct sale of the parcels is justified by the lack of legal access and their position of being totally surrounded by the private lands. Sale of the parcels to a third party would place undue physical and legal hardship on both the adjacent land owner and the purchaser.

The land will be offered for sale, by non-competitive bid, to the adjacent land owner on October 5, 1983. If the adjacent land owner does not exercise his preference right by submitting the full purchase price within 30 days of the offer, the land will be sold at public auction, by competitive bidding procedures. If the land is not sold at the public auction, it will remain available for sale, at the Bureau of Land Management, Spokane District Office, on a continuing basis until removed from market.

Terms and conditions applicable to the sale are:

(1) A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

(2) All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Detailed information concerning the sale, including the planning documents, land report, environmental assessment and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committees and delegations pursuant to Pub. L. 97-394 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 a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Date of issue: July 26, 1983.

Roger W. Burwell,

District Manager.

[FR Doc. 83-21162 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[OR-35322 (WA)]

Realty Action; Non-competitive Sale, Public Land in Ferry County, Washington

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2750, 43 U.S.C. 17713) at no less than the appraised fair market value:

WILLAMETTE MERIDIAN, FERRY COUNTY, WASHINGTON

Legal description	Acreage
T. 36 N., R. 33 E., Sec. 6, Lot 13	0.34

The fair market value as determined by appraisal is $100.

The sale land is a small isolated tract, completely surrounded by private land within the Town of Republic. The parcel comprises a significant portion of a street intersection and overlaps onto three adjacent city lots. Therefore, because of its location and physical characteristics, the sale land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another federal department or agency. The sale is consistent with the Bureau's "Good Neighbor" policy, and the public interest would be served by offering this land for sale.

Direct sale of the parcel to Republic will allow the town to resolve a conflicting land status problem. Sale of the parcel to a third party would place undue physical and legal hardship on both the Town of Republic and the purchaser.

The land will be offered for sale, by non-competitive bid, to the Town of Republic, on October 5, 1983. If the Town of Republic does not exercise its preference right by submitting the full purchase price within 30 days of the offer, the land will be sold at public auction, by competitive bidding procedures. If the land is not sold at the public auction, it will remain available for sale, at the Bureau of Land Management, Spokane District Office, on a continuing basis until removed from market.

The terms and conditions applicable to the sale are:

(1) A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

(2) All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Details of the sale, including the land report, environmental assessment and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committees and delegations pursuant to Pub. L. 97-394 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 a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Date of issue: July 26, 1983.

Roger W. Burwell,

District Manager.

[FR Doc. 83-21163 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[OR 35345 (WA)]

Realty Action; Sale Public Land in Franklin County, Washington

The following described land has been examined and identified as suitable for disposal by sale under Section 203 of the Federal Land Policy

and Management Act of 1976 (90 Stat. 275043 U.S.C. 1713), at no less than the appraised fair market value:

Willamette Meridian, Washington,

T. 9 N., R. 31 E., Section 20, NE¼ SW¼ and N½Se¼,
Aggregating 120.00 acres in Franklin County.

The land has an estimated value of $450,000. The appraised fair market value shall be determined before the sale.

The land will be offered for sale, by non-competitive bid, to the Port of Pasco, on October 5, 1983. If the Port of Pasco does not exercise its preference right by submitting the full purchase price within 30 days of the offer, the land will be sold at public auction, by competitive bidding procedures. If the land is not sold at the public auction, it will remain available for sale, at the Bureau of Land Management, Spokane District Office, on a continuing basis until removed from market.

This land is an isolated parcel which is difficult and uneconomic to manage as part of the public lands, and is not suitable for management by another Federal department or agency. There are no significant resource values which will be affected by this disposal. This direct sale will serve the important public objective of providing land to the Port of Pasco for community expansion and economic development. The Port of Pasco plans to use the land for industrial purposes. Legal access to the parcel is provide by county road and the land is zoned industrial. This sale is consistent with the BLM's planning system and the Secretary of the Interior's Good Neighbor Policy.

The patent issued will be subject to:

1. A reservation to the United States for ditches and canals (43 U.S.C. 945).

2. A reservation to the United States for all mineral rights (43 U.S.C. 1719).

3. The powerline right-of -way or 34587 (Wa.) granted to Franklin County PUD #1.

4. The oil and gas lease OR 25333 (Wa.) issued to Tyrex Oil Company.

Detailed information concerning this sale, including the planning documents, environmental assessment, land report, and fair market appraisal, is available for review at the Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, WA 99202.

For a period of 45 days after the date of issuance of this notice, the public and interested parties may submit comments to the Spokane District Manager, at the above address. Any adverse comments received as a result of the Notice of Realty Action or notification to the Congressional committees and delegations pursuant to Pub. L. 97-394 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 a final determination of the Department of the Interior. Interested parties should continue to check with the District Office to keep themselves advised of changes.

Date of issue: July 26, 1983.

Roger W. Burwell,

District Manager.

[FR Doc. 83-21164 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Filing of Plat of Survey; California

July 27, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian

T. 17 N., R. 8 E.

2. This supplemental plat of section 1, T. 17 N., R. 8 E., Mount Diablo Meridian, California, showing amended lottings, was accepted July 5, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-21152 Filed 8-3-83; 8:45 am]

BILLING CODE 4210-84-M

Filing of Plat of Survey; California

July 27, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

San Bernardino Meridian

T. 4 S., R. 15 E.
T. 5 S., R. 15 E.

2. These supplemental plat of: (1) Section 35, T. 4 S., R. 15 E., and (2) section 2, T. 5 S., R. 15 E., San Bernardino Meridian, California, showing new and amended lottings, created by the segregation of the Metropolitan Water District of Southern California Right-of-Way, were accepted July 12, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-21153 Filed 8-3-83; 8:45 am]

BILLING CODE 4210-84-M

[Group 735]

Filing of Plat of Survey; Calif.

July 27, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian

T. 43 N., R. 9 W.
T. 44 N., R. 10 W.
T. 43 N., R. 10 W.

2. These plats, in three (3) sheets, representing: (1) The dependent resurvey of a portion of the west and north boundaries, a portion of the subdivisional lines, the subdivision of section 18, and the boundaries of certain mineral surveys, and the survey of the subdivision of sections 6, 7, and 18, T. 43 N., R. 9 W., Mount Diablo Meridian; (2) the plat representing the dependent resurvey of a portion of the east boundary, and a portion of the subdivisional lines, and the survey of the subdivision of section 36, T. 44 N., R. 10 W., Mount Diablo Meridian; and (3) the plats in seven (7) sheets, representing the dependent resurvey of a portion of the north boundary, a portion of the subdivisional lines and the boundaries of certain mineral surveys, and the survey of the subdivision of sections 1, 2, 11, 12, 13, and 14, T. 43 N., R. 10 W., Mount Diablo Meridian, under Group No. 735, California, were accepted June 30, 1983.

4. This survey was executed to meet certain administrative needs of this Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief Records and Information Section.

[FR Doc. 83-21154 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[Group 829]

Filing of Plat of Survey; Calif.

July 27, 1983.

1. This plat of survey of the following described land will be officially filed in the California State Office, Sacramento, California immediately:

Mount Diablo Meridian

T. 13 S., R. 24 E.

2. This plat, representing the dependent resurvey of a portion of the subdivisional lines, the survey of the subdivision of section 8, and the metes-and-bounds survey of the westerly right-of-way of Piedra Road in the SW¼ of the NE¼ of section 8, T. 13 S., R. 24 E., Mount Diablo Meridian, under Group No. 829, California, was accepted June 27, 1983.

3. The plat will immediately become the basic record for describing the land for all authorized purposes. The plat has been placed in the open files and is available to the public for information only.

4. This survey was executed to meet certain administrative needs of the Bureau.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal office Building, 2800 Cottage Way, Room E-2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 83-21155 Filed 8-3-83; 8:45 am]

BILLING CODE 4210-84-M

[M 55168]

Termination of Proposed Withdrawal and Reservation of Land; Montana

July 28, 1983.

The Department of the Army, Corp of Engineers, filed an application for withdrawal of the following described land from settlement, sale, location or entry under all the general land laws, including the mining laws.

The Notice of Proposed Withdrawal was published in the **Federal Register** on June 10, 1982, Vol. 47 No. 112, pages 25212-25213. The applicant agency has cancelled its application as to the following:

Principal Meridian

T. 30 N., R. 29 W.,
Sec. 9, Unsurveyed island in the Kootenai River at River Mile 216 adjacent to lots 3, 4, 5 and 6.

The area described contains 19.48 acres in Lincoln County, Montana.

Therefore, pursuant to the regulations contained in 43 CFR 2091.2-5(b)(1), at 8 a.m. on August 22, 1983, such lands will be relieved of the segregative effect of the above mentioned application.

Inquiries concerning these lands should be addressed to the Chief, Branch of Land Resources, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

Roland F. Lee,

Chief, Branch of Land Resources.

[FR Doc. 83-21157 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-05278]

Partial Termination of Proposed Withdrawal and Reservation of Lands; Idaho

July 29, 1983.

Notice of an application, serial number I-05278, for withdrawal and reservation of lands was published as **Federal Register** Document No. 58-5832 on pages 5794-5802 of the issue for July 31, 1958. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Subpart 2091, such lands will be at 9:00 a.m. on September 6, 1983, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

Boise National Forest

Danskin Mountain Lookout Admin. Site

T. 1 N., R. 7 E.,
Sec. 18, SW¼SE¼SE¼.

Danskin Administrative Site

T. 1 N., R. 7 E.,
Sec. 24, lot 8;
Sec. 25, NE¼NE¼, N½SE¼NE¼, N½S½SE¼NE¼, SE¼SE¼.
T. 1 N., R. 8 E.,
Sec. 19, lot 4;
Sec. 30, lot 2, 3, and 4.

House Mountain Lookout Administrative Site

T. 1 N., R. 8 E.,
Sec. 10, S½S½NW¼SE¼, N½N½SW¼SE¼.

Pine Administrative Site

T. 1 N., R. 9 E.,
Sec. 2, SW¼NW¼, NW¼SW¼, SW¼SW¼, N½SE¼SW¼, W½SW¼SE¼SW¼, W½SE¼SW¼SE¼SW¼, N½SE¼SE¼SW¼, SE¼SE¼SE¼SW¼, E½SW¼ SE¼SE¼SW¼.

Trinity Mountain Lookout Administrative Site

T. 3 N., R. 9 E.,
Sec. 18, N½SW¼NW¼NE¼, SW¼SW¼NW¼NE¼, E½SE¼SW¼NW¼NE¼.

Boise Peak Recreation Area

T. 4 N., R. 3 E.,
Sec. 10, S½S½S½N½NW¼.

Cottonwood Administrative Site

T. 4 N., R. 5 E.,
Sec. 34, SE¼SE¼;
Sec. 35, NE¼NW¼, W½W½, N½SE¼NW¼, SE¼SE¼NW¼, N½SW¼S E¼NW¼, SW¼SW¼SE¼NW¼, E½SE¼SW¼ SE¼NW¼, W½NW¼NE¼SW¼, W½SE¼NW¼NE¼SW¼, E½E½NE¼SW¼, W½SE¼NE¼NE¼SW¼, S½NE¼SW¼, SE¼SW¼, NW¼SE¼, N½SW¼SE¼, SW¼SW¼SE¼, E½SE¼SW¼SE¼, N½NW¼SE¼SW¼SE¼, S½SW¼SE¼ SW¼SE¼.
T. 3 N., R. 5 E.,
Sec. 2, lots 2, 3, 4.

Troutdale Administrative Site

T. 4 N., R. 7 E.,
Sec. 4, lot 8, except that portion described as follows: (Beginning at the NE corner of lot 10 which is the True Point of Beginning; thence north to a point on the North meander line of lot 8; thence in a southerly direction along the west meander line of lot 7 to the SW corner of lot 8; thence east along the South boundary line of lot 8 to the NE corner of lot 10, the point of beginning; lot 9, NE¼SW¼, NW¼SE¼.

Trinity Administrative Site

T. 3 N., R. 6 E.,
Sec. 1, lot 1.
T. 3 N., R. 9 E.,
Sec. 6, lot 3, all of lot 4 with the exception of that portion described as follows: Beginning at the SW corner of lot 4; Thence north 660 feet to a point on the east boundary line; thence west 330 feet to a point which is the True Point of Beginning; thence south 330 feet to a point; thence west 330 feet to a point; thence north 330 feet to a point; thence east 330 feet to the True Point of Beginning.
T. 4 N., R. 8 E.,
Sec. 36, E½SE¼SE¼.
T. 4 N., R. 9 E.,
Sec. 31, lot 4.

Rocky Bar Administrative Site

T. 4 N., R. 10 E.,
Sec. 7, lot 5, W½W½NE¼SW¼.

Shafer Butte Lookout Administrative Site

T. 5 N., R. 3 E.,
Sec. 15, N½NW¼, SW¼NW¼, N½SE¼NW¼, SE¼SE¼NW¼, N½N½SW¼SE¼NW¼, S½S½SW¼SE¼NW¼.

Bogus Basin Recreation Area

T. 5 N., R. 3 E.,
Sec. 21, lots 1, 2, 3, and 4, E½W½;
Sec. 28, lot 1.

Bald Mountain Administrative Site

T. 5 N., R. 6 E.,
Sec. 28, N½NE¼NW¼, N½N½SW¼NE¼NW¼, S½SW¼NE¼NW¼, SE¼NE¼NW¼.

Simmons Creek Rec. Area

T. 5 N., R. 8 E.,
Sec. 17, lot 8, W½NW¼SW¼, NW¼SW¼SW¼;
Sec. 18, lot 4, 10, N½SE¼SE¼, N½SW¼SE¼SE¼;
Sec. 19, lot 1, NW¼NW¼NE¼.

Alexander Flat Rec. Area

T. 5 N., R. 8 E.,
Sec. 8, lots 1, 3, S½SE¼SW¼;
Sec. 17, lots 1, 5.

Alexander Flat Administrative Site

T. 5 N., R. 8 E.,
Sec. 8, N½SE¼SW¼, N½SE¼;
Sec. 9, Lots 3, 4, W½NW¼SW¼, SW¼SW¼;
Sec. 16, lot 1, 2, NW¼NW¼NE¼.

Montezuma Ranger Station Administrative Site

T. 5 N., R. 11 E.,
Sec. 3, lot 1 except that portion described as follows: Beginning at the NE corner of lot 1, thence S. 35° W., 600 feet to the Real Point of Beginning; thence S. 0° E., 495 feet; thence S 90° W., 660 feet; thence N. 0° W., 330 feet; thence N. 90° E., 330 feet; thence N. 0° E., 165 feet; thence N. 90° E., 330 feet to the Real Point of Beginning.

Barber Flat Administrative Site

T. 6 N., R. 8 E.,
Sec. 32, N½NW¼NW¼SE¼, N½S½NW¼NW¼SE¼, SW¼NW¼SE¼, NW¼SW¼SE¼.

Swanholm Creek Public Service Site

T. 6 N., R. 9 E.,
Sec. 26, N½NW¼SE¼.

Dutch Creek Administrative Site

T. 6 N., R. 9 E.,
Sec. 34, NW¼NE¼SE¼SE¼, N½SW¼NE¼SE¼SE¼, N½NE¼NE¼;
Sec. 35, SE¼SE¼, NW¼SE¼NE¼SE¼SE¼, S½SE¼SE¼SE¼; SW¼NE¼NE¼SE¼SE¼, E½SW¼NE¼SW¼, NW¼SW¼NE¼NW¼SW¼SW¼, S½SW¼SW¼SW¼, NE¼NW¼SW¼SW¼, E½NW¼NW¼SW¼SW¼, NW¼NW¼NW¼SW¼SW¼,N½SE¼NW¼SW¼SW¼, NE¼SW¼NW¼SW¼SW¼.

Swanholm Administrative Site

T. 6 N., R. 10 E.,
Sec. 6, lot 4 except that portion described as follows: Beginning at the NW corner of lot 4; thence east 495 feet to a point on the north boundary line which is the True Point of Beginning; thence south 330 feet to a point; thence east 165 feet to a point; thence south 330 to a point; thence west 165 feet to the True Point of Beginning.

Atlanta Public Service Site

T. 6 N., R. 11 E.,
Sec. 34, lot 7 except that portion described as follows: Beginning at the SE corner of Section 34; thence N. 50° W., 495 feet to a point, the True Point of Beginning; thence N. 330 feet to a point; thence E. 165 feet to a point; thence N. 330 feet to a point; thence W. 165 feet to a point; thence S. 165 feet to a point; thence W. 330 feet to a point; thence S. 495 feet to a point; thence E. 330 feet to the True Point of Beginning.

Pilot Peak Lookout Administrative Site

T. 7 N., R. 8 E.,
Sec. 12, N½SE¼NE¼NE¼, SE¼SE¼NE¼NE¼, N½SW¼SE¼NE¼NE¼, NE¼SE¼NE¼.

Beaver Creek Administrative Site

T. 7 N., R. 7 E.,
Sec. 2, NE¼SW¼, S½SW¼, NW¼SE¼;
Sec. 3, NE¼SE¼SE¼, E½NE¼SE¼SE¼SE¼, E½SE¼SE¼SE¼SE¼.

Sunset Mountain Lookout Administrative Site

T. 7 N., R. 7 E.,
Sec. 32, N½NE¼NE¼SE¼, SW¼NE¼NE¼SE¼, N½SE¼NE¼SE¼;
Sec. 33, NW¼NW¼SW¼.

Deer Park Administrative Site

T. 7 N., R. 9 E.,
Sec. 28, N½SW¼.

Graham Administrative Site

T. 7 N., R. 10 E.,
Sec. 9, SE¼NW¼SE¼, W½SW¼SE¼, W½E½SW¼SE¼;
Sec. 16, N½NE¼NW¼.

Hot Springs Rec. Area

T. 8 N., R. 5 E.,
Sec. 6, lot 7 except that portion described as follows: Beginning at the NW corner of lot 7; thence S. 1155 feet to a point on the west boundary line and the True Point of Beginning; thence E. 660 feet to a point; thence S. 330 feet to a point; thence west 660 feet to a point; thence north 330 feet to the True Point of Beginning.

Station Camp Recreation Area

T. 8 N., R. 5 E.,
Sec. 6, lot 4.

Bank 2 Camp Recreation Area

T. 9 N., R. 3 E.,
Sec. 32, lot 5, 7, and lot 6 except that portion described as follows: starting at the NE corner of lot 6; thence south 330 feet to a point on the east boundary and the True Point of Beginning; thence west to a point on the meander line; thence in a southerly direction to the SW corner of lot 6; thence east to the SE corner of lot 6; thence north 990 feet to the True Point of Beginning;
Sec. 33, W½W½NW¼SW¼.

Banks Camp Recreation Area

T. 9 N., R. 3 E.,
Sec. 28, lot 11;
Sec. 29, Lot 3.

Deadwood Lookout Administrative Site

T. 9 N., R. 6 E.,
Sec. 11, S½SE¼SE¼;
Sec. 12, E½NW¼SW¼SW¼SW¼, NE¼SW¼SW¼SW¼, S½SW¼SW¼SW¼;
Sec. 13, NW¼NW¼NW¼;
Sec. 14, N½NE¼NE¼.

Gallagher Flat Administrative Site

T. 9 N., R. 6 E.,
Sec. 31, E½W½NE¼NE¼, E½NE¼NE¼;
Sec. 32, NW¼NW¼, W½W½NE¼NW¼.

Fork of Pine Creek Rec. Area

T. 9 N., R. 6 E.,
Sec. 21, NW¼SE¼.

Pine Creek Rec. Area

T. 9 N., R. 6 E.,
Sec. 15, E½E½SE¼SW¼, W½SW¼SE¼, W½E½SW¼SE¼.

Payette Administrative Site

T. 9 N., R. 7 E.,
Sec. 29, SW¼SW¼, lot 3 except that portion described as follows: Beginning at the SE corner of lot 3 which is the True Point of Beginning, thence west 330 feet to a point on the south boundary line of lot 3; thence north 330 feet to a point; thence east to the meander line; thence in a southerly direction along the east meander line to the true point of beginning;
Sec. 32, lot 2.

Parks Creek Public Service Site

T. 9 N., R. 7 E.,
Sec. 13, E½SW¼SE¼NW¼, NW¼SW¼SE¼NW¼, N½SE¼SW¼NW¼, SW¼SE¼SW¼NW¼, W½NE¼NW¼SW¼, SE¼NE¼NW¼SW¼, E½NW¼NE¼SW¼, SW¼NW¼NE¼SW¼.

Pine Flat Rec. Area

T. 8 N., R. 6 E.,
Sec. 1, lot 8.
T. 8 N., R. 7 E.,
Sec. 6, lot 5 except that portion described as follows: Beginning at the NW corner of lot 5; thence S. 660 feet along the western boundary of lot 5 to a point that is the True Point of Beginning; thence E. 330 feet to a point; thence N. 660 feet to a point on the north boundary of lot 5; thence E. along the north boundary 660 feet to a point; thence south 660 feet to a point on the south meander line; thence in a south-westerly direction to the SW corner of lot 5; thence N. along the west boundary to the True Point of Beginning.
T. 9 N., R. 7 E.,
Sec. 31, S½E½SE¼SW¼SW¼, S½W½SE¼SW¼.

Dead Horse Flat Rec. Area

T. 9 N., R. 7 E.,
Sec. 36, lots 4, 5, SE¼SE¼NE¼.

Mountain View Public Service Site

T. 9 N., R. 7 E.,
Sec. 26, SW¼SW¼SW¼;
Sec. 27, lot 6 (except for that portion of HES 490 lying in lot 6);
Sec. 34, lot 1.

Lowman Public Service Site

T. 9 N., R. 7 E.,
Sec. 27, lot 2.

Lick Creek Recreation Area

T. 9 N., R. 7 E.,
Sec. 35, that portion of lot 1 lying above 3,920 feet above sea level except that portion of lot 2 lying above 3,890 feet above sea level.

Jordan Administrative Site

T. 9 N., R. 8 E.,
Sec. 32, that portion of lots 4 and 5 lying above 4,000 feet above sea level.

Helende Public Service Site

T. 9 N., R. 8 E.,
Sec. 23, lot 2.

Jackson Peak Lookout Administrative Site

T. 9 N., R. 9 E.,
Sec. 32, E½SW¼NE¼NE¼, N½NW¼SW¼NE¼NE¼, S½SW¼SW¼NE¼NE¼.

Casner Creek Public Service Site

T. 9 N., R. 9 E.,
Sec. 14, lots 3 and 4.

Kettle Creek Public Service Site

T. 9 N., R. 9 E.,
Sec. 19, lots 8, 11, E½NW¼NW¼NW¼.

Warm Springs Creek Administrative Site

T. 9 N., R. 10 E.,
Sec. 6, S½NE¼SE¼SW¼, SE¼SW¼SE¼SW¼, SE¼SE¼SW¼, S½N½SW¼SE¼, S½SW¼SE¼;
Sec. 7, lot 1, N½NW¼NE¼, NE¼NE¼NW¼, N½NW¼NE¼NW¼, SW¼NW¼NE¼NW¼, N½SE¼NW¼NE¼NW¼, N½S½NE¼NW¼.

Fletcher Mountain Administrative Site

T. 10 N., R. 2 E.,
Sec. 22, lot 1.

Dry Buck Lookout Administrative Site

T. 9 N., R. 3 E.,
Sec. 6, lots 3, 4.
T. 10 N., R. 3 E.,
Sec. 31, lots 3, 4 and 5.

Swinging Bridge Public Service Site

T. 10 N., R. 3 E.,
Sec. 29, lot 3.

Big Eddy Recreation Area

T. 10 N., R. 3 E.,
Sec. 4, lot 12.

Canyon Camp Recreation Area

T. 10 N., R. 3 E.,
Sec. 21, lot 2 except of that portion described as follows: Begin at the SW corner of lot 2, the True Point of Beginning; thence north 660 to the NW corner of lot 2; thence east to a point on the meander line; thence in a southerly direction along the east meander line of lot 2 to the SE corner of lot 2; thence west to the True Point of Beginning.

Cold Springs Recreation Area

T. 10 N., R. 3 E.,
Sec. 16, lot 7 except that portion described as follows: Beginning at the NW corner of lot 7; thence south 62° E. 680 feet to a point and the true point of beginning; thence south 300 feet to a point; thence east to a point on the east meander line of lot 7; thence in a northerly direction to a point on a line parallel to the east-west boundary thence east to the True Point of Beginning.

Williams Creek Recreation Area

T. 10 N., R. 3 E.,
Sec. 29, lot 6 and lot 7 except that portion of lot 7 described as follows: Beginning at the SW corner of lot 7 which is the True Point of Beginning; thence north 660 feet along the west boundary line of lot 7 to a point; thence east on a line parallel to the south boundary to a point on the east meander line of lot 7 to a point; thence in a southerly direction along the west meander line of lot 7 to the SE corner of lot 7; thence west along the south boundary line of lot 7 to the SW corner the point of beginning.
NE¼SW¼SE¼.

Tie Creek Recreation Area

T. 10 N., R. 4 E.,
Sec. 12, S½NW¼SE¼, N½SW¼SE¼.

Hardscrabble Administrative Site

T. 10 N., R. 5 E.,
Sec. 6, lot 1 except that portion described as follows: Beginning at the NW corner of lot 1; thence south 330 feet to a point which is the True Point of Beginning; thence east 330 feet to a point; thence south 165 feet to a point; thence west 330 feet to a point; thence north 165 feet to the True Point of Beginning.

One Spoon Rec. Area

T. 10 N., R. 5 E.,
Sec. 7, lots 1, 2.

Bog Administrative Site

T. 10 N., R. 6 E.,
Sec. 35, NW¼SW¼SE¼, S½NE¼NW¼, E½SW¼NW¼, SE¼NW¼, NW¼NE¼SW¼, NE¼NW¼SW¼.

Scott Mountain Lookout Administrative Site

T. 10 N., R. 6 E.,
Sec. 19, SE¼NE¼SW¼, E½SE¼SW¼, N½SW¼NW¼SE¼, N½SW¼SW¼NW¼SE¼, SE¼SW¼NW¼SE¼, W½SW¼SE¼.

Deadwood River Guard Station Administrative Site

T. 10 N., R. 7 E.,
Sec. 31, NW¼SE¼.

Camp Creek Public Service Site

T. 10 N., R. 10 E.,
Sec. 26, SE¼NE¼NE¼SW¼, NE¼SE¼SW¼NE¼, S½SE¼SW¼NE¼, SW¼NW¼SE¼NE¼, NW¼SW¼SE¼NE¼, W½W½NE¼SE¼, S½SW¼NW¼SE¼, E½SW¼SE¼.

Warm Springs Public Service Site

T. 10 N., R. 10 E.,
Sec. 31, lot 2, and lot 3 except that portion described as follows: Beginning at the SE corner of lot 3; thence N. 330 feet along E. line of lot 3 to the True Point of Beginning; thence W. 330 feet, thence N. 330 feet; thence E. 330 feet; thence S. 330 feet to the True Point of Beginning.

Hardscrabble Rec. Area

T. 11 N., R. 5 E.,
Sec. 31, SE¼NE¼SE¼, E½NE¼NE¼SE¼SE¼, W½NW¼NE¼SE¼SE¼, S½NE¼SE¼SE¼.

Middle Fork Rec. Area

T. 11 N., R. 5 E.,
Sec. 29, S½NE¼SW¼SW¼NE¼, NW¼SW¼SW¼NE¼, S½SW¼SW¼NE¼, NE¼SE¼SW¼NE¼, S½NW¼SE¼SW¼NE¼, S½SE¼SW¼NE¼.

Rattlesnake Camp Rec. Area

T. 11 N., R. 5 E.,
Sec. 20, S½NE¼SE¼, NW¼SE¼SE¼, W½NE¼SE¼SE¼, N½NW¼NE¼SE¼SE¼.

Silver Creek Bridge Rec. Area

T. 11 N., R. 5 E.,
Sec. 1, lots 3, 4.

Trail Creek Rec. Area

T. 11 N., R. 5 E.,
Sec. 21, E½SE¼NW¼NW¼, SW¼NW¼NW¼, NE¼SW¼NW¼.

Rattlesnake Lookout Administrative Site

T. 11 N., R. 5 E.,
Sec. 12, S½SE¼NE¼, N½NE¼SE¼.

White Hawk Administrative Site

T. 11 N., R. 8 E.,
Sec. 17, SW¼NE¼, N½SE¼NW¼, W½NE¼SW¼SE¼NW¼, W½SW¼SE¼NW¼, SE¼SW¼SE¼NW¼, NE¼SE¼SE¼NW¼, E½NW¼SE¼SE¼NW¼, S½SE¼SE¼NW¼, NE¼SW¼, NW¼SE¼.

Red Mountain Administrative Site

T. 11 N., R. 9 E.,
Sec. 29, SE¼SW¼SE¼.

Bull Trout Lake Public Service Site

T. 11 N., R. 10 E.,
Sec. 9, E½W½SW¼NE¼, E½SW¼NE¼, W½SE¼NE¼, W½NE¼SE¼NE¼, NE¼NE¼SE¼NE¼, W½SE¼NE¼SE¼NE¼, N½SE¼SE¼NE¼, W½SW¼SE¼SE¼NE¼, E½SE¼SE¼SE¼NE¼, W½W½NE¼NE¼SE¼E½SW¼NE¼NE¼SE¼, E½E½NE¼NE¼SE¼, W½SE¼NE¼SE¼, SE¼SE¼NE¼SE¼;
Sec. 10, W½SW¼NW¼, W½NW¼SW¼.

Third Fork Administrative Site

T. 12 N., R. 1 E.,

Sec. 14, NE¼SW¼, N½NW¼SW¼, N½N½SW¼, N½S½NE¼SW¼.

Sage Hen Administrative Site

T. 12 N., R. 2 E.,
Sec. 35, SW¼NE¼SE¼NE¼, SE¼NW¼SE¼NE¼, NE¼NE¼SW¼NE¼, E½SE¼SW¼NE¼, SW¼SE¼NE¼, W½W½NE¼SE¼, E½E½NW¼SE¼, NE¼SE¼SE¼NE¼.

Tripod Lookout Administrative Site

T. 12 N., R. 3 E.,
Sec. 8, S½NE¼SW¼, SW¼SW¼, W½NE¼NE¼SE¼SW¼, NW¼NE¼SE¼SW¼, S½NE¼SE¼SW¼, NW¼SE¼SW¼, S½SE¼SW¼;
Sec. 17, W½NW¼, W½E½NW¼.

Boiling Springs Rec. Area

T. 12 N., R. 5 E.,
Sec. 21, S½NE¼NE¼SE¼.

Boiling Springs Administrative Site (Addition)

T. 12 N., R. 5 E.,
Sec. 15, S½SW¼;
Sec. 22, N½NW¼NW¼, N½NE¼SW¼NW¼NW¼, W½SW¼NW¼NW¼, S½SE¼SW¼NW¼ NW¼, W½SW¼NW¼.

Silver Creek Administrative Site

T. 12 N., R. 6 E.,
Sec. 19, E½SE¼NE¼, NE¼SE¼, SE¼SW¼SE¼, S½SE¼SE¼, NE¼SE¼SE¼, N½NW¼SE¼SE¼, SW¼NW¼SE¼SE¼, S½SE¼NW¼SE¼SE¼;
Sec. 20, N½SW¼NW¼, E½NE¼SW¼SW¼NW¼, S½SW¼SW¼NW¼, SE¼SW¼NW¼, W½NW¼SW¼, NW¼SW¼SW¼.

Silver Creek Lookout Administrative Site

T. 12 N., R. 6 E.,
Sec. 7, SE¼NW¼SE¼, NE¼SW¼NW¼SE¼, N½NW¼SW¼NW¼ SE¼, S½SW¼SW¼NW¼SE¼, SE¼SW¼NW¼SE¼, N½SW¼SE¼.

Fir Springs Rec. Site

T. 12 N., R. 7 E.,
Sec. 21, E½W½SW¼NE¼NW¼, W½E½SE¼NW¼NW¼, E½SW¼NE¼NW¼, W½SE¼NW¼NW¼, NE¼SW¼NW¼.

Granite Springs Rec. Area

T. 12 N., R. 7 E.,
Sec. 29, NW¼SW¼SE¼, NE¼SE¼SW¼.

Wilson Meadow Administrative Site

T. 13 N., R. 2 E.,
Sec. 25, SE¼NE¼, NE¼SE¼.
T. 13 N., R. 3 E.,
Sec. 30, lots 2, 3.

Clear Creek Administrative Site

T. 13 N., R. 5 E.,
Sec. 3, SE¼SW¼SW¼, W½SE¼SW¼.

Upper Deadwood Administrative Site

T. 13 N., R. 7 E.,
Sec. 28, NE¼NW¼, SE¼NW¼NW¼.

Poker Meadow Rec. Site

T. 13 N., R. 9 E.,
Sec. 25, S½SE¼NE¼SW¼, SE¼SW¼NE¼SW¼, N½SW¼SW¼NE¼SW¼, E½SE¼NW¼SW¼, E½E½SW¼SW¼, NE¼NW¼SE¼SW¼, S½NW¼SE¼SW¼, NE¼SE¼SW¼, S½SE¼SW¼.

Bear Valley Creek Recreation Area

T. 13 N., R. 9 E.,
Sec. 34, NE¼NE¼SE¼SW¼, N½NW¼NE¼SE¼SW¼, SE¼NE¼SE¼SW¼, N½NE¼NW¼SE¼SW¼, S½SW¼NW¼SE¼SW¼, NE¼SE¼SE¼SW¼, S½SE¼SE¼SW¼.

Crawford Administrative Site (Addition)

T. 14 N., R. 4 E.,
Sec. 21, NE¼SW¼, SE¼.

Vulcan Hot Springs Rec. Area

T. 14 N., R. 6 E.,
Sec. 11, W½NE¼, W½E½NE¼, E½E½NW¼.

Moorehead Lookout Administrative Site

T. 14 N., R. 9 E.,
Sec. 10, SW¼SW¼NW¼, S½SE¼SW¼NW¼, NE¼SE¼SW¼NW¼, E½SW¼SE¼SW¼NW¼.

Green Table Rec. Area

T. 15 N., R. 5 E.,
Sec. 33, SW¼NE¼NW¼, SE¼NW¼NW¼, NE¼SW¼NW¼, NW¼SE¼NW¼.

Porcupine Flat Rec. Area

T. 15 N., R. 5 E.,
Sec. 27, NE¼NW¼NE¼.

Curtis Creek Rec. Area

T. 15 N., R. 6 E.,
Sec. 15, SW¼NW¼NE¼, NW¼SW¼NE¼.

Stolle Meadows Administrative Site

T. 14 N., R. 6 E.,
Sec. 1, W½ lot 3, SW¼NW¼, lot 4.
T. 15 N., R. 6 E.,
Sec. 36, SW¼ SW¼, NW¼SE¼SW¼, N½SW¼SE¼SW¼.

Warm Lake Public Service Site

T. 15 N., 6 E.,
Sec. 1, S½;
Sec. 2, N½NE¼SW¼, SW¼NE¼SW¼, N½SE¼NE¼SW¼, W½SW¼, SE¼SW¼, SE¼.
Sec. 11, N½NW¼NW¼;
Sec. 12, SW¼SW¼, lot 7, W½NW¼;
Sec. 13, W½NW¼, W½SW¼, SE¼SW¼, SW¼SE¼, lot 1, lot 6, S½ 5, S½NE¼SW¼;
Sec. 14, NE¼SW¼, N½SE¼SW¼, SW¼SE¼SW¼, S½SE¼ SE¼SW¼, SE¼;
Sec. 23, N½NE¼NE¼;
Sec. 24, N½N½.
T. 15 N., R. 7 E.,
Sec. 6, lot 6, NE¼SW¼, W½SE¼;
Sec. 7, E½, SE¼, SW¼, S½N½SW¼,
Sec. 18, N½NW¼, SE¼NW¼, NE¼SW¼, S½SW¼.

Summit Camp Rec. Area

T. 15 N., R. 7 E.,
Sec. 10, N½NW¼SE¼SE¼, SW¼NW¼SE¼SE¼, S½SE¼NW¼SE¼SE¼.

Landmark Ranger Station Administrative Site

T. 15 N., R. 7 E.,
Sec. 12, NE¼SE¼NE¼.
T. 15 N., R. 8 E.,
Sec. 6, lot 7;
Sec. 7, lots E½ of 1, 2, 3, 4, SW¼NE¼SW¼, W½SE¼SW¼;
Sec. 18, lots 1, 2, W½NE¼NW¼, SE¼NW¼.

Landmark Landing Field Administrative Site

T. 15 N., R. 8 E.,
Sec. 7, E½SE¼SW¼, E½NE¼SW¼, NW¼NE¼SW¼, S½SE¼NW¼;
Sec. 18, E½NE¼NW¼, N½N½NE¼SW¼.

Pistol Pass Administrative Site

T. 15 N., R. 8 E.,
Sec. 14, NE¼NW¼NE¼.

Sheepeater Hot Springs Rec. Area

T. 15 N., R. 10 E.,
Sec. 24, lot 2.

Trout Creek Recreation Area

T. 16 N., R. 7 E.,
Sec. 1, NW¼SE¼SW¼.

Thunderbolt Administrative Site

T. 16 N., R. 7 E.,
Sec. 8, NE¼SW¼SW¼.

Buck Mountain Rec. Area

T. 16 N., R. 8 E.,
Sec. 31, lot 2 except that portion described as follows: Beginning at the NW corner of lot 2; thence S. along the lot line 495 feet; thence W. 330 feet to the Real Point of Beginning; thence S. 330 feet; thence W. 330 feet; thence N. 330 feet; thence E. 330 feet to the Real Point of Beginning.

Risley Administrative Site

T. 16 N., R. 11 E.,
Sec. 8, SW¼NE¼.

Middle Fork Landing Field Administrative Site

T. 16 N., R. 13 E.,
Sec. 6, E½E½SE¼SW¼, SE¼NW¼SE¼, N½SW¼SE¼, SW¼SW¼SE¼.

Chilcoot Lookout Administrative Site

T. 17 N., R. 8 E.,
Sec. 36, S½NE¼NE¼, N½SE¼NE¼.

Big Baldy Lookout Administrative Site

T. 17 N., R. 10 E.,
Sec. 26, W½SW¼NW¼;
Sec. 27, E½SE¼NE¼.

Indian Creek Landing Field Administrative Site

T. 16 N., R. 11 E.,
Sec. 3, lot 4.
T. 17 N., R. 11 E.,
Sec. 34, lots 1, 2, 3, 4.

Indian Creek Ranger Station Administrative Site

T. 17 N., R. 11 E.,
Sec. 34, S½NE¼, SE¼NW¼;
Sec. 35, lot 4.

Mahoney Lookout Administrative Site

T. 17 N., R. 12 E.,
Sec. 35, SW¼SW¼SE¼.

Johnson Creek Administrative Site

T. 18 N., R. 8 E.,
Sec. 4, N½NW¼SE¼, SW¼NW¼SE¼, N½N½SE¼NW¼SE¼, S½S½SE¼NW¼SE¼.

Meadow Creek Lookout Administrative Site

T. 18 N., R. 9 E.,
Sec. 29, NW¼NW¼SW¼, S½NE¼NE¼NW¼SW¼, NW¼NE¼NW¼SW¼, S½NE¼NW¼SW¼.

Norton Ridge Lookout Administrative Site

T. 18 N., R. 12 E.,
Sec. 36, W½NE¼NE¼.

Golden Gate Rec. Area

T. 19 N., R. 8 E.,
Sec. 33, S½NW¼SE¼SE¼SW¼, S½SE¼SE¼SW¼, SW¼SW¼SE¼.

Yellow Pine Rec. Area

T. 19 N., R. 8 E.,
Sec. 29, S½SE¼SE¼NE¼, N½SE¼SW¼SE¼NE¼, NE¼SW¼SE¼NE¼, E½NW¼SE¼NE¼, N½NE¼NE¼SE¼, N½SE¼NE¼NE¼SE¼.

North Fork Payette River (Idaho No. 15) Highway Roadside Zone

A strip of land 200 feet on each side of the center line of Idaho Highway No. 15, through the following legal subdivision:

T. 9 N., R. 3 E.,
Sec. 4, lots 1, 2, 3;
Sec. 8, E½NE¼;
Sec. 9, lots 1, 2, 3, 4;
Sec. 16, lots 1, 2, 3, 4, 8, 9;
Sec. 21, lots 5, 6;
Sec. 28, lots 5, 6, 7, 10;
Sec. 32, lot 8.
T. 10 N., R. 3 E.,
Sec. 4, lots 6, 9, 15, SE¼NE¼SW¼;
Sec. 9, lots 2, 3, 6, 7;
Sec. 16, lots 2, 3, 6;
Sec. 20, lots 1, 2;
Sec. 21, lot 6;
Sec. 29, lot 2;
Sec. 32, lots 2, 3, 5;
Sec. 33, lot 2.

Idaho City (Idaho No. 21) Highway Roadside Zone

A strip of land 200 feet on each side of the center line of Idaho Highway No. 21 through the following legal subdivision:

T. 4 N., R. 4 E.,
Sec. 2, SE¼NW¼;
Sec. 15, SW¼NE¼;
Sec. 21, SE¼SE¼;
Sec. 28, N½NE¼NE¼.
T. 5 N., R. 4 E.,
Sec. 35, SE¼NW¼.
T. 5 N., R. 5 E.,
Sec. 5, lot 9;
Sec. 8, lot 2;
Sec. 18, lot 3.
T. 6 N., R. 5 E.,
Sec. 25, lots 1, 2, 3, NE¼SE¼;
Sec. 26, lots 8, 10;
Sec. 34, lots 2, 3.
T. 6 N., R. 6 E.,
Sec. 30, lot 3, NE¼NE¼, W½NE¼.
T. 7 N., R. 6 E.,
Sec. 24, SE¼SE¼;
Sec. 25, NE¼NE¼, S½NE¼, NE¼SW¼, W½SW¼;
Sec. 35, NE¼NE¼, S½NE¼, NE¼SW¼, S½SW¼, NW¼SE¼.
T. 7 N., R. 7 E.,
Sec. 3, lot 1, SE¼NE¼, E½SE¼;
Sec. 9, S½NE¼, SE¼SW¼, W½SE¼;
Sec. 10, NW¼NE¼, N½NW¼, SW¼NW¼;
Sec. 17, SE¼NE¼, SW¼SW¼, E½SW¼, W½SE¼;
19, lots 3, 4, NE¼NE¼, S½NE¼, NE¼SW¼;
Sec. 20, NW¼NW¼.
T. 8 N., R. 7 E.,
Sec. 2, lot 4, SW¼NW¼, SW¼;
Sec. 3, SE¼NE¼, NE¼SE¼, W½SE¼, SE¼SE¼;
Sec. 10, W½NE¼, SE¼SW¼, W½SE¼;
Sec. 14, SW¼SW¼;
Sec. 15, N½NE¼, E½NW¼, N½SW¼, SE¼SW¼, S½SE¼;
Sec. 22, E½NE¼, E½SE¼;
Sec. 23, NW¼NW¼;
Sec. 26, W½SW¼;
Sec. 27, E½NE¼, NE¼SE¼;
Sec. 34, SE¼NE¼, E½SE¼;
Sec. 35, NW¼NW¼.
T. 9 N., R. 7 E.,
Sec. 34, lot 3, SE¼NE¼, NW¼NW¼, SE¼NW¼, NW¼SE¼, E½SE¼, excepting N½NE¼NW¼NW¼, SE¼NE¼NW¼NW¼;
Sec. 35, lot 3, W½SW¼.

South Fork of Payette River (No. 24) Forest Highway Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Highway No. 24 through the following legal subdivisions:

T. 9 N., R. 3 E.,
Sec. 28, lots 7, 8, 9, 10.
T. 8 N., R. 5 E.,
Sec. 2, lots 5, 11;
Sec. 5, lots 5, 6, 7;
Sec. 6, lot 6;
Sec. 8, lot 3;
Sec. 9, lots 3, 11;
Sec. 10, lots 2, 9, 13.
T. 9 N., R. 5 E.,
Sec. 36, lots 1, 3, 7.
T. 8 N., R. 6 E.,
Sec. 1, lots 5, 6, 7, 12;
Sec. 2, lots 1, 9, 10.
T. 9 N., R. 6 E.,
Sec. 31, lots 2, 3;
Sec. 32, lots 1, 2, 3, 4, 7, 8;
Sec. 33, lots 1, 3, 4, 5;
Sec. 34, lots 1, 2, 5, 7;
Sec. 35, lots 1, 3, 5.
T. 9 N., R. 7 E.,
Sec. 28, lots 1, 2, 3, 5;
Sec. 29, lots 1, 2;
Sec. 31, lots 3, 8, SE¼NE¼;
Sec. 32, lot 3;
Sec. 33, lot 2.
T. 9 N., R. 8 E.,
Sec. 23, lot 1;
Sec. 24, lots 3, 4, 7, 9, 10, 11, NE¼NW¼ SE¼NE¼;
Sec. 26, lots 4, 5, unpatented portions of lot 3, NW¼NE¼;
Sec. 27, unpatented portions of lot 1;
Sec. 31, unpatented portions of lots 2, 3, 9;
Sec. 32, lots 1, 2, 6, unpatented portion of lot 3;
Sec. 33, lots 1, 2, 3, 4, S½SW¼;
Sec. 34, lots 3, 4, 5, unpatented portion of lot 2.
T. 9 N., R. 9 E.,
Sec. 11, lot 1;
Sec. 12, lots 1, 2, 3, 7;
Sec. 14, lot 2, NE¼NW¼;
Sec. 15, lots 1, 3, 4, 6;
Sec. 16, lots 1, 2, 3, 4;
Sec. 17, lot 1;
Sec. 19, lot 2.
T. 9 N., R. 10 E.,
Sec. 5, lots 3, 4, W½SW¼;
Sec. 6, SE¼SE¼;
Sec. 7, lot 2, NE¼NE¼, S½NW¼NE¼.
T. 10 N., R. 10 E.,
Sec. 25, SW¼NW¼, N½SW¼, NW¼SE¼, S½SE¼;
Sec. 26, E½SE¼NE¼, W½SW¼NE¼, S½NW¼;
Sec. 27, S½NE¼, S½NW¼, NW¼SW¼;
Sec. 28, N½SW¼, SW¼SW¼, N½SE¼;
Sec. 29, SE¼SE¼;
Sec. 31, SE¼SE¼;
Sec. 32, NE¼NE¼, W½NE¼, SW¼SW¼, E½SW¼.
T. 10 N., R. 11 E. Unsurveyed,
Sec. 33, N½N½;
Sec. 34, SW¼NW¼.

Elk Creek (No. 50) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 50 through the following legal subdivisions:

T. 7 N., R. 6 E.,
Sec. 19, SE¼SE¼;
Sec. 20, unpatented portions of lots 1, 5, 8, NE¼NE¼;
Sec. 21, NW¼NW¼;
Sec. 30, lots 2, 3, 4, NE¼NE¼, W½NE¼, SE¼NW¼;
Sec. 31, lots 1, 2.

Pikes Fork (No. 75) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 75 through the following legal subdivisions:

T. 7 N., R. 8 E.,
Sec. 6, lots 2, 3, 5;
T. 8 N., R. 8 E.,
Sec. 12, SE¼NE¼, SE¼SW¼, N½SE¼;
Sec. 13, NE¼, NW¼, S½NW¼, NW¼SW¼;
Sec. 14, SE¼SE¼;
Sec. 23, NE¼NE¼, W½NE¼, E½SW¼;
Sec. 26, NW¼NW¼;
Sec. 27, S½NE¼, N½SW¼;
Sec. 28, SE¼SW¼, NE¼SE¼, SW¼SE¼;
Sec. 31, SE¼SE¼;
Sec. 32, S½NE¼, N½SW¼;
Sec. 33, N½NW¼.
T. 8 N., R. 9 E.,
Sec. 5, S½SE¼;
Sec. 6, SE¼SW¼;
Sec. 7, lot 2, NE¼NW¼;
Sec. 8, N½NW¼;
Sec. 9, SW¼NE¼, N½NW¼, NE¼SE¼;
Sec. 10, SW¼SW¼;
Sec. 13, S½NW¼, W½SE¼;
Sec. 14, S½NW¼;

Sec. 15, NW¼NE¼, S½NE¼, NE¼, NW¼NW¼;
Sec. 24, W½NE¼, E½SE¼;
Sec. 25, E½NE¼, E½SE¼;
Sec. 36, E½NE¼.
T. 7 N., R. 10 E.,
Sec. 3, lot 4;
Sec. 4, SE¼NE¼, W½SE¼;
Sec. 9, W½NE¼, E½SE¼;
Sec. 16, W½NE¼, NW¼SE¼.
T. 8 N., R. 10 E.,
Sec. 27, SW¼SW¼;
Sec. 28, N½SW¼, N½SE¼;
Sec. 29, SE¼SE¼;
Sec. 31, lot 2, NE¼SW¼, N½SE¼;
Sec. 32, NW¼NE¼, SE¼NW¼, N½SW¼;
Sec. 34, E½NW¼, W½SW¼.

Beaver Creek-Swanholm (No. 76) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the corner line of Forest Development Road No. 76 through the following legal subdivisions:

T. 7 N., R. 7 E.,
Sec. 1, N½SE¼;
Sec. 2, NE¼SE¼.
T. 6 N., R. 8 E.,
Sec. 3, lots 1, 2, 3.
T. 7 N., R. 8 E.,
Sec. 6, lot 5, NE¼SW¼, S½SE¼;
Sec. 8, S½NE¼, N½NW¼;
Sec. 9, SW¼NW¼, N½SW¼, SW¼SE¼;
Sec. 14, SW¼SW¼;
Sec. 15, SW¼NW¼, N½SW¼, N½SE¼;
Sec. 22, SE¼NE¼, W¼SE¼;
Sec. 23, W½W½;
Sec. 27, W½NE¼, E½SW¼;
Sec. 34, E½NW¼, E½SW¼;
Sec. 35, S½SW¼, S½SE¼.
T. 6 N., R. 9 E.,
Sec. 3, lot 4, SE¼SW¼, E½SW¼;
Sec. 10, SW¼NE¼, NE¼NW¼, W½SE¼;
Sec. 14, W½SW¼;
Sec. 15, E½NE¼;
Sec. 23, W½NW¼, E½SW¼;
Sec. 26, SE¼NW¼, NE¼NW¼, NE¼SW¼.
T. 7 N., R. 9 E.,
Sec. 28, SE¼SW¼, SW¼SE¼;
Sec. 29, S½SW¼, N½SE¼;
Sec. 30, SE¼SE¼;
Sec. 31, lots 2, N½NE¼, SE¼NW¼;
Sec. 33, N½NE¼, SE¼NE¼;
Sec. 34, SW¼NW¼, W½SW¼.

Smith Prairie-Fall Creek (No. 77) Forest Development Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 77 through the following legal subdivisions:

T. 2 N., R. 8 E.,
Sec. 25, NE¼NE¼, W½NE¼, S½NW¼;
Sec. 26, S½NE¼, S½NE¼, W½SE¼.
T. 2 N., R. 9 E.,
Sec. 19, lot 4.

South Fork Salmon River (88-A) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 88-A through the following legal subdivisions:

T. 16 N., R. 6 E.,
Sec. 1, W½SW¼;
Sec. 11, SE¼NE¼, E½SE¼;
Sec. 12, W½NW¼;
Sec. 14, E½NE¼, E½SE¼;
Sec. 23, SW¼NE¼, E½NE¼, W½SE¼;
Sec. 26, E½NW¼, E½SW¼;
Sec. 35, lots 1, 2, W½NE¼, NW¼SW¼.

Slide Gulch (No. 91-A) Forest Development Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 91-A through the following legal subdivisions:

T. 3 N., R. 6 E.,
Sec. 2, lot 3, SE¼NW¼, SW¼SW¼, E½SW¼;
Sec. 10, lot 8;
Sec. 14, lot W½NW¼, NE¼SW¼;
Sec. 23, NE¼NE¼;
Sec. 24, SW¼NW¼, E½SW¼, S½SE¼;
Sec. 25, N½NE¼.
T. 4 N., R. 6 E.,
Sec. 28, lots 3 and 6;
Sec. 33, W½NE¼, SE¼NE¼;
Sec. 34, NW¼SW¼, unpatented portion of SW¼SE¼.
T. 1 N., R. 7 E.,
Sec. 24, lot 1.
T. 3 N., R. 7 E.,
Sec. 32, N½NE¼, N½NW¼;
Sec. 34, N½NE¼, N½NW¼.
T. 1 S., R. 7 E.,
Sec. 12, lot 1, W½NE¼, NW¼SE¼.
T. 1 N., R. 8 E.,
Sec. 19, lots 3, 5;
Sec. 30, lots 5, 6, 11;
Sec. 31, lots 1, 7, 10, SE¼NE¼.
T. 1 S., R. 8 E.,
Sec. 1, lots 3, 4, 5, 6;
Sec. 5, lots 1;
Sec. 6, lots 1, 4, 5;
Sec. 8, lots 1;
Sec. 11, lots 1, 2, 3, 7, 8;
Sec. 12, lots 3;
Sec. 14, lots 2;
Sec. 15, lots 1, 2, 3, 4, 5;
Sec. 21, SE¼SW¼, S½SE¼;
Sec. 22, S½S½;
Sec. 23, SW¼SW¼.

Old Long Valley (No. 139) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 139 through the following subdivisions:

T. 9 N., R. 2 E.,
Sec. 1, lots 2, SW¼NE¼, SE¼SW¼, W½SE¼;
Sec. 12, NE¼NW¼;
Sec. 13, E½SW¼.
T. 10 N., R. 2 E.,
Sec. 16, N½NE¼, SE¼NW¼, W½SW¼;
Sec. 20, unpatented portions of SW¼NE¼ and NE¼SW¼;
Sec. 25, lots 4, SW¼NW¼, W½SW¼;
Sec. 36, N½SW¼, SE¼SW¼.
T. 9 N., R. 3 E.,
Sec. 31, lot 4.
T. 11 N., R. 3 E.,
Sec. 5, lot 1, W½SE¼;
Sec. 8, W½NE¼, NE¼SE¼, E½W½SE¼;
Sec. 17, W½NE¼, NE¼SW¼;
Sec. 30, unpatented portion of NE¼NE¼.
T. 12 N., R. 3 E.,
Sec. 1, NE¼SW¼, E½SE¼;
Sec. 11, SE¼SE¼;
Sec. 14, N½NE¼, W½SE¼;
Sec. 32, E½SE¼.

Middle Fork Payette River (No. 145) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 145 through the following legal subdivisions:

T. 10 N., R. 4 E.,
Sec. 12, NE¼SE¼, S½SW¼SE¼.
T. 10 N., R. 5 E.,
Sec. 6, lots 6, 7, S½NE¼, SE¼NW¼
T. 11 N., R. 5 E.,
Sec. 2, lots 1, 2, SW¼NE¼, W½SE¼;
Sec. 10, E½NE¼, SW¼NE¼, NE¼SW¼, S½SW¼;
Sec. 11, N½NW¼;
Sec. 15, NW¼NW¼;
Sec. 21, S½SW¼NW¼, W½SW¼;
Sec. 28, W½NW¼;
Sec. 29, W½SE¼, SE¼SW¼;
Sec. 31, S½SE¼SE¼;
Sec. 32, E½NW¼, N½SW¼.
T. 12 N., R. 5 E.,
Sec. 25, SE¼SE¼.
T. 12 N., R. 6 E.,
Sec. 4, SW¼NW¼, W½SW¼;
Sec. 8, E½NE¼, E½SE¼;
Sec. 17, E½NE¼, E½SW¼;
Sec. 19, N½NE¼;
Sec. 20, NW¼NW¼;
Sec. 30, lots 3, 4, NE¼NE¼, NW¼NE¼, SW¼NE¼, SE¼NW¼, NE¼SW¼.
T. 13 N., R. 6 E.,
Sec. 2, lots 3, 6, SE¼NW¼, N½SW¼;
Sec. 3, N½SE¼, SW¼SE¼;
Sec. 9, E½SE¼;
Sec. 10, SW¼NW¼, E½NW¼;
Sec. 16, W½NE¼, NW¼SE¼.
T. 14 N., R. 6 E.,
Sec. 12, NW¼NW¼, E½NW¼, W½SW¼, S½SE¼;
Sec. 13, W½NW¼, W½SW¼;
Sec. 23, SW¼SE¼;
Sec. 26, NW¼NE¼, E½SW¼;
Sec. 34, S½SE¼;
Sec. 35, W½NW¼.
T. 15 N., R. 6 E.,
Sec. 24, N½SW¼, SE¼SW¼, SW¼SE¼;
Sec. 25, 2NE¼, SE¼SW¼, E½SW¼;
Sec. 36, W½NW¼, NW¼SW¼.

Clear Creek-Stanley (No. 146) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road 146 through the following legal subdivisions:

T. 9 N., R. 7 E.,
Sec. 12, NE¼SW¼, W½SW¼, E½NW¼;
Sec. 13, N½SW¼NW¼, NW¼NW¼, SW¼SW¼NW¼;
Sec. 14, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 23, NE¼NW¼, S½NW¼, W½SW¼;
Sec. 27, E½NE¼, unpatented portion of SW¼NE¼.
T. 10 N., R. 7 E.,
Sec. 25, SE¼SW¼, N½SE¼;
Sec. 36, E½NW¼, NE¼SW¼, S½SW¼.
T. 10 N., R. 8,
Sec. 3, lot 4, SW¼NW¼;
Sec. 4, S½NE¼, W½SE¼;
Sec. 9, NE¼, S½NW¼, W½SW¼, N½SE¼;
Sec. 16, NW¼NW¼;
Sec. 17, S½NE¼, E½SW¼;
Sec. 19, SW¼NW¼, NE¼SW¼;
Sec. 20, NE¼NW¼, S½NW¼;
Sec. 30, lots 1, 2, 3.

T. 11 N., R. 8 E.,
Sec. 2, lot 4, SW¼NW¼, W½SW¼;
Sec. 10, E½NE¼, E½SE¼;
Sec. 11, NW¼NW¼;
Sec. 15, E½NE¼, E½SE¼;
Sec. 22, E½NE¼, E½SE¼;
Sec. 27, E½NE¼, NE¼SE¼, S½SE¼;
Sec. 34, SE¼NW¼, E½SW¼.
T. 12 N., R. 8 E.,
Sec. 35, S½NE¼, S½SW¼;
Sec. 36, N½NE¼, S½NW¼.
T. 12 N., R. 9 E.,
Sec. 3, SW¼NE¼, W½SE¼;
Sec. 9, S½SE¼;
Sec. 10, NE¼NW¼, S½NW¼, NW¼SW¼;
Sec. 16, E½NW¼, N½SW¼;
Sec. 20, NE¼NE¼, SW¼NE¼, E½SW¼;
Sec. 29, W½NW¼;
Sec. 30, lot 4, S½NE¼, SE¼SW¼.
T. 13 N., R. 9 E.,
Sec. 34, S½SE¼;
Sec. 35, S½SW¼, SW¼SE¼;
Sec. 36, S½NE¼, N½SW¼.
T. 12 N., R. 10 E.,
Sec. 5, E½SW¼, W½NE¼;
Sec. 8, SE¼NW¼, NE¼NW¼, W½SE¼;
Sec. 17, NW¼NE¼, NE¼SE¼;
Sec. 21, S½NW¼.
T. 13 N., R. 10 E.,
Sec. 31, S½NE¼, S½NW¼;
Sec. 32, W½SE¼, SE¼NW¼.

Knox-Yellow Pine (No. 148) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 148 through the following legal subdivisions:

T. 15 N., R. 6 E.,
Sec. 1, lot 5.
T. 15 N., R. 7 E.,
Sec. 1, SE¼SE¼;
Sec. 10, S½S½;
Sec. 11, S½NE¼, NW¼SW¼;
Sec. 12, NW¼NE¼, W½NE¼NE¼, S½NW¼;
Sec. 17 N½NE¼, N½NW¼.
T. 16 N., R. 7 E.,
Sec. 1, lot 1, SE¼NE¼, W½SE¼;
Sec. 12, E½NW¼;
Sec. 13, W½NW¼, W½SW¼;
Sec. 23, SE¼NE¼, NE¼SE¼;
Sec. 24, SW¼NW¼, N½SW¼;
Sec. 25, W½NE¼, E½SE¼;
Sec. 36, NE¼NE¼.
T. 17 N., R. 7 E.,
Sec. 36, SE¼NE¼, E½SE¼.
T. 15 N., R. 8 E.,
Sec. 6, lots 4, 5.
T. 16 N., R. 8 E.,
Sec. 31, lots 1, 3, 4.
T. 17 N., R. 8 E.,
Sec. 5, lot 2, SW¼NE¼, W½SE¼;
Sec. 8, E½NW¼, E½SW¼;
Sec. 17, W½NW¼, W½SW¼;
Sec. 20, NW¼, W½SW¼;
Sec. 30, lots 2, 3, 4, N½NE¼, E½NW¼;
Sec. 31, lot 1.
T. 18 N., R. 8 E.,
Sec. 4, lot 2, SW¼NE¼;
Sec. 9, W½SE¼;
Sec. 20, SW¼NE¼, E½NE¼, W½SE¼;
Sec. 29, E½SW¼;
Sec. 32, SE¼NW¼, E½SW¼.
T. 19 N., R. 8 E.,
Sec. 21, SE¼SE¼;
Sec. 27, NW¼NE¼, N½NW¼;
Sec. 28, NE¼NE¼, S½NW¼NW¼, SW¼NW¼, SW¼SW¼;
Sec. 33, N½SW¼, N½SW¼SE¼.

Bear Valley-Pen Basin (No. 149) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 149 through the following legal subdivisions:

T. 12 N., R. 7 E.,
Sec. 1, lots 1, 3, 4, S½NE¼.
T. 13 N., R. 7 E.,
Sec. 1, lot 4, SW¼NW¼, W½SW¼;
Sec. 11, unpatented portion of E½SE¼, SW¼NE¼;
Sec. 14, E½NE¼, E½SE¼;
Sec. 23, W½NE¼, SW¼SE¼;
Sec. 26, W½SW¼;
Sec. 34, W½NE¼;
Sec. 35, SW¼SW¼, S½SE¼;
Sec. 36, SW¼SW¼.
T. 14 N., R. 7 E.,
Sec. 12, SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 13, W½NE¼, N½SW¼, SW¼SW¼;
Sec. 23, NE¼NE¼, SW¼NE¼, W½SE¼;
Sec. 26, E½NW¼, E½SW¼;
Sec. 35, W½NW¼, E½SW¼.
T. 15 N., R. 7 E.,
Sec. 12, E½NE¼, E½SE¼;
Sec. 13, E½NE¼.
T. 12 N., R. 8 E.,
Sec. 3, lot 4, SW¼NW¼;
Sec. 5, lots 1, 2, 3, 4;
Sec. 9, E½NE¼, E½SE¼;
Sec. 16, E½NE¼, E½SE¼;
Sec. 21, E½NE¼, NE¼SE¼, SE¼SE¼;
Sec. 27, W½NE¼, W½SW¼;
Sec. 34, N½NW¼, N½SE¼;
Sec. 35, SW¼SW¼.
T. 13 N., R. 8 E.,
Sec. 33, S½SW¼, S½SE¼;
Sec. 34, NE¼SW¼, S½SW¼, N½SE¼;
Sec. 35, SW¼NE¼, SW¼NW¼, N½SW¼;
Sec. 36, N½NE¼, N½NW¼.
T. 14 N., R. 8 E.,
Sec. 6, lot 2, SE¼NW¼, E½SW¼;
Sec. 7, lots 1, 2.
T. 15 N., R. 8 E.,
Sec. 19, NE¼NE¼;
Sec. 20, S½NW¼, E½SW¼;
Sec. 29, E½NW¼, E½SW¼;
Sec. 31, S½NE¼, W½SE¼;
Sec. 32, W½NW¼.
T. 13 N., R. 9 E.,
Sec. 30, lots 1, 2;
Sec. 31, lot 1, N½NE¼, NE¼NW¼;
Sec. 32, W½NW¼NW¼, W½E½N W¼NW¼;
Sec. 33, S½NW¼, N½SE¼;
Sec. 34, S½SW¼, SW¼SE¼.

Scott Mountain-Deadwood (No. 762) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 762 through the following legal subdivisions:

T. 9 N., R. 6 E.,
Sec. 2, lots 2, 4, SW¼SW¼;
Sec. 3, lot 1, E½SE¼;
Sec. 10, NE¼NE¼, SE¼SE¼;
Sec. 11, E½NE¼, W½NW¼, W½SW¼, NE¼SE¼;
Sec. 15, NE¼NE¼, W½NE¼, E½SW¼;
Sec. 21, SE¼NE¼, N½SE¼, SW¼SE¼;
Sec. 22, N½NW¼;
Sec. 28, SW¼NE¼, NE¼NW¼, W½SE¼;
Sec. 33, lot 4, E½NW¼.
T. 10 N., R. 6 E.,
Sec. 1, lot 1, S½NE¼, S½NW¼, W½SW¼;
Sec. 2, SE¼SE¼;
Sec. 11, N½NE¼, SE¼NW¼, E½SW¼;
Sec. 14, W½NW¼, SW¼SW¼;
Sec. 15, SE¼NE¼, NE¼SE¼;
Sec. 22, SE¼SE¼;
Sec. 23, W½NE¼, NW¼, S½SW¼, W½SE¼;
Sec. 26, SW¼SW¼;
Sec. 27, N½NE¼, SW¼NE¼, E½SE¼;
Sec. 34, SE¼SE¼;
Sec. 35, S½N½SW¼, S½SW¼.
T. 11 N., R. 6 E.,
Sec. 25, SE¼SE¼;
Sec. 36, W½NE¼, SE¼NW¼, NE¼SW¼, S½SE¼.
T. 11 N., R. 7 E.,
Sec. 17, N½NE¼, E½SW¼;
Sec. 20, W½NW¼, W½SW¼;
Sec. 30, E½NE¼.

Deadwood River (No. 150) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 150 through the following legal subdivisions:

T. 11 N., R. 7 E.,
Sec. 5, lot 2, SE¼NE¼, E½SE¼;
Sec. 8, E½NE¼, E½SE¼;
Sec. 17, NE¼NE¼.
T. 12 N., R. 7 E.,
Sec. 3, lot 3, SW¼NW¼, E½SW¼;
Sec. 10, E½NW¼, W½SW¼;
Sec. 15, NW¼NW¼;
Sec. 16, S½NE¼, SE¼SW¼;
Sec. 20, NE¼SE¼, SW¼SE¼;
Sec. 21, E½NW¼NW¼;
Sec. 29, NW¼NE¼, SE¼NW¼, NW¼SW¼;
Sec. 32, W½NE¼, NW¼SE¼, SW¼SE¼.
T. 13 N., R. 7 E.,
Sec. 34, NE¼NE¼, SW¼NE¼, SE¼SW¼, NE¼SE¼.

Cow Creek Bridge (No. 152) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 152 through the following subdivisions:

T. 1 S., R. 8 E.,
Sec. 6, lot 3, SW¼SW¼, E½SW¼.

Squaw Valley (No. 154) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 154 through the following subdivisions:

T. 12 N., R. 1 E.,
Sec. 2, E½SE¼;
Sec. 14, E½NW¼.

Neal (No. 151) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No 151 thorough the following subdivision:

T. 2 N., R. 5 E.,
Sec. 1, SW¼NW¼, NE¼SW¼;
Sec. 2, N½SW¼;
Sec. 3, SE¼SW¼, S½SE¼.

T. 3 N., R. 5 E.,
Sec. 19, lots 1, 2, 3;
Sec. 30, NE¼NW¼.
T. 2 N., R. 6 E.,
Sec. 2, lots 7, 10;
Sec. 12, lots 6, 11, W½SE¼.
T. 3 N., R. 6 E.,
Sec. 31, lot 9, NE¼SW¼, SE¼SE¼;
Sec. 33, lots 7, 9, S½NW¼, NW¼SE¼;
Sec. 34, lots 5, 6, 7, 8.

Middle Fork Boise River (No. 631) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of a center line of Forest Development Road No. 631 through the following legal subdivisions:

T. 3 N., R. 4 E.,
Sec. 11, lots 1, 2, 3, 4, NW¼SW¼;
Sec. 12, lots 1, 3;
Sec. 13, lots 1, 4, 5, 6, SE¼NE¼.
T. 3 N., R. 5 E.,
Sec. 1, lots 1, 2, 5, 9, 10, NW¼SW¼;
Sec. 2, lot 1, SE¼NE¼, NE¼SE¼;
Sec. 7, S½SE¼;
Sec. 8, SW¼SE¼;
Sec. 10, lots 1, 2, 3;
Sec. 11, SW¼NW¼;
Sec. 17, lot 8, N½NE¼, SW¼NE¼, N½NW¼;
Sec. 18, lots 2, 10, NW¼NE¼, E½NW¼.
T. 4 N., R. 6 E.,
Sec. 13, lots 1, 2, 5, SE¼SW¼;
Sec. 22, lots 1, 2, 5, 8;
Sec. 23, lots 1, 2, 3, 4, 5;
Sec. 27, lots 2, 3, 4;
Sec. 28, lots 1, 2, 3, 6, 7, SE¼SW¼;
Sec. 29, lots 1, 2, 3, 4;
Sec. 30, lots 3, 6;
Sec. 31, lots 3, 4, 6;
Sec. 33, lot 2.
T. 4 N., R. 7 E.,
Sec. 4, lots 1, 10;
Sec. 5, lot 7;
Sec. 7, lots 3, 4, 7, 10;
Sec. 8, lots 1, 5, 6, 7, 8;
Sec. 18, lots 1, 4.
T. 5 N., R. 7 E.,
Sec. 23, lots 2, 3, SE¼NE¼;
Sec. 24, lots 1, 2, 3, 4;
Sec. 26, lots 2, 3, 5, 6, 7;
Sec. 34, lots 1, 5, 7, 10, 11, 12;
Sec. 35, lot 3.
T. 5 N., R. 8 E.,
Sec. 9, lot 1;
Sec. 10, lots 1, 2, 6, 7;
Sec. 11, lots 1, 4, 5, 6;
Sec. 12, lots 1, 2, 3, 4;
Sec. 17, lots 6, 7;
Sec. 18, lots 3, 5, 8, 9;
Sec. 19, lot 2.
T. 5 N., R. 9 E.,
Sec. 3, lots 4, 5;
Sec. 4, lots 4, 5, 6, 8;
Sec. 5, lot 1;
Sec. 6, lot 11, SE¼SE¼;
Sec. 7, N½NE¼, NE¼NW¼.
T. 6 N., R. 9 E.,
Sec. 25, S½SE¼;
Sec. 34, SW¼SE¼, W½SE¼SE¼;
Sec. 35, S½NE¼, NW¼SW¼;
Sec. 36, NW¼NE¼, S½NW¼, unpatented portion of NE¼NW¼.
T. 6 N., R. 10 E.,
Sec. 25, S½SW¼, S½SE¼;
Sec. 26, S½SW¼, S½SE¼;
Sec. 27, SE¼SW¼, S½SE¼;
Sec. 29, SW¼NW¼, SW¼SE¼;
Sec. 30, lot 3, SE¼NE¼, SW¼NE¼;
Sec. 32, NE¼NE¼;
Sec. 33, S½NW¼, N½SE¼;
Sec. 34, W½NW¼, NW¼SW¼;
Sec. 36, N½NE¼.
T. 5 N., R. 11 E.,
Sec. 3, lot 5, SW¼NW¼;
Sec. 4, lots 5, 9, S½NW¼;
Sec. 5, lots 2, 8;
Sec. 6, lots 1, 2.
T. 6 N., R. 11 E.,
Sec. 31, lot 1, E½NW¼, NE¼SW¼, SW¼SE¼, SE¼SE¼;
Sec. 32, S½SW¼, S½SE¼.

Ditch Creek R.S. (No. 650) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of a center line of Forest Development Road No. 650 through the following legal subdivisions:

T. 12 N., R. 4 E.,
Sec. 2, S½NW¼;
T. 13 N., R. 5 E.,
Sec. 15, SW¼SW¼;
Sec. 20, SW¼;
Sec. 21, E½NE¼, SW¼, N½SE¼;
Sec. 22, NW¼NW¼;
Sec. 28, NW¼NW¼;
Sec. 29, N½NE¼.

Banner Creek (No. 681) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of a center line of Forest Development Road No. 681 through the following legal subdivisions:

T. 8 N., R. 7 E.,
Sec. 12, S½S½;
Sec. 13, NE¼NE¼;
Sec. 14, N½NE¼, SE¼NW¼, W½SW¼.
T. 8 N., R. 8 E.,
Sec. 17, W½NE¼, N½NW¼, W½SE¼;
Sec. 18, lot 1, NE¼NW¼;
Sec. 20, lots 1, 5, W½SW¼;
Sec. 29, E½NW¼, E½SW¼;
Sec. 32, W½NW¼, W½SW¼.

Fall Creek-Rocky Bar (No. 709) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 709 through the following legal subdivisions:

T. 3 N., R. 8 E.,
Sec. 1, SE¼NE¼, E½SE¼;
Sec. 12, E½NE¼, SE¼SW¼, NE¼SE¼, W½SE¼;
Sec. 13, W½NE¼, NE¼NW¼, W½SE¼;
Sec. 24, E½NE¼, NE¼SE¼.
T. 1 N., R. 9 E.,
Sec. 2, lot 4;
Sec. 9, W½SE¼, W½NE¼;
T. 2 N., R. 9 E.,
Sec. 35, NW¼NW¼.
T. 3 N., R. 9 E.,
Sec. 6, lot 5, SE¼NW¼;
Sec. 30, lots 1, 2, 3, E½SW¼;
Sec. 31, lot 2, E½NW¼, E½SW¼.
T. 4 N., R. 9 E.,
Sec. 1, lot 1, SW¼NE¼, E½SW¼, W½SE¼;
Sec. 3, lots 1, 2, SW¼NE¼, SE¼SW¼, W½SE¼;
Sec. 9, SE¼SE¼;
Sec. 10, E½NW¼, NW¼SW¼, SW¼SW¼;
Sec. 12, W½NE¼, NW¼SE¼, NE¼SE¼;
Sec. 16, N½NE¼, S½NW¼, W½SW¼;
Sec. 20, E½NE¼, W½SE¼;
Sec. 29, NW¼NE¼, SW¼NW¼, E½NW¼;
Sec. 30, E½SE¼;
Sec. 31, W½NE¼, W½SE¼.
T. 5 N., R. 9 E.,
Sec. 25, S½SW¼;
Sec. 34, E½SE¼;
Sec. 35, NE¼NE¼, SW¼NE¼, S½NW¼;
Sec. 36, E½NW¼, NW¼NW¼, NW¼SW¼, SE¼SE¼.
T. 4 N., R. 10 E.,
Sec. 7, E½NE¼SW¼, E½W½NE¼SW¼.

Second Fork (No. 701) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of a center line of Forest Development Road No. 701 through the following legal subdivisions:

T. 12 N., R. 2 E.,
Sec. 20, N½SE¼, SE¼SE¼;
Sec. 21, SW¼NW¼, E½NW¼;
Sec. 28, S½NW¼;
Sec. 29, NE¼NE¼, S½NE¼, W½SE¼;
Sec. 31, SE¼NE¼, NE¼SE¼, SE¼NW¼ SE¼;
Sec. 32, NE¼NW¼, W½NW¼.

Gold Fork (No. 702) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of a center line of Forest Development Road No. 702 through the following legal subdivisions:

T. 15 N., R. 5 E.,
Sec. 3, SW¼NE¼, W½SE¼;
Sec. 10, NE¼NW¼, NE¼SW¼, S½SW¼;
Sec. 21, W½NE¼, E½SE¼;
Sec. 28, E½NE¼.

Cottonwood-Thorn Creek (No. 707) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 707 through the following legal subdivisions:

T. 4 N., R. 5 E.,
Sec. 1, NE¼SE¼, W½SE¼;
Sec. 3, lot 3, SW¼NE¼, E½SW¼;
Sec. 10, NE¼, NE¼SW¼, E½NW¼;
Sec. 11, S½NE¼, N½SW¼;
Sec. 12, N½NW¼;
Sec. 15, W½NE¼, E½SE¼;
Sec. 22, lot 1, NE¼SE¼;
Sec. 23, lot 8;
Sec. 26, lots 1, 5, 6.
T. 4 N., R. 6 E.,
Sec. 6, lots 2, 5.
T. 5 N., R. 6 E.,
Sec. 21, SE¼SE¼;
Sec. 22, W½NW¼, W½SW¼;
Sec. 28, E½NE¼, S½SW¼, W½SE¼;
Sec. 29, SE¼SE¼;
Sec. 31, SE¼SE¼;
Sec. 32, N½NE¼, SE¼NW¼, W½SW¼.

Packer John (No. 788) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 788 through the following legal subdivisions:

T. 10 N., R. 4 E.,
Sec. 4, SW¼;
Sec. 17, NE¼NE¼, W½NE¼, E½SW¼, SW¼SE¼;
Sec. 20, N½NE¼.

Boise Ridge (No. 798) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of center line of Forest Development Road No. 798 through the following legal subdivisions:

T. 4 N., R. 3 E.,
Sec. 3, lot 4, W½SW¼;
Sec. 9, NE¼;
Sec. 22, W½SE¼;
Sec. 26, lots 1, 2, N½NW¼;
Sec. 27, N½NE¼;
Sec. 35, N½NE¼;
T. 5 N., R. 3 E.,
Sec. 2, lots 3, 4;
Sec. 3, lot 1, SW¼NE¼, W½SE¼;
Sec. 10, E½NW¼, E½SW¼;
Sec. 27, N½NW¼, SE¼NW¼, E½SW¼;
Sec. 34, E½NW¼, W¼SW¼.
T. 6 N., R. 3 E.,
Sec. 25, S½NE¼, S½NW¼;
Sec. 25, NW¼NE¼, SE¼NE¼.
T. 7 N., R. 3 E.,
Sec. 1, lot 3, SE¼NW¼, W½SE¼;
Sec. 13, S½NE¼, N½SE¼;
Sec. 24, E½NW¼, NE¼SW¼, W½SW¼;
T. 8 N., R. 4 E.,
Sec. 8, NW¼NW¼;
Sec. 18, NE¼NE¼, E½SW¼, NW¼SE¼;
Sec. 19, lot 4, W½NW¼, W½SW¼;
Sec. 30, lot 1.
T. 7 N., R. 4 E.,
Sec. 30, lot 3, E½SW¼, S½SE¼;
Sec. 31, NE¼NE¼;
Sec. 32, W½NW¼, W½SW¼.

South Side Payette River (No. 800) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 800 through the following legal subdivision:

T. 8 N., R. 4 E.,
Sec. 1, lots 3, 4, 5, 6, SE¼NW¼.
T. 8 N., R. 5 E.,
Sec. 6, lots 9, 10, 13;
Sec. 8, lot 6;
Sec. 9, lots 7, 8, 13, 14;
Sec. 10, SW¼SW¼;
Sec. 15, W½SE¼;
Sec. 22, NE¼NE¼.

Summit Flat (No. 751) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 751 through the following legal subdivisions:

T. 7 N., R. 6 E.,
Sec. 1, lot 2, SW¼NE¼.
T. 8 N., R. 6 E.,
Sec. 22, E½SW¼, N½SE¼;
Sec. 23, N½SW¼, S½SE¼;
Sec. 25, S½NW¼, E½SW¼;
Sec. 27, NW¼;
Sec. 28, SE¼NE¼, E½SE¼;
Sec. 31, lot 2, S½NE¼;
Sec. 32, N½NE¼, N½NW¼;
Sec. 33, NE¼NE¼, S½NE¼, S½NW¼, NW¼SW¼;
Sec. 36, W½NE¼, NE¼NW¼, W½SE¼.
T. 7 N., R. 7 E.,
Sec. 18, lots 2, 3, SE¼SW¼;
Sec. 19, E½NW¼, S½NE¼.

Bull Trout Lake (No. 780) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 780 through the following legal subdivisions:

T. 11 N., R. 10 E. (unsurveyed),
Sec. 3, E½SW¼;
Sec. 9, NE¼NE¼;
Sec. 10, N½NW¼.

Idaho City-Alexander Flat (No. 712) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 712 through the following legal subdivisions:

T. 5 N., R. 6 E.,
Sec. 3, lots 6, 9, 10, 12, NE¼SE¼;
Sec. 4, Lot 10, NW¼SE¼, E½SE¼.
T. 5 N., R. 8 E.,
Sec. 5, lot 1, SE¼NE¼, E½SE¼;
Sec. 8, W½NE¼.
T. 6 N., R. 6 E.,
Sec. 30, S½NE¼.
T. 6 N., R. 8 E.,
Sec. 32, E½SW¼, E½W½SE¼;
Sec. 33, SW¼SW¼.

Artillery Dome (No. 822) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 822 through the following legal subdivisions:

T. 15 N., R. 8 E.,
Sec. 2, SW¼NE¼, S½NW¼;
Sec. 3, S½NE¼, S½SW¼;
Sec. 4, SE¼SW¼, S½SE¼;
Sec. 7, E½E½SW¼, SW¼SE¼;
Sec. 9, E½NW¼, NW¼SW¼, SW¼SW¼;
Sec. 11, N½SE¼SE¼, SW¼SE¼SE¼;
Sec. 13, S½S½NE¼, S½S½NW¼;
Sec. 14, W½NE¼NE¼;
Sec. 17, NE¼NE¼, SW¼NE¼, S½NW¼;
Sec. 18, E½NE¼.
T. 15 N., R. 9 E.,
Sec. 10, NE¼NE¼, W½NE¼, NW¼SW¼, SW¼SW¼;
Sec. 11, N½NE¼, N½NW¼;
Sec. 12, S½NE¼;
Sec. 18, E½SW¼;
Sec. 19, NE¼NW¼, W½NE¼, N½SE¼;
Sec. 20, S½SW¼, S½SE¼;
Sec. 21, W½SW¼, W½NW¼.
T. 15 N., R. 10 E.,
Sec. 5, S½SW¼;
Sec. 6, SE¼SE¼;
Sec. 7, lot 3, E½NE¼, NE¼SW¼, NW¼SE¼.

Bogus Basin (No. 836) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 836 through the following legal subdivisions:

T. 5 N., R. 3 E.,
Sec.28, NE¼NW¼;
Sec. 29, NE¼SW¼, S½SW¼, N½SE¼;
Sec. 31, lot 2, NE¼NE¼, S½NE¼, SE¼NW¼;
Sec. 32, N½NW¼.

Danskin Logging Road (No. 379) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 379 through the following legal subdivisions:

T. 8 N., R. 5 E.,
Sec. 2, lot 5.
T. 9 N., R. 5 E.,
Sec. 24, N½NW¼, S½NW¼;
Sec. 25, SW¼NW¼, W½SW¼;
Sec. 35, E½NE¼, E½SE¼;
Sec. 36, NW¼NW¼.

Cabin Creek (No. 919) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 919 through the following legal subdivisions:

T. 16 N., R. 6 E.,
Sec. 36, NE¼SE¼, S½SE¼.
T. 16 N., R. 7 E.,
Sec. 9, E½SE¼;
Sec. 10, NE¼NE¼, S½NE¼, S½NW¼;
Sec. 11, N½NE¼, N½NW¼;
Sec. 16, NE¼NE¼, W½NE¼, NE¼SW¼, NW¼SW¼;
Sec. 17, SE¼SE¼;
Sec. 19, S½SE¼;
Sec. 20, NE¼NW¼, W½NW¼;
Sec. 30, lots 3, 4, E½NW¼;
Sec. 31, lots 1, 2, 3.

Dixie-Atlanta (No. 921) Forest Development Road Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Development Road No. 921 through the following legal subdivisions:

T. 1 S., R. 8 E.,
Sec. 1, lot 8;
Sec. 12, lot 2, SE¼NW¼;
Sec. 14, W½NE¼, W½SE¼.
T. 2 N., R. 10 E.,
Sec. 6, SE¼SE¼;
Sec. 7, lots 1, 4, 7, 10.
T. 4 N., R. 10 E.,
Sec. 4, lot 4;
Sec. 5, lot 1, SW¼NE¼, W½SE¼;
Sec. 8, lot 2, NW¼NE¼;
Sec. 20, NE¼SE¼, W½SE¼;
Sec. 21, SW¼NW¼, E½NW¼;
Sec. 28, SW¼NW¼, N½SW¼, SE¼SW¼;
Sec. 29, NE¼;
Sec. 33, NW¼NE¼, E½NE¼, E½SE¼;
Sec. 34, SW¼SW¼.
T. 5 N., R. 10 E.,
Sec. 12, SE¼SE¼;
Sec. 13, NE¼NE¼, W½NE¼, N½SW¼, SW¼SW¼;
Sec. 14, SE¼SE¼;
Sec. 22, NE¼SE¼, SW¼SE¼;
Sec. 23, N½NE¼, S½NW¼;
Sec. 27, NW¼NE¼, E½NW¼, NE¼SW¼, S½SW¼;
Sec. 28, SE¼SE¼;
Sec. 33, N½NE¼, SE¼NW¼, E½SW¼;
T. 5 N., R. 11 E.,
Sec. 5, SW¼NE¼, SE¼NW¼, NW¼SW¼;
Sec. 6, N½SE¼, SW¼SE¼;
Sec. 7, lots 3, 4, W½NE¼, NE¼SW¼.

Gardena-Placerville (No. 926) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 926 through the following legal subdivisions.

T. 7 N., R. 3 E.,
Sec. 13, N½SW¼, W½SE¼;
Sec. 14, NE¼SE¼.

Alder Creek (No. 928) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 928 through the following legal subdivisions.

T. 7 N., R. 4 E.,
Sec. 2, lot 2, SW¼NE¼, W½SE¼;
Sec. 11, lot 1, NW¼NE¼.
T. 8 N., R. 4 E.,
Sec. 22, W½NE¼, E½SE¼;
Sec. 23, SW¼SW¼;
Sec. 26, NW¼NW¼, E½NW¼, NE¼SW¼, W½SE¼;
Sec. 35, unpatented portion of NE¼NE¼, W½NE¼, W½SE¼.

Horseshoe Bend-Grimes Pass (No. 799) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 799 through the following legal subdivisions:

T. 6 N., R. 3 E.,
Sec. 1, SE¼SW¼, NE¼SE¼, SW¼SE¼.
T. 7 N., R. 4 E.,
Sec. 32, lot 4, SW¼, SW¼SE¼.
T. 6 N., R. 5 E.,
Sec. 7, N½NE¼.
T. 8 N., R. 5 E.,
Sec. 22, lot 1;
Sec. 23, lots 8, 9, SE¼SW¼.

Cascade-Knox (No. 22) Forest Highway Roadside Zone

A strip of land 200 feet on each side of the center line of Forest Highway No. 22 through the following legal subdivisions:

T. 15 N., R. 5 E.,
Sec. 13, SE¼SE¼;
Sec. 23, S½SW¼, NW¼SE¼;
Sec. 24, NW¼NE¼, S½NW¼;
Sec. 27, E½NE¼NE¼, W½NW¼NE¼, NE¼NW¼, SW¼NW¼;
Sec. 32, N½SE¼;
Sec. 33, N½NE¼, SW¼.NW¼.
T. 15 N., R. 6 E.,
Sec. 2, lot 5;
Sec. 10, SE¼NE¼, W½SE¼;
Sec. 15, E½NW¼, N½SW¼;
Sec. 16, S½SW¼, N½SE¼;
Sec. 17, S½SW¼, S½SE¼;
Sec. 18, lot 3, NE¼SW¼, S½SE¼.

Grimes Creek (No. 847) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 847 through the following legal subdivisions:

T. 5 N., R. 3 E.,
Sec. 11, lot 4, S½SW¼, S½SW¼SE¼;
Sec. 14, NW¼NE¼, N½NW¼;
Sec. 15, N½NE¼.
T. 5 N., R. 4 E.,
Sec. 9, S½SE¼;
Sec. 10, N½SW¼;
Sec. 17, NW¼NW¼;
Sec. 18, NE¼NE¼, S½NE¼, SE¼NW¼;
Sec. 22, SE¼SW¼;
Sec. 27, NE¼NW¼.

Sage Hen Basin (No. 851) Forest Development Road Roadside Zone

A strip of land 100 feet on each side of the center line of Forest Development Road No. 851 through the following legal subdivisions:

T. 11 N., R. 2 E.,
Sec. 3, lot 3, SE¼NW¼, W½SW¼;
Sec. 9, SE¼NE¼, S½SE¼;
Sec. 10, W½NW¼;
Sec. 16, W½NE¼, SW¼SW¼, E½SW¼;
Sec. 20, NW¼SE¼.

The areas described aggregate 30,815.9 acres in Boise, Elmore and Valley Counties.

William E. Ireland,

Chief, Lands Section.

[FR Doc. 83-21168 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Intent To Change the Designation of Forms Used in the Oil and Gas and Sulphur Operations on the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of Intent.

SUMMARY: This Notice identifies those forms that are in the process of being redesignated as forms of the Minerals Management Service (MMS) and revised to reflect the transfer of all onshore activities to the Bureau of Land Management (BLM).

SUPPLEMENTARY INFORMATION: On January 19, 1982, the Secretary of the Interior reorganized the Department to form the MMS and transferred the functions previously conducted in the Conservation Division of the U.S. Geological Survey (USGS) to MMS. The regulations previously administered by the Conservation Division were amended to reflect this reorganization on June 30, 1982.

The Outer Continental Shelf (OCS) responsibilities of BLM were transferred to MMS on October 22, 1982. On December 3, 1982, the Secretary issued an order transferring all onshore minerals management functions of MMS, not relating to Royalty Management, to BLM.

Many of the forms currently used by the OCS program are numbered with USGS numbers. In some instances, portions of these forms request information germane only to onshore operations. Therefore, MMS plans to revise the forms now in use to reflect current MMS responsibilities.

As an initial step in this transition, a new number is being assigned to those forms listed in this Notice. The new form numbers are prefixed by the letters MMS which replace the prefix number 9 of the current forms. No change is being made to the contents of the current forms in this Notice. Revisions in content are being developed and will be published at a later date with a solicitation for comments. When the newly revised forms have been approved by the Office of Management and Budget, they will be issued with the numbers described in this Notice. Pending completion of the new forms, MMS shall continue to use USGS forms but will refer to them by the new form numbers as listed below. The current form number appears in parenthesis.

Form number	Title
MMS-152 (9-152)	Monthly Report of Operations—Outer Continental Shelf.
MMS-330 (9-330)	Well-Completion or Recompletion Report and Log.
MMS-331 (9-331)	Sundry Notices and Reports on Wells.
MMS-331C (9-331C)	Application for Permit to Drill, Deepen, or Plug Back.
MMS-1866 (9-1866)	Reservoir Data—Request for Reservoir MER.
MMS-1867 (9-1867)	Request for Well Maximum Production Rate (MPR).
MMS-1868 (9-1868)	Well Potential Test Report.
MMS-1869 (9-1869)	Quarterly Oil Well Test Report.
MMS-1870 (9-1870)	Semi-Annual Gas Well Test Report.

The following regulations contain references to forms affected by the changes:

30 CFR 250.36	Applications for permit to drill, deepen, or plug back. Form MMS-331C.
30 CFR 250.38	Well records. Form MMS-331, Form MMS-331C.
30 CFR 250.92	Sundry notices and reports on wells. Form MMS-331C.
30 CFR 250.93	Monthly report of operations. Form MMS-152.
30 CFR 250.95	Well completion of recompletion report and log. Form MMS-330.

The following OCS Orders contain references to forms affected by the changes:

OCS Order No. 2	Drilling Operations. Form MMS-331C.
OCS Order No. 3	Plugging and Abandonment of Wells. Form MMS-331.
OCS Order No. 5	Production Safety Systems. Form MMS-330, Form MMS-331.
OCS Order No. 6	Well-Completion and Workover Operations. Form MMS-331.
OCS Order No. 7	Pollution Prevention and Control. Form MMS-331C.
OCS Order No. 11	Oil and Gas Production Rates, Prevention of Waste, and Protection of Correlative Rights. Form MMS-152, Form MMS-1866, Form MMS-1867, Form MMS-1868, Form MMS-1869, Form MMS-1870.
OCS Order No. 12	Public Inspection of Records. Form MMS-152, Form MMS-330, Form MMS-331, Form MMS-331C, Form MMS-1869, Form MMS-1870.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Mail Stop 646; Minerals Management Service: Department of the Interior; 12203

Sunrise Valley Drive; Reston, Virginia 22091; Telephone (703) 860–7916.

[FR Doc. 83-21210 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Marathon Oil Company has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 2061, Block 321, East Cameron 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) 838-0519.

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: July 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-21211 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Mobil Oil Exploration and Producing Southeast Inc. has submitted a Development and Production Plan describing the activities it proposes to conduct on Leases OCS–G 4092 and 4819, Blocks 370 and 363, West Cameron 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) 838–0519.

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: July 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-21212 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-MR-M

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development and Production Plan.

SUMMARY: Notice is hereby given that McMoRan Offshore Exploration Co. has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS–G 3766, Block 510, West Cameron 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) 838–0519.

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: July 28, 1983.

John L. Rankin,

Acting Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-21213 Filed 8-3-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–139 (Preliminary)]

Import Investigations; Acrylic Sheet From Taiwan

AGENCY: International Trade Commission

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of a preliminary antidumping investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Taiwan of acrylic film, strips and sheets at least 0.030 inch in thickness, provided for in item 771.41, and 771.45 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value.

EFFECTIVE DATE: July 28, 1983.

FOR FURTHER INFORMATION CONTACT: Abigail Eltzroth, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, telephone 202–523–0289.

SUPPLEMENTARY INFORMATION:

Background.—This investigation is being instituted in response to a petition filed on July 28, 1983, by E. I. du Pont de Nemours & Co. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition, or by September 12, 1983 (19 CFR 207.17).

Participation.—Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary of the Commission, as provided for in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than seven (7) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

Service of documents.—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with §201.8 of the Commission's rule (19 CFR 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in § 201.16(b) of the rules (19 CFR 201.16(b), as amended by 47 FR 33682, Aug. 4, 1982).

In addition to the foregoing, each document filed with the Commission in the course of the investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

Written submissions.—Any person may submit to the Commission on or before August 23, 1983, a written statement of information pertinent to the subject matter of the investigation (19 CFR 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference.—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m. on August 19, 1983, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact Abigail Eltzroth, not later than August 17, 1983, to arrange for their appearance. Parties in support of the imposition of the antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Public inspection.—A copy of the petition and all written submissions, except for confidential business data, will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (19 CFR Part 207, as amended by 47 FR 33682, Aug. 4, 1982), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 47 FR 33682, Aug. 4, 1982). Further information concerning the conduct of the conference will be provided by Ms. Eltzroth.

This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: July 29, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21246 Filed 8-3-83; 8:45 am]

BILLING CODE 7020-02-M

Agency Form Submitted for OMB Review

AGENCY: International Trade Commission.

ACTION: In accordance with the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Commission has submitted a proposal for the collection of information to the Office of Management and Budget for review.

Purpose of Information Collection: The proposed information collection is for use by the Commission in connection with pending investigation No. 332–167, Quarterly and Annual Surveys on Certain Stainless Steel and Alloy Tool Steel Products, instituted under the authority of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)).

Summary of Proposals:

(1) Number of forms submitted: Two.

(2) Title of form: Certain Stainless Steel and Alloy Tool Steel—Questionnaire for U.S. Producers and Questionnaire for Importers (both quarterly).

(3) Type of request: New.

(4) Frequency of use: Quarterly.

(5) Description of respondents: producers and importers of certain stainless steel and alloy tool steel products.

(6) Estimated number of respondents: 59.

(7) Estimated total number of hours to complete the forms: 3,068.

(8) Information obtained from the form that qualifies as confidential business information will be so treated by the Commission and not disclosed in a manner that would reveal the individual operations of a firm.

Additional Information or Comment: Copies of the proposed form and supporting documents may be obtained from Charles Ervin, the USITC agency clearance officer (tel. no. 202–523–4463). Comments about the proposals should be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for U.S. International Trade Commission. Should you wish to comment on this proposal, contact the OMB desk officer immediately as comments must be received no later than two weeks from the issue date of this notice. Copies of any comments should be provided to Charles Ervin (United States International Trade Commission, 701 E Street, N.W., Washington, D.C. 20436).

Issued: August 1, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21238 Filed 8-3-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on

the basis of a settlement agreement Wal-Mart Stores, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. § 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on August 1, 1983.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: August 1, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21240 Filed 8-3-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Receipt of Initial Determination Terminating Respondents on the Basis of Consent Order Agreement

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondents on the basis of a consent order agreement: Korean Metal Flatware Exporter's Association; Sammi Corporation; Dae Sung Ind. Co.; Daewoo Ind. Co.; Jeil Stainless Steel Ind. Co.; Bum Koo Ind. Co., Ltd.; Hai Dong Stainless Ind. Co.; Hosung Trading Co., Ltd.; Ilshin Stainless Co., Ltd.; Jun Han Ind. Co., Ltd.; Kana Molson Co., Ltd.; Kyung-dong Ind. Co., Ltd.; NAMIL Metal Co., Ltd.; Sae Bang Trading Co., Ltd.; Sam Sung Co., Ltd.; Sang Jin Metal Ind. Co.; Shin Woo Stainless Steel Ind. Co.; Sue Jin Metal Ind. Co., Ltd.; Woo Sung Co., Ltd.; and Daelim Trading Co., Ltd.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on August 1, 1983.

Copies of the initial determination, the consent order agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments: Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: August 1, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21241 Filed 8-3-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-140]

Certain Personal Computers and Components Thereof; Commission Decision Not To Review Initial Determination Terminating Four Respondents

AGENCY: International Trade Commission.

ACTION: Notice is hereby given that the Commission has decided not to review an initial determination of the presiding officer granting a motion to terminate four respondents in the above-captioned investigation.

Authority: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in sections 210.53–.57 of the Commission's Rules of Practice and Procedure (47 FR 25134 (June 10, 1982) as amended by 48 FR 20225 (May 5, 1983) and 48 FR 21115 (May 11, 1983); to be codified at 19 CFR 210.53–.57.).

SUPPLEMENTARY INFORMATION: The initial determination (Order No. 11) was issued on June 29, 1983, granting the joint motion (Motion No. 140–9) of complainant Apple Computer Inc. and the Commission investigative attorney to terminate the following four respondents in the investigation because of failure to perfect mail service:

A–Tek Enterprises Co., Ltd.
Microtronics
Powtek Electronics Co., Ltd.
Fuji Trading Co.

On July 8, 1983, the Commission investigative attoney filed a motion (Motion No. 140–13) to modify the initial determination on the grounds that mail service had been perfected with respect to two of the four respondents shortly after the initial determination was issued. The presiding officer denied that motion on July 18, 1983. (Order No. 13.) The original notice of investigation was published in the **Federal Register** on March 9, 1983. 48 FR 9970.

Copies of the presiding officer's initial determination and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0480.

Issued: July 29, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21239 Filed 8-3-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers, Finance Applications

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If the 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 5, (202) 275–7289.

Volume No. OP5–FC–380

MC–FC–81600. By decision of July 25, 1983, issued under 49 U.S.C. 10931 or 10932 and the transfer rules at 49 CFR 1181, the Review Board, Members Parker, Joyce, and Williams, approved the transfer to KING INVESTMENTS, INC., d.b.a. AMERICAN-WANDELL MOVING SERVICE, INC., Colorado Springs, CO, of Certificate of Registration No. MC–14878 Sub 3, issued to WANDELL & LOWE TRANSFER AND STORAGE COMPANY, d.b.a. AMERICAN-WANDELL MOVING SERVICE, INC., Colorado Springs, CO, on October 13, 1977, evidencing a right to engage in transportation in interstate commerce corresponding in scope to Certificate of Public Convenience and Necessity Nos. PUC 342 and 342–I, as extended, reissued June 14, 1976, as amended March 1, 1977, and December 6, 1982, by the Public Utilities Commission of the State of Colorado, transporting (a) general commodities, except household goods, between points in El Paso, Teller, Fremont, and Douglas Counties, CO, (b) household goods betweens points in CO, and (c) freight between points in CO and the CO State boundary line, where all highways cross same. Representative: Stuart W. McKinlay, P.I. Box 316, Colorado Springs, CO 80901.

Volume No. OP5–FC–388

MC–FC–81509. By decision of July 27, 1983 issued under 49 CFR 10926 and the transfer rules at 48 CFR 1181, the Review Board, Members Carleton, Parker, and Joyce, approved the transfer to PRESIDENT STORAGE CO., INC., of Mt. Vernon, NY, of Certificates Nos. MC–82799 and MC–82799 Sub-1, issued November 26, 1940, and October 1, 1946, respectively, to V. SANTINI, INC., of New York, NY, authorizing the transportation of household goods between New York, NY, on the one hand, and, on the other, points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. Representative: Anthony DeSimone, 2314 Jerome Avenue, New York, NY 10468.

For the following, please direct status calls to Team 4 at (202) 275–7669.

Volume No. OP4–FC–492

MC–FC–81474. By decision of July 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Carleton, Parker, and Joyce, approved the transfer to Taylorville Trucking Service, Inc., of Taylorville, IL, of Certificates No. MC 119577, issued August 8, 1974, Sub 2, issued May 8, 1968, Sub 6, issued August 27, 1965, Sub 11, issued March 28, 1968, Sub 13, issued June 26, 1967, Sub 14, issued September 10, 1968, Sub 17, issued January 14, 1971, Sub 19, issued June 29, 1972, Sub 20, issued March 14, 1975, Sub 25, issued July 16, 1980, Sub 26, issued July 16, 1980, Sub 28, issued July 29, 1980, and Sub 30X, issued December 11, 1981, to Ottawa Cartage, Inc., (Maurice Levine, Debtor in Possession), of Ottawa, IL, authorizing the transportation of various specified commodities, from, to, or between points in the United States (except AK and HI). An application for temporary authority has been filed. Representative: Edward D. McNamara, Jr., P.O. Box 5039, Springfield, IL 62705.

MC–FC–81589. By decision of July 27, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Parker, Krock, and Williams approved the transfer to BLM TRANSPORT SERVICES, INC., Edison, NJ, of Certificate No. MC–140267 (Sub-14), issued April 6, 1983, to R A TRANSPORTATION, INC., Edison, NJ, authorizing the transportation of general commodities (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VA, VT, and DC, on the one hand, and, on the other, points in AL, CT, DE, FL, GA, IL, IN, KS, KY, LA, MD, MA, ME, MI, MN, NC, NH, NJ, NY, OH, PA, RI, SC, TN, VA, VT, WI, WV, and DC. Representative: Thomas F. X. Foley, P.O. Box F, Colts Neck, NJ 07722, attorney for applicants.

MC–FC–81620. By decision of July 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 NEVIN L. MARTIN TRUCKING, INC., of Greencastle, PA, of Permit No. MC–151416 Sub 1, issued April 13, 1981, to GABION CONSTRUCTION, INC., of Williamport, MD, authorizing the transportation of (1) *gabions and building materials*, and (2) *materials and supplies* used in the manufacture and distribution of the commodities in (1) above, between points in the U.S., under continuing contract(s) with Maccaferri Gabions, of Williamsport, MD. Representative: Edward N. Button 635 Oak Hill Ave., Hagerstown, MD 21740, (301) 739–4860.

MC–FC–81625. By decision of July 28, 1983, issued under 49 U.S.C. 10926 and

the transfer rules at 49 CFR 1181, the Review Board, Members Dowell, Parker, and Williams approved the transfer to ADMIRAL MOVING & STORAGE, INC., of Portland, OR, of Certificate No. MC-7156 (Sub-10), issued May 20, 1982, to WILLIAMS TRANSFER CO., of Eugene, OR, authorizing the transportation of *household goods*, between points in OR, WA, CA, NM, ID, AZ, TX, and NV. Representative: John G. McLaughlin, 1600 One Main Place, 101 SW Main St., Portland, OR 97204., (503) 224-5525, for both transferee and transferor.

MC-FC-81633. By decision of July 29, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Williams, Carleton, and Parker approved the transfer to RONNIE POWELL, of Downey, CA, of Certificate Nos. MC-153896 and MC-153896 (Sub-1), issued July 22, 1982 and July 28, 1982, respectively, to LONNIE D. POWELL, of Downey, CA, authorizing the transportation of *chemicals and related products*, between points in California, on the one hand, and, on the other, points in Arizona, Idaho, Nevada, Oregon, Utah, and Washington, and (2) *lacquers, paints, resins, and related products*, between points in the United States, under continuing contract(s) with McCloskey Varnish, of Commerce, CA. Representative: Ronnie Powell, 10215 Angell St., Downey, CA 90242.

MC-FC-81636. By decision of July 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Joyce, Krock, and Williams, approved the transfer to KENNETH WARREN McMICHAEL, d.b.a. CHARTER LINE BUS COMPANY, of Camp Springs, MD, of Certificate No. MC-125706 Sub 1, issued May 18, 1965, and modified by decision of November 20, 1981, to BALTIMORE-SOLOMONS BUS LINES, INC., of Washington, DC, authorizing the transportation of *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Washington, DC and Prince Frederick, MD, serving all intermediate points (except those located between Washington, DC and junction MD Hwys 260 and 416), from Washington over city streets to the DC-MD State line, then over MD Hwy 4 to junction MD Hwy 416, at or near Drury, MD, and then over MD Hwy 416 to Prince Frederick, and return over the same route. Representative: Robert R. Harris, 1730 M St. NW., Suite 501, Washington, DC 20036, (202) 296-2900.

[FR Doc. 83-21140 Filed 8-3-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions, Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than household goods). The following applications for motor common or contract carriage of property and for broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have beem modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,
Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries to Team 2, (202) 275-7030.

Volume No. OP-2-336

Decided: July 22, 1983.

By the Commission, Review Board Members Krock, Carleton, and Parker.

MC 141492 (Sub-1), filed July 7, 1983. Applicant: MISSISSIPPI COURIER SERVICE, INC., 670 South West St., Jackson, MS 39201. Representative: Beth C. Clay, 121-North State St., P.O. Drawer 1532, Jackson, MS 39205, 601-948-6882. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 168713, filed June 16, 1983. Applicant: SMURFS MESSENGER SERVICE, INC., 325 Lafayette St., Newark, NJ 07105. Representative: Jose Antonio Duarte (same address as applicant), 201-589-5526. Transporting

shipments weighing 100 pounds or less if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

MC 169202, filed July 11, 1983. Applicant: JOHN BIELEN AND JAN BIELEN, d.b.a. POLONEZ TOUR SERVICE, INC., 56 Diamond St. Brooklyn, NY 11222. Representative: Joseph R. Lentol, 406 Graham Ave., Brooklyn, NY 11211, 212-383-7474. Transporting *passengers*, in special operations, beginning and ending at points in Kings County, NY, and extending to points in the U.S.

Note.—Applicant seeks to provide privately funded special transportation.

MC 169203, filed July 12, 1983. Applicant: JOE L. McCOACH AND JAMES McCOACH, JR., d.b.a. STAGE COACH EXPRESS, 1478 Railton, Memphis, TN 38111. Representative: Joe L. McCoach (same address as applicant), 901-743-1537. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S.

Please direct status inquiries about the following to Team Four at (202) 275-7669.

Volume NO. OP4-490

Decided: July 27, 1983.

By the Commission, Review Board, Members: Williams, Dowell, and Carleton.

MC 169327, filed July 19, 1983. Applicant: TRANS TECH, P.O. Box 5619, Atlanta, GA 30317. Representative: Pauline E. Myers, 425 13th St., NW, Suite 348, Pennsylvania Bldg. Washington, DC 20004-1879, (202) 737-2188. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169336, filed July 18, 1983. Applicant: RICHARD N. JACOBSEN, d.b.a. GREATER CHICAGO SHIPPERS, INC., 501 W. 172nd St., South Holland, IL 60473. Representative: Richard N. Jacobsen, 2918 W. 101st St., Evergreen Park, IL 60642, (312) 499-2260. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169337, filed July 18, 1983. Applicant: CONNECTICUT PRIVATE CAR, INC., Sasqua Rd., East Norwalk, CT 06855. Representative: John L. Alfano, 550 Mamaroneck Ave., Harrison, NY 10528, (914) 835-441. Transporting *passengers*, in charter and special operations, between points in the U.S.

Note.—Applicant seeks to provide privately-funded charter and special transportation.

MC 169367, filed July 20, 1983. Applicant: FORTE GROUP OF CREATIVE COMPANIES, INC., 601 Madison St., Alexandria, VA 22413. Representative: John C. Fudesco, 1333 New Hampshire Ave., N.W., Suite 960, Washington, DC 20036, (202) 659-8714. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 5 at 202-275-7289.

Volume No. OP5-381

Decided: July 22, 1983.

By the Commission, Review Board Members Williams, Parker, and Joyce.

MC 127539 (Sub-88), filed July 14, 1983. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108, 54th Ave., East, Tacoma, WA 98424. Representative: Henry C. Winters, 12600 SE 38th St., Suite 200, Bellevue, WA 98006, (2062) 644-2100. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169199, filed July 11, 1983. Applicant: J & J COMPANY, 4303 Talmadge Rd., Suite 103, Toledo, OH 43623. Representative: Joseph E. Ludden, 2707 South Ave., P.O. Box 1567, La Crosse, WI 54601, 608-788-2000. As a broker of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5-382

Decided: July 25, 1983.

By the Commission, Review Board Members Parker, Krock, and Williams.

MC 142119 (Sub-7), filed July 15, 1983. Applicant: COMMERCIAL TRAFFIC SERVICE, INC., 5604 West Ridge Rd., Erie, PA 16506. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, (412) 471-3300. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 162349 (Sub-1), filed July 15, 1983. Applicant: AFFORDABLE TOURS, INC., 20815 N. W. Sauvie Island Rd., Portland, OR 97231. Representative: Dona L. Huson (same address as applicant), 503-621-3185. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

Volume No. OP5-383

Decided: July 26, 1983.

By the Commission, Review Board Members, Parker, Dowell, and Carleton.

MC 169238, filed July 14, 1983. Applicant: PROUD TRANSPORTATION CORP., 150 Marcus Blvd., Hauppauge, NY 11787. Representative: Philip Christopher (same address as applicant) (516) 231-7550. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S. (except AK and HI).

MC 169248, filed July 15, 1983. Applicant: ELITE LIVERY SERVICE, 109 North Street, New Britain, CT 06051. Representative: Robert J. Gallagher, 1435 G Street NW., Suite 848, Washington, DC 20005 (202) 628-1642. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169259, filed July 15, 1983. Applicant: LORNE D. BENTLEY, d.b.a. LORNE BENTLEY TRUCKING, 6403 40th St., N.W., Gig Harbor, WA 98335. Representative: Lorne D. Bentley (same address as applicant) (206) 265-3667. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs), *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

Volume No. OP5-389

Decided: July 28, 1983.

By the Commission, Review Board Members Dowell, Krock, and Williams.

MC 162618 (Sub-1), filed July 18, 1983. Applicant: LANCASTER TOURS, INC., 738 Airport Rd., P.O. Box 521, Lancaster, SC 29720. Representative: Gerald McInnis (same address as applicant) (803) 285-2027. Transporting *passengers*, in charter and special operations, beginning and ending at points in SC and NC, and extending to points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 168858, filed June 23, 1983. Applicant: COLUMBUS AREA CHAMBER OF COMMERCE FOUNDATION, INC., d.b.a. VISTORS CENTER, 506 Fifth Street, P.O. Box 29, Columbus, IN 47202. Representative: Ed Wolking, Jr. (same address as applicant) (812) 379-4457. Transporting *passengers*, In charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169289, filed July 18, 1983. Applicant: JACK COLBY, d.b.a. PARK MAIN TRAVEL AGENCY, 1984 Boston Road, Wilbraham, MA 01095. Representative: Jack Colby (same address as applicant) (413) 543–5550. Transporting *passengers*, in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169328, filed July 15, 1983. Applicant: SHIPPERS SERVICE, INC., 1009 W. Edgewood Ave., Indianapolis, IN 46217. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW., Suite 500, Washington, DC 20006 (202) 828–5015. To operate as a *broker* of *general commodities* (except household goods), between points in the U.S.

Volume No. OP5–390

By the Commission. Review Board Members Joyce, Carleton, and Parkee.

MC 169288, filed July 18, 1983. Applicant: ARTHUR WARD, d.b.a. WARD TRUCKING, 13100 Beaver St., Sylmar, CA 91342. Representative: Roy Gray, P.O. Box 344. Bloomington, CA 92316 (714) 824–2453. Transporting *food and other edible products and byproducts intended for human consumption* (except alcoholic beverages and drugs) *agricultural limestone and fertilizers, and other soil conditioners* by the owner of the motor vehicle in such vehicle, between points in the U.S. (except AK and HI).

MC 169339, filed July 20, 1983. Applicant: PAN WORLD SHIPPING, INC., 1331 Royal Lane, P.O. Box 61352, Dallas/Fort Worth Airport, Texas 75261. Representative: Carlos Rodriquez, The Palladium, Suite 103, 1325 18th St., N.W., Washington, D.C. 20036, 202–347–0326. As a *broker of general commodities* (except household goods), between points in the U.S.

MC 169348, filed July 19, 1983. Applicant: JOHN W. HOWARD, d.b.a., HOWARD BUS COMPANY, 969 U.S. Route 1, Avenel, NJ 07001. Representative: Ronald I. Shapss, 450 7th Ave., New York, NY 10123, 212–239–4610. Transporting *passengers* in charter and special operations, between points in the U.S. (except HI).

Note.—Applicant seeks to provide privately funded charter and special transportation.

MC 169349, filed July 20, 1983. Applicant: BRITTON TRUCK BROKERAGE, INC., P.O. Box 1404, Grand Forks, ND 58206. Representative: David C. Britton (same address as applicant), 701–772–6681. As a *broker of general commodities* (except household goods), between points in the U.S.

[FR Doc. 83-21141 Filed 8-3-83; 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 verfied 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 complance 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 verfied 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 confering 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-2-334

Decided July 22, 1983.

By the Commission, Review Board Members Krock, Carleton, and Parker.

MC 16513 (Sub-44), filed July 12, 1983. Applicant: REISCH TRUCKING & TRANSPORTATION CO., INC., 1301 Union Ave., Pennsauken, NJ 08110. Representative: Russell R. Sage, P.O. Box 11278, Ste. 304 Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750-1112. 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 Glass Containers Corporation, of Fullerton, GA.

MC 112113 (Sub-14), filed July 11, 1983. Applicant: GYPSUM HAULAGE, INC., 6500 Pearl Rd., P.O. Box 30248, Cleveland, OH 44130. Representative: J.A. Kundtz, 1100 National City Bank Bldg., Cleveland, OH 44114, 216-566-5639. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with persons engaged in the business of manufacturing, distributing or dealing in (1) building materials, (2) cement, (3) chemicals, (4) lumber and wood products, (5) coal and petroleum products, (6) food products, and (7) fabricated metal products.

MC 119402 (Sub-3), filed July 12, 1983. Applicant: AIR LAND TRANSPORT, INC., 525 West 67th Ave., Anchorage, AK 99502. Representative: James M. Snead (same address as applicant), 907-562-2238. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), (a) between points in AK, and (b) between points in AK, on the one hand, and, on the other, points in the U.S. (except HI).

MC 120582 (Sub-6), filed July 12, 1983. Applicant: McMINNVILLE FREIGHT LINE, INC., Morrison Rd., McMinnville, TN 37110. Representative: Henry E. Seaton, 1024 13th St., NW, Washington, D.C. 20004, 202-347-8862. Transporting *general commodities* (except classes A and B explosives and household goods), between points in TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 123893 (Sub-5), filed July 13, 1983. Applicant: L.J. DENNY & SON TRUCKING COMPANY, P.O. Box 1035, Vidalia, LA 71373. Representative: Floyd Gardner (same address as applicant), 318-757-3419. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 144882 (Sub-5), filed July 12, 1983. Applicant: STATEWIDE DISTRIBUTION SERVICES, INC., P.O. Box 58926, Vernon, CA 90058. Representative: John C. Russell, 1545 Wilshire Blvd., Los Angeles, CA 90017, 213-483-4700. 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). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. § 11343(e). In order to expedite issuance of any authority, please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 166103, filed July 14, 1983. Applicant: MARTI ESTES TRUCKING, R. R. #2, Rushville, IL 62681. Representative: Marti Estes (same address as applicant), 217-322-6269. Transporting *food and related products, chemicals and related products, and farm products*, between points in Cass County, IL, on the one hand, and on the other, points in IL, IN, IA, KY, AR, MO, and WI, under continuing contract(s) with Kent Feeds, Inc., of Beardstown, IL.

MC 168973, filed June 29, 1983. Applicant: MIDDLESEX TRUCKING, INC., 25 Longfellow Rd., Newton, MA 02162. Representative: Stephen L. Tober, 381 Middle St., Portsmouth, NH 03801, 603-431-1002. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in CT, MA, ME, NH, NJ, NY, RI, and VT, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *such commodities* as are dealt in by retail chain stores, between points in the U.S. (excpet AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. § 11343(e). In order to expedite issuance of any authority, please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 169183, filed July 12, 1983. Applicant: FREEDOM TRUCK LINES, INC., 57 Adams Ave., Montgomery, AL 36197. Representative: Don Garrison, 416 Hay Drive—SW-F1, Decatur, AL 35603,205-355-0221. 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 Wholesale Wood Products, Inc., of Dothan, AL, Charles McAlpin Brokerage, Inc., of Decatur, AL, and Diversified Products Corporation, of Opelika, AL.

MC 169212, filed July 13, 1983. Applicant: J. CLINT FLEMING, INC., P.O. Box 1002, Danville, VA 24543. Representative: John C. Fleming (same address as applicant), 804-792-1621. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S. on and east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN to the International Boundary line between the U.S. and Canada.

Volume No. OP-2-335

Decided July 28, 1983.

By the Commission, Review Board Members Williams, Joyce, and Krock.

MC 147013 (Sub-11), filed July 18, 1983. Applicant: BILLY D. MC CRAW AND S. JEAN MC CRAW, d.b.a. B & J MCCRAW TRUCKING, P.O. Box 53510, Lubbock, TX 79453. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 15th St. NW., Washington, DC 20005 202-296-3555. Transporting *food and related products*, between points in PA, NY, and MI, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148532, filed July 18, 1983. Applicant: GREEN THUMB COMMODITIES, INC., P.O. Box J, Oldham, SD 57051. Representative: Thomas J. Simmons, P.O. Box 480, Sioux Falls, SD 57101, 605-339-3629. Transporting *general commodities* (except classes A and B explosives and household goods), between points in AR, CO, IA, IL, IN, KS, MN, MO, MT, ND, NE, OK, SD, TX, WI, and WY, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 148603 (Sub-4), filed July 19, 1983. Applicant: DARICA TRUCKING CO., INC., 338 South Oliver St., Elberton, GA 30635. Representative: Bruce E. Mitchell, 5th Floor-Lenox Towers South, 3390

Peachtree Rd., Atlanta, GA 30326, 404–262–9488. Transporting *granite and building stone,* between points in the U.S. (except AK and HI).

MC 159032 (Sub-2), filed July 15, 1983. Applicant: JAY CARLLEY, INC., 3615 N. Emporia St., Wichita, KS 67219. Representative: M. E. Taylor, 9301 Hardtner, Wichita, KS 67212, 316–722–1930. Transporting *food and related products and building materials,* between points in KS and OK, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165783, filed July 18, 1983. Applicant: PARAGON EXPRESS, INC., 3520 S. Creyts Rd., Lansing, MI 48909. Representative: Andrew K. Light, 1301 Merchants Plaza, East Tower, Indianapolis, IN 46204, 317–638–1301. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those points in the U.S., in and east of MN, IA, MO, AR, and TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 167092 (Sub-2), filed July 15, 1983. Applicant: FISHER TRUCKING, INC., P.O. Box 181, 2200 Hwy 265-Suite 3, Springdale, AR 72764. Representative: Kurt Butcher, P.O. Box 153, Bentonville, AR 72712, 501–273–9031. Transporting *food and related products,* between points in the U.S. (except AK and HI).

MC 168583, filed July 10, 1983. Applicant: JESEY TRAILER RENTAL AND REPAIR CO., INC., P.O. Box 1, North Brunswick, NJ 08902. Representative: Maxwell A. Howell, 2554 Massachusetts Ave. NW, Washington, DC 20008, 202–483–8633. Transporting *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 Hermann Leasing Co., of North Brunswick, NJ. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. § 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. § 11343(e) to the Secretary's Office. In order to expedite issuance of any authority, please submit a copy of the affidavit or proof of filing the application(s) for common control to Team 2, Room 2379.

Please direct status inquiries about the following to Team Three (3) at (202) 275–5223

Volume No. OP3–365

Decided: July 26, 1983

By the Commission, Review Board Members Carleton, Parker, and Williams.

MC 1214 (Sub-2), filed July 22, 1983, previously noticed in the **Federal Register** issue of May 16, 1983. Applicant: SYSTEM TRANSFER AND STORAGE CO., 2400 6th Avenue South, Seattle, WA 98134. Representative: Jack R. Davis, 1200 IBM Building, Seattle, WA 98101, (206) 624–2373. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in WA and OR.

Note.—This republication corrects the territorial description.

MC 162174, (Sub-2), filed July 15, 1983. Applicant: RED & TAN TOURS, 437 Tonnele Ave., Jersey City, NJ 07306. Representative: Michael J. Marzano, 99 Kinderkamack Rd., Westwood, NJ 07675, (201) 666–51111. Over *regular routes,* transporting *passengers* (1) Between West Haverstraw, NY, and Atlantic City, from junction U.S. Hwy 9W and Railroad Ave. in West Haverstraw, NY, over U.S. Hwy 9W to junction NY Hwy 304, then over Ny Hwy 304 to Cavalry Drive in New City, NY, then over Cavalry Drive to junction Main Street, then over Main Street to entrance to Bradlees Shopping Center, then from Bradlees Shopping Center over Cavalry Drive to junction Main Street, then over Main Street to junction NY Hwy 304, then over NY Hwy 304 to junction Demarest Mill Road, then over Demarest Mill Road to junction West Nyack Road, then over West Nyack Road to junction NY Hwy 59 in Nanuet, NY, then over NY Hwy 59 to junction Middletown Road, then over Middletoen Road to junction NY Hwy 304, then over NY Hwy 304 to junction Central Avenue in Pearl River, NY, then over Central Avenue to junction South Main Street (also over Middletown Road to junction Central Avenue, then over Central Avenue to junction South Main Street), then over South Main Street to junction Jefferson Avenue, then over Jefferson Avenue to junction NY Hwy 304, then over NY Hwy 304 to the NY-NJ State line, then over Kinderkamack Road to junction Railroad Avenue in Montvale, NY, then over Railroad Avenue to junction Park Street, then over Park Street to junction Kinderkamack Road, then over Kinderkamack Road to junction Old Hook Road, in Westwood, NY (also over Kinderkamack Road to junction New Milford Avenue, then over New Milford Avenue to junction Madison Avenue, then over Madison Avenue to junction Washington Avenue), then over Old Hook Road to junction Schraalenburgh Road in Closter, NJ, then over Shraalenburgh Road to where it becomes Washington Avenue, then over Washington Avenue to where it becomes Teaneck Road, then over Teaneck Road to junction DeGraw Avenue in Teaneck, NJ, then over DeGraw Avenue to Interstate Hwy 95, then over Interstate Hwy 95 to the NJ Trunpike, then over the NJ Turnpike to the Garden State Parkway, then over the Garden Stater Parkway to the Atlantic City Expressway, then over the Atlantic City Expressway to Atlantic City, NJ, and return over the same route to junction Kinderkamack Road and Park Street in Montvale, NJ, then over Kinderkamack Road to junction Railroad Avenue in Montvale, NJ, then continuing over the above described route to junction West Nyack Road and NY Hwy 59 in Nanuet, NY, then over NY Hwy 59 to junction NY Hwy 304, then over NY Hwy 304 to junction Demarest Mill Road, then continuing over the above described route to West Haverstraw, NY, serving all intermediate points, (2) Between Mt. Ivy, NY, and Nanuet, NY,: From the junction of U.S. Hwy 202 and NY Hwy 45 in Mt. Ivy, NY, over NY Hwy 45 to junction NY Hwy 59, in Spring Valley, NY, then over NY Hwy 59 to junction Middletown Road in Nanuet, NY, and return over the same route, serving all intermediate points, (3) Between Nanuet, NY, and West Nyack, NY: From junction NY Hwy 59 and NY State Thruway in Nanuet, NY, over Ny State Thruway to junction NY Hwy 303 in West Nyack, NY, and return over the same route, serving all intermediate points, (4) Between Congers, NY, and Dumont, NJ: From junction Lake Road and NY Hwy 303 in Congers, NY, over NY Hwy 303 to junction NY Hwy 59 in West Nyack, NY, then over NY Hwy 59 and service road to Janet Hogan's Diner in West Nyack, NY, then over service road to NY Hwy 59, then over NY Hwy 59 to junction NY Hwy 303, then over NY 303, to the NY-NJ State line, then over Livingston Street to junction Harrington Avenue in Harrington Park, NJ, then over Harrington Avenue to junction Old Closter Dock Road in Closter, NJ, then over Old Closter Dock Road to junction Piermont Road, then over Piermont Road to junction County Road in Demarest, NJ, then over County Road to junction Union Avenue in Cresskill, NJ, then over Union Avenue to junction Madison Avenue, then over Madison Avenue to junction Washington Avenue in Dumont, NJ, and return over the same route, serving all intermediate points, (5) Between Nyack, NY, and West Nyack, NY: From junction NY Hwy 59 (Main Street) and Broadway in Nyack, NY, over NY Hwy 59 (Main Street) to junction NY Hwy 303 in West Nyack,

NY, and return over the same route, serving all intermediate points. (6) Between New York, NY, and Woodbridge, NJ: From New York, NY, over Outerbridge Crossing to NJ Hwy 440 in Perth Amboy, NJ, then over NJ Hwy 440 to the Garden State Parkway in Woodbridge, NJ, and return over the same route, serving all intermediate points. (7) Between North Bergen, NJ, and Woodbridge, NJ: From junction 51st Street and JF Kennedy Boulevard in North Bergen NJ, over JF Kennedy Boulevard to the Bayonne, NJ, then over the Bayonne Bridge to NY Hwy 440, then over NY Hwy 440 to junction Forest Avenue, then over Forest Avenue to junction Richmond Avenue, then over Richmond Avenue, to junction Victory Boulevard, then over Victory Boulevard to junction NY Hwy 440 (West Shore Expressway), then over NY Hwy 440 to Outerbridge Crossing, then over Outerbridge Crossing to NJ Hwy 440 in Perth Amboy, NJ, then over NJ Hwy 440 to the Garden State Parkway in Woodbridge, NJ, and return over the same route, serving all intermediate points. Condition: The persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343 (A), a petition for exemption under 49 U.S.C. 11343 (e) or submit an affidavit indicating why such such approval is unnecessary to the Secretary's Office. In order to expedite issuance of any authority in this proceeding, please submit a copy of your filing to Team 3, Room 2158.

Note.—Applicant seeks to provide regular-route service in interstate or foreign commerce.

Please direct status inquiries about the following to Team Four at (202) 275–7669.

Volume No. OP4–489

Decided: July 27, 1983

By the Commission, Review Board, Members: Williams, Dowell, and Carleton.

MC 167797, filed July 18, 1983. Applicant: GARY BATINI, d.b.a. B & B TRUCKING, 2720 Alliance Rd., Arcata, CA 95521. Representative: Ronald C. Chauvel, 100 Pine St., #2550, San Francisco, CA 94111, (707) 822–1951. Transporting *lumber and wood products*, between those points in CA in and north of the counties of El Dorado, Sacramento, Contra Costa, and San Francisco.

MC 168176 (Sub-1), filed July 19, 1983. Applicant: ADAMS EXPRESS, INC., 990 Edgewood Ave., NE, Atlanta, GA 30307. Representative: Charles L. Redel, 212 Exchange Bldg., La Crosse, WI 54601, (608) 784–5860. 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 168296, filed July 19, 1983. Applicant: T & M TRANSPORTATION, INC., 19 Central Ave., Kansas City, KS 66118. Representative: Tom B. Kretsinger, 20 E. Frankin, Liberty, MO 64068, (816) 781–6000. Transporting *commodities in bulk*, between points in Leavenworth, Wyandotte and Johnson Counties, KS, and Clay, Platte, Jackson and Cass Counties, MO, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 169326, filed July 19, 1983. Applicant: DONALD L. HENDON, 1065 Northbellwood, Union, OR 97883. Representative: Donald L. Hendon (same address as applicant), (503) 562–6235. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with R & R Truck Brokers, Inc., of Central Point, AR.

MC 169346, filed July 19, 1983. Applicant: PLYMOUTH FREIGHT INC., P.O. Box 867, Plymouth, NC 27962. Representative: Norman J. Philion, 1920 N St., NW, Washington, DC 20036, (202) 331–8800. Transporting (1) *lumber and wood products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of lumber and wood products, (2) *pulp, paper and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of pulp, paper and related products, (3) *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of chemicals and related products, and (4) *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of metal products.

For the following, please direct status calls to Team 5 at 202–275–7289.

Volume No. OP5–384

Decided: July 22, 1983.

By the Commission, Review Board Members Williams, Parker, and Joyce.

MC 64339 (Sub-2), filed July 13, 1983. Applicant: ALL-ROADS MOVING & STORAGE, INC., 1400 East Walnut St., Fullerton, CA 92631. Representative: Robert J. Gallagher, 1435 G St., NW, Suite 848, Washington, DC 20005, (202) 628–1642. To operate as a *broker* of *household goods* between points in the U.S. (except AK and HI).

MC 77129 (Sub-15), filed July 12, 1983. Applicant: PUFFER TRANSPORT, INC., RFD 1, Box 19, Vernon, VT 05354. Representative: David M. Marshall, Sixth Floor, 95 State St., Springfield, MA 01103, 413–732–1136. Transporting *general commodities* (except classes A and B explosives, and household goods), between points in NH, VT, ME, MA, CT, RI, NY, NJ, PA, DE, MD, VA and DC.

MC 79658 (Sub-97), filed July 15, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey, (same address as applicant), 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Mobile Corporation of New York and its subsidiaries.

MC 79658, (Sub-98), filed July 15, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd. P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey (same address as applicant) 812–424–2222. Transporting *household goods*, between points in the U.S. (except AK and HI), under continuing contract(s) with Sun Electric Corporation of Crystal Lake, IL.

MC 79658 (Sub-99), filed July 15, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey, (same address as applicant), 812–424–2222. Transporting *household good*, between points in the U.S. (excpet AK and HI), under continuing contract(s) with Wang Laboratories, Inc., of Lowell, MA.

MC 79658 (Sub-100), filed July 15, 1983. Applicant: ATLAS VAN LINES., 1212 St. George Rd., P.O. Box 509, Evansville, IN 47711. Representative: Michael L. Harvey, (same address as applicant), 812–424–2222. Transporting *household goods and furniture and fixtures*, between points in the U.S. (excpet AK and HI), under continuing contract(s) with Brown Group, Inc., of St. Louis, MO.

MC 138569 (Sub-9), filed July 13, 1983. Applicant: BRAITHWAITE TRUCKING, INC., 3819 Sunset Drive, Rapid City, SD 57701. Representative: Dennis Braithwaite, (same address as applicant), 1–605–342–6213. Transporting *coal*, under continuing contract(s) with Island Creek Coal Sales Company, of Lexington, KY and *fertilizer*, under continuing contract(s) with Farmers Union Central Exchange, Inc., of St. Paul, MN., between points in the U.S. (except AK and HI).

MC 138899 (Sub-8), filed July 11, 1983. Applicant: GREEN RIVER TRANSPORTATION CO., INC., P.O Box 634, Central City, KY 42330. Representative: Ray S. Stone, (same address as applicant), 502–754–3249. Transporting *metal products*, between points in IN, IL, OH, MI, TN, KY, PA, GA, AL, FL, WV, WI, TX, MO, AR, NC, SC, VA, LA, and MS., under continuing contract(s) with shippers or manufacturers of primary and fabricated metal products.

MC 168198, filed July 14, 1983. Applicant: YELLOW SERVICE, INC., d.b.a. YELLOW TRANSFER SERVICE, 12120 W. Wirth St., Milwaukee, WI 53222. Representative Richard A. Westley, 4506 Regent St., Suite 100 P.O. Box 5086, Madison, WI 53705–0086, (608) 238–3119. Transporting *food and related products* between points in IL, MN, and WI, on the one hand, and, on the other, points in IL, IN, MI, MN, ND, and WI.

Volume No. OP5–385

Decided: July 25, 1983.

By the Commission. Review Board Members Parker, Krock, and Williams.

MC 150189 (Sub-6), filed July 15, 1983. Applicant: R. G. BERRY TRUCKING, INC., P.O. Box 8, Shawneetown, IL 62984. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701, 217–544–5486. Transporting *food and related products*, and *such commodities* as are dealt in by food, drug and discount business houses, between points in the U.S. (except AK and HI).

MC 164948, filed July 15, 1983. Applicant: QUALITY OIL COMPANY, INC., P.O. Box 63, Pleasant Valley Rd., Owensboro, KY 42302. Representative: William H. Booth (same address as applicant), 502–684–0215. Transporting *petroleum products*, between points in Vanderburgh County, IN, on the one hand, and, on the other, points in Daviess County, KY, under continuing contract(s) with Amoco Oil Company of Atlanta, GA.

MC 165658 (Sub-1), filed July 15, 1983. Applicant: COMMERCIAL ENTERPRISES LTD., 11128 John Galt Blvd., #510, Omaha, NE 68137. Representative: James F. Crosby, 7363 Pacific St., Suite 210B, Omaha, NE 68114, 402–397–9900. 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 169249, filed July 14, 1983. Applicant: PIONEER FREIGHT, INC., 3401 NW 63rd St., P.O. Box 12750, Oklahoma City, OK 73157. Representative: Jack R. Anderson, Reunion Center, Suite 305, 9 East Fourth St., Tulsa, OK 74103, (918) 583–9000. 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). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 5, Room 2414.

MC 169258, filed July 15, 1983. Applicant: EAGLE COURIER, INC., 1945 Lindorph Drive, Dayton, OH 45404. Representative: Earl N. Merwin, 85 East Gay St., Columbus, OH 43215, (614) 224–3161. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

Volume No. OP5–386

Decided: July 26, 1983.

By the Commission. Review Board Members Parker, Dowell, and Carleton.

MC 9859 (Sub-12), filed July 13, 1983. Applicant: KANE TRANSFER COMPANY, 4661 Hollins Ferry Rd., Baltimore, MD 21227. Representative: Walter T. Evans, 17 West Jefferson St., Suite 105, Rockville, MD 20850, (301) 251–1606. 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 127539 (Sub-87), filed July 14, 1983. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, WA 98424. Representative: Henry C. Winters, 12600 S.E. 38th Street, Suite 200, Bellevue, WA 98006, (205) 644–2100. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between those points in the U.S. in and west of MN, WI, IL, MO, AR, and LA (except HI).

MC 159798 (Sub-1), filed July 14, 1983. Applicant: M.F. DAVALOS TRUCKING, INC., 13906 Valley Blvd., La Puente, CA 91746. Representative: Raymond Davalos (same address as applicant), (213) 968–4359. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), between points in the U.S., under continuing contract(s) with (1) Crockett Container Corporation of Santa Fe Springs, CA, and (2) Container Corporation of America of Santa Clara, CA.

MC 156488 (Sub-8), filed July 5, 1983. Applicant: CONTRANS, INC., 6716 Berger, Kansas City, KS 66111. Representative: Donald J. Quinn, Commerce Bank Bldg., 8901 State Line, Suite 232, Kansas City, MO 64114, (816) 444–7474. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 167368, filed July 5, 1983. Applicant: C & D EQUIPMENT, INC., 50 West Lester Ave., #H14, Murray, UT 84107. Representative: Cara L. Erickson, P.O. Box 639, Bountiful, UT 84010, (801) 298–0399. Transporting (1) *chemicals and related products*, (2) *ores and minerals*, and (3) *clay and clay products*, between points in CA, CO, ID, NE, NV, and UT, on the one hand, and, on the other, those points in the U.S. in and west of TX, OK, KS, NE, SD, and ND.

MC 169208, filed July 13, 1983. Applicant: C. B. FOSS, d.b.a. C. B. FOSS TRUCKING, 4867 N. Hwy 97, Terrebonne, OR 97760. Representative: Lawrence V. Smart, Jr., 419 N W 23rd Ave., Portland, OR 97210, (503) 226–3755. Transporting (1) *lumber and wood products*, and *building materials*, between points in OR, WA, MT, CA, ID, UT, NV, AZ, NM, TX, CO, and WY; and (2) *farm supplies*, between points in OR, WA, ID, UT, NV, and CO.

Volume No. OP5–391

Decided: July 28, 1983.

By the Commission, Review Board Members Dowell, Krock, and Williams.

MC 71378 (Sub-4), filed July 8,1983. Applicant: THOMAS J. BIRKMIRE, d.b.a. BIRKMIRE TRUCKING COMPANY, 2831 Hastings Road Erie, PA 16506. Representative: Robert B. McCullough, 416 Marine Bank Bldg., Erie, PA 16501–1478, (814) 454–2418. Transporting *food and related products, lumber and wood products, pulp, paper, and related products, rubber and plastic products, clay, concrete, glass or stone products, metal products, machinery, waste or scrap materials not identified by industry producing*, between points in PA, and OH, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 141898 (Sub-7), filed July 18,1983. Applicant: ROBERTS EXPRESS, INC., 2088 S. Arlington St., P.O. Box 7162, Akron, OH 44306. Representative: John L. Alden, 1396 West Fifth Ave., Columbus, OH 43212, (614) 481–8821. 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).

MC 158729 (Sub-3), filed July 18, 1983. Applicant: SHIPPER EXPRESS TRUCK LINES, INC., 2901 South Lamar Street, Dallas, TX 75215. Representative: Sam Hallman, 4555 Interfirst One, Dallas, TX 75202, (214) 741-6263. 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 167158, filed July 13, 1983. Applicant: JIMMY D. LEE, d.b.a. LEE'S TRUCKING COMPANY, Route 1, Box 232-A, El Dorado, AR 71730. Representative: Jimmy D. Lee, (same address as applicant), (501) 862-5477. Transporting *chemicals and related products*, between points in AR, on the one hand, and, on the other, points in LA, MS, MO, OK, TN, and TX, under continuing contract(s) with Great Lakes Chemical Corporation, of El Dorado, AR.

MC 168509, filed June 6,1983. Applicant: H. R. BAILEY TRUCKING CO., INC., 131 Lawson DR., Spruce Pine, NC 28777. Representative: David M. Ganly, One Oak Plaza, Suite 203, Asheville, NC 28801, 704-253-5671. Transporting (1) *ores and minerals*, between points in Mitchell and Yancey Counties, NC, on the one hand, and, on the other, points in TN, VA, WV, SC and KY under continuing contract(s) with Feldspar Corp., and Lawson-United Feldspar & Mineral Co., both of Spruce Pine, NC., and J. M. Huber Corp., of Macon, GA; and (2) *coal and coal products, and lime*, between points in TN, KY, VA, WV, and SC, on the one hand, and, on the other, points in Mitchell and Yancey Counties, NC, under continuing contract(s) with Bill Tipton Coalyard of Burnsville, NC.

MC 169358, filed July 20, 1983. Applicant: CAMBRIA COUNTY TRANSIT AUTHORITY, INC., 726 Central Ave., Johnstown, PA 15902. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222, 412-471-3300. Transporting *passengers* in charter and special operations, between points in the U.S. (except AK and HI).

Note.—Applicant receives governmental financial assistance for the purchase or operation of busses, or is an operator for such a recipient.

Volume No. OP5-392

Decided: July 29, 1983.

By the Commission, Review Board Members Joyce, Carleton, and Parker.

MC 128878 Sub 51, filed July 21, 1983. Applicant: SERVICE TRUCK LINE, INC., P.O. Box 5518, Bossier City, LA 71111. Representative: C. Wade Shemwell (same address as applicant), 318-747-4300. Transporting *chemicals and related products*, between points in Warren County, MS, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 164458, filed July 20, 1983. Applicant: TERRY ANDERSEN, d.b.a. TERRY ANDERSEN TRUCKING, 5102-70th Ave., N.E., Olympia, WA 98506. Representative: Terry Andersen (same address as applicant), 206-456-3037. Transporting *furniture and fixtures*, between points in the U.S. under continuing contract(s) with A-America, Inc. of Kent, WA.

MC 165039 (Sub-3), filed July 20, 1983. Applicant: CFI TRANSPORT, INC., P.O. Box 40, Valdese, NC 28690. Representative: William P. Farthing, Jr., 1100 Cameron-Brown Bldg., Charlotte, NC 28204, 704-372-6730. 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 Charlotte Freight Association, Inc., of Charlotte, NC; Parrish Tire Co., of Winston-Salem, NC, and Catawba Valley Tire Company, Inc., of Hickory, NC.

MC 168759, filed July 20, 1983. Applicant: THE TRANSPORT SOURCE, INC., P.O. Box 7040, Greensboro, NC 27417-0040. Representative: Linda A. Carrano, 4414 Tucson Dr., Greensboro, NC 27406, 919-852-6807. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AI and HI), under continuing contract(s) with Perth Enterprises Inc. of Greensboro, NC.

[FR Doc. 83-21142 Filed 8-3-83; 8:45 am]
BILLING CODE 7035-01-M

[Volume No. OP5-MCF-387]

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

DATES: Comments must be received within 30 days after the date of publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Warren C. Wood, (202) 275-7977.

SUPPLEMENTARY INFORMATION: Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: July 29, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich

Secretary.

[No. MC-F-15362]

Limerick Transportation Company, Inc.—Purchase Exemption Spector Red Ball, Inc. (Debtor-in-Possession)

Limerick Transportation Company, Inc., (Limerick) seeks an exemption from the requirement under section 11343 of prior regulatory approval for its purchase of the portions of the operating rights of Spector Red Ball, Inc. under Certificate No. MC-2229, as set forth below. Limerick is affiliated through common stock ownership with Elm Avenue Trucking Service, Inc., (MC-107665). An application for temporary authority has been filed.

Send Comments to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

and

(2) Petitioners' representative: J. Raymond Chesney, 3177 Irving Blvd., P.O. Box 47407, Dallas TX 75247
A. David Millner, 7 Becker Farm Rd., P.O. Box Y, Roseland, NJ 07068

Comments should refer to No. MC-F-15362

(Sub-252), Sheet 9. Regular routes: *Skin creams, skin lotions, toilet preparations, cosmetics, antiseptic creams, shaving creams, shaving products, and other skin preparations.* Serving from the plant site of Noxzema Chemical Company, at or near Cockeysville, MD, as an off-route point in connection with carrier's presently authorized regular route operations to or from Baltimore, MD.

(Sub-252), Sheet 11. *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment. Serving Odenton, MD, as an off-route point in connection with carrier's

authorized regular-route operations to and from Baltimore, MD.

(Sub-254) Sheet 5. Irregular routes: *General commodities*, except packinghouse products as defined in Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, and except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities of unusual value, and those requiring special equipment, Between points in Erie, Genesee, Monroe, Niagara and Orleans Counties NY.

(Sub-254), Sheet 8. Regular routes: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment,
Between Washington, D.C., and New York, NY, serving all intermediate points, and the off-route points of Norristown, PA, and those within 5 miles of Baltimore MD: From Washington over U.S. Hwy 1 to Baltimore, MD, then over U.S. Hwy 40 to junction U.S. Hwy 13, then over U.S. Hwy 13 to Philadelphia, PA, and then over U.S. Hwy 1 to New York, and return over the same route. Irregular routes: *Seaweed, kelp, and moss*, From Toms River, NJ, and points within 10 miles of Toms River, to Washington, DC.

(Sub-255), Sheet 2. Regular routes: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, Between Boston, MA, and Woonsocket, RI, serving all intermediate points, and off-route points within 5 miles of the described route, those within 10 miles of Providence, RI, and those within 15 miles of Boston, MA: From Boston over U.S. Hwy 1 to Providence, RI, then over Rhode Island Hwy 122 to Woonsocket, and return over the same route. Between Boston, MA, and Bridgeport, CT, serving all intermediate points, and off-route points within 5 miles of the described route, those within 15 miles of Boston, MA, and those within 15 miles of Springfield, MA: From Boston over U.S. Hwy 20 to junction Massachusetts Hwy 12 near Auburn, MA (also from Boston over Massachusetts Hwy 9 to Worcester, MA, then over Massachusetts Hwy 12 to junction U.S. Hwy 20), then over U.S. Hwy 20 to Springfield, MA, then over U.S. Hwy 5 to junction Alternative U.S. Hwy 5 south of Meriden, CT (also from Springfield over U.S. Hwy 5 to East Hartford, CT, then over Connecticut Hwy 2 to Glastonbury, CT, then over Connecticut Hwy 17 to Middletown, CT, then over Connecticut Hwy 66 (formerly Alternate U.S. Hwy 6) to Meriden, then south over Alternate U.S. Hwy 5 to junction U.S. Hwy 5), then over U.S. Hwy 5 to New Haven, CT, then over U.S. Hwy 1 to Stratford, Ct (also from East Hartford over U.S. Hwy 6 to Thomaston, CT, then over Connecticut Hwy 8 to junction Connecticut Hwy 110, then over Connecticut Hwy 110 to Stratford), then over U.S. Hwy 1 to Bridgeport, and return over the same route.

(Sub-255), Sheet 3. Between Boston, MA, and Concord, NH, serving all intermediate points, and off-route points within 5 miles of the described route, and those within 15 miles of Boston, MA: From Boston over U.S. Hwy 3 to Manchester, NH (also from Boston over Massachusetts Hwy 28 to the Massachusetts-New Hampshire State line, then over New Hampshire Hwy 28 to Manchester), then over U.S. Hwy 3 to Concord, and return over the same route. Between Boston, MA, and New Bedford, MA, serving all intermediate points, and off-route points within 5 miles of the described routes, and those within 15 miles of Boston, MA, as follows: From Boston over Massachusetts Hwy 28 to Bridgewater, MA, then over Massachusetts Hwy 18 to New Bedford, and return over the same route. From Boston over Massachusetts Hwy 138 to Fall River, MA, then over U.S. Hwy 6 to New Bedford, and return over the same route. Between Boston, MA, and Old Town, ME, serving all intermediate points, and off-route points within 5 miles of the described route, and those within 15 miles of Boston, MA: From Boston over Massachusetts Hwy 17 to junction U.S. Hwy 1, then over U.S. Hwy 1 via Portland, ME, to Brunswick, ME, then over U.S. Hwy 201 to Augusta, ME (also from Portland over Maine Hwy 26 to Gray, ME, then over U.S. Hwy 202 to Augusta), then over U.S. Hwy 201 to Fairfield, ME, then over Maine Hwy 11 to Newport, ME, then over U.S. Hwy 2 to Old Town, and return over the same routes. Between points in Maine, serving all intermediate points, and off-route points within 5 miles of the described routes, as follows: From Fairfield, ME over U.S. Hwy 201 to Skowhegan, ME, and return over the same route. From Brunswick, ME over Maine Hwy 196 to Lewiston, ME, and return over the same route. Between Portsmouth, NH, and Rochester, NH, serving all intermediate points, and off-route points within 5 miles of the described route: From Portsmouth over New Hampshire Hwy 16 to Rochester, and return over the same route.

(Sub-255), Sheet 4. Between Lowell, MA, and Portland, ME, serving all intermediate points, and off-route points within 5 miles of the described route: From Lowell over Massachusetts Hwy 110 to Amesbury, MA, then over Massachusetts Hwy 150 to the Massachusetts-New Hampshire State line, then over New Hampshire 150 to Exeter, NH, then over New Hampshire 108 to Dover, NH, then over New Hampshire Hwy 4 to the New Hampshire-Maine State line, then over Maine Hwy 6 to junction Maine Hwy 109, then over Maine Hwy 109 to Sanford, ME, then over U.S. Hwy 202 to Gorham, ME, then over Maine Hwy 25 to Portland, and return over the same route. Service is
authorized over irregular routes, in connection with the above-described regular routes, to and from the following points: Danbury, Manchester, New London, Norwich, Putnam, Rockville, Torrington, Willimantic, and Winsted, CT; Brookfield, Clinton, Fitchburg, Gloucester, Greenfield, Leominster, Milford, North Adams, Northbridge, Pittsfield, and Ware, MA; and points in that portion of Maine on, south, and east of a line extending along U.S. Hwy 2 from the New Hampshire-Maine State line to Norridgewock, ME, then along Alternate U.S. Hwy 201 to junction U.S. Hwy 201, then along U.S. Hwy 201 to Bingham, ME, then along Maine Hwy 16 to Milo, ME, then along unnumbered highway via Medford and Howland, ME, to the Penobscot River, and those west of the Penobscot River and Penobscot Bay, except those authorized to be served in connection with the above regular route operatons. *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, Between points in New Hampshire, serving all intermediate points on the specified routes, and the off-route points of Noone, Drury, Hadley, East Jaffrey, Jaffrey and Greenville, NH, as follows: From Nashua over New Hampshire Hwy 101A to Milford, then over New Hampshire Hwy 101 to Dublin, and return over the same route. From Wilton over New Hampshire Hwy 31 to Bennington, then over U.S. Hwy 202 to Hillsboro, and return over the same route. From Wilton over New Hampshire Hwy 101 to Manchester, and return over the same route.

(Sub-255), Sheet 5. From Derry over New Hamphire Hwy 102 to Nashua, and return over the same route. Between Boston, MA and New York, NY, serving

the intermediate and off-route points in New Jersey within 15 miles of New York, NY, points in the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 665, and those within 15 miles of Boston, and the off-route points of Manville, NJ: From Boston over U.S. Hwy 1 to New York, and return over the same route. From Boston over Massachusetts Hwy 9 to Worcester, MA, then over U.S. Hwy 20 to Springfield, MA, then over U.S. Hwy 5 to New Haven CT and then over U.S. Hwy 1 to New York, and return over the same route. Between Sturbridge, MA, and East Hartford, CT, as an alternate route for operating convenience only in connection with carrier's regular-route operations authorized hereinabove, serving no intermediate points, and serving Sturbridge and East Hartford for joinder of routes only: From junction U.S. Hwy 20 and Massachusetts Hwy 15 at Sturbridge over Massachusetts Hwy 15 to the Massachusetts-Connecticut State line, then over Connecticut Hwy 15 to junction U.S. Hwy 5 at East Hartford, and return over the same route. Irregular routes: *General commodities*, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading. Between Boston, MA, on the one hand, and, on the other, points in Massachusetts within 5 miles of Boston. *Paint*, in containers only, From New York, NY, to Providence and Pawtucket, RI.

(Sub-255), Sheet 6. *Sheet drawn jalousie glass, window glass, and shower door glass*, in containers, From Providence, RI, to points in New Jersey (except those within 15 miles of the New York, NY, Commercial Zone, as defined by the Commission in 1 M.C.C. 665), points in Pennsylvania on and east of U.S. Hwy 15, points in New York (except points in the New York, NY, Commercial Zone as defined by the Commission), Wilmington, DE, and Baltimore and Salisbury, MD. From points in the New York, NY, Commercial Zone, as defined by the Commission, to points in Nassau and Suffolk Counties, NY. Restriction: The authority granted in the service paragraph immediately above is restricted to the transportation of shipments having a prior movement by water. *Limestone*, From points in Monroe and Lawrence Counties, IN, to points in Maine, New Hampshire, and Vermont. *Stone*, cut and uncut, rough and finished, From points in Franklin County, AL to points in Connecticut, Rhode Island, Massachusetts, New Hampshire, and Vermont. *Roofing* in rolls, *Wallboard, building board, insulation board, fibreboard, pulpboard and strawboard*, From the site of the plant of U.S. Gypsum Company, at Lisbon Falls, ME, to points in Ohio, Indiana, Illinois, Wisconsin, and Michigan; and *Return shipments* of the commodities specified next above, From points in Ohio, Indiana, Illinois, Wisconsin, and Michigan, to the site of the plant of U.S. Gypsum Company, at Lisbon Falls, ME.

(Sub-255), Sheet 7. *Wallboard, fibreboard, pulpboard and strawboard*, From Lisbon Falls, ME, to points in Delaware, Maryland, North Carolina, Virginia, and the District of Columbia; and *Return shipments* of the commodities specified next above, From points in Delaware, Maryland, North Carolina, Virginia, and the District of Columbia, to Lisbon Falls, ME. *Wallboard and pulpboard, and incidental materials and supplies* moving in the same vehicle, From Lisbon Falls, ME, to points in Pennsylvania (except Norristown); and *Return shipments* of the commodities specified next above, From points in Pennsylvania (except Norristown), to Lisbon Falls, ME. *Wallboard, building board, insulation board, fibreboard pulpboard and strawboard, and incidental materials and supplies* used in or in connection with the installation thereof, From Lisbon Falls, ME, to points in New York (except the New York, NY, Commercial Zone, as defined by the Commission), New Jersey (except Manville and points within 15 miles of the New York, NY, Commercial Zone, as defined by the Commission), and West Virginia; *Returned shipments* of the commodities specified next above, From points in New York (except the New York, NY, Commercial Zone, as defined by the Commission), New Jersey (except Manville and points within 15 miles of the New York, NY, Commercial Zone, as defined by the Commission), and West Virginia, to Lisbon Falls, ME.

(Sub-262), Sheet 2. Regular routes: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Serving the facilities of St. Regis Paper Company, located at or near Bucksport, ME, as an off-route point in connection with carrier's presently authorized regular-route operations.

(Sub-273), Sheet 2. Alternate route for operating convenience only: *General commodities* (except classes A and B explosives, those of unusual value, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), Between Manchester, NH, and junction New Hampshire Hwys 101 and 108, serving no intermediate points for operating convenience only: From Manchester over New Hampshire Hwy 101 to junction New Hampshire Hwy 108, and return over the same route. Between junction New Hampshire Hwys 101 and 108 and Portsmouth, NH, serving no intermediate points for operating convenience only: From junction New Hampshire Hwys 101 and 108 over New Hampshire Hwy 101 to Portsmouth, and return over the same route.

[FR Doc. 83-21138 Filed 8-3-83; 8:45 am]
BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-No. 77)]

Rail Carriers; Seaboard System Railroad Inc.—Abandonment—In Ohio County, KY; Findings

The Commission has issued a certificate authorizing the Seaboard System Railroad Inc. to abandon its 5.23-mile rail line between milepost HE 108.90 near Centertown and milepost HE 103.67 near Hartford in Ohio County, KY. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the purchase would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA." Any offer previously made must be remade within this 10 day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR 1152.27.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-21137 Filed 8-3-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Partial Consent Decree Pursuant to Comprehensive Environmental Response, Compensation and Liability Act of 1981

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 19, 1983, a proposed Partial Consent Decree in *United States of America* v. *New Castle County, et al.*, Civil Action No. 80–489, was lodged with the United States District Court for the District of Delaware. The proposed Partial Consent Decree concerns the hazardous waste site known as Tybouts Corner in New Castle County, Delaware.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Partial Consent Decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States of America* v. *New Castle County, et al.*, D.J. Ref. 90–7–1–143.

The proposed Partial Consent Decree may be examined at the office of the United States Attorney, Federal Building, Wilmington, Delaware and at the office of Region III, U.S. Environmental Protection Agency, 6th and Walnut Streets, Philadelphia, Pennsylvania. Copies of the Partial Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed Partial Consent Decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.10 (10 cents per page reproduction charge) payable to the Treasurer of the United States.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-21216 Filed 8-3-83; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Two Consent Decrees Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on July 8, 1983, two proposed consent decrees in *United States* v. *Mister Muffler, Inc., et al.*, Civil Action No. H–82–3107 were lodged with the United States District Court for the Southern District of Texas. The proposed consent decrees concern compliance with the Clean Air Act's requirements regarding emission control equipment on the part of Paktank Gulf Coast, Inc. and Chromalloy American Corporation.

The Department of Justice will receive for a period of thirty (30) days from date of this publication comments relating to the proposed consent decrees. Comments should be addressed to the Acting Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Mister Muffler, Inc., et al.*, D.J. Ref. 90–5–2–1–541.

The proposed consent decrees may be examined at the Office of the United States Attorney, Southern District of Texas, Courthouse and Federal Building, 515 Rusk Avenue, Houston, Texas 77202. Copies of the consent decrees may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. Copies of the proposed consent decrees may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-21215 Filed 8-3-83; 8:45 am]

BILLING CODE 4410-01-M

Proposed Consent Decree in Action To Enforce the Safe Drinking Water Act, the Resource Conservation and Recovery Act, and the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that on July 20, 1983, a proposed consent decree in *United States, et al.* v. *County of Hillsborough*, Civ. No. 80–1128, was lodged with the United States District Court for the Middle District of Florida, Tampa Division. The proposed decree provides for settlement of a suit under the Safe Drinking Water Act, the Resource Conservation and Recovery Act and the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 concerning three contiguous landfill sites located in the Taylor Road area, Seffner, Florida. The proposed decree requires that the Defendant install and provide a permanent water supply to residents in an area south of the sites, upgrade the cap and cover of one site and maintain the cap and cover of all three sites, test and maintain drainage ditches around the sites, abate migration of methane gas beyond the boundary of the property upon which the sites are located, monitor methane migration for thirty years, monitor groundwater for thirty years, and pay stipulated penalties for failure to comply with certain major requirements in a timely fashion.

The Department of Justice will receive, for a period of thirty (30) days from the date of this notice, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States, et al.* v. *County of Hillsborough*, D.J. Ref. No. 90–7–1–111.

A proposed consent decree may be examined at the office of the United States Attorney, Middle District of Florida, 500 Zack Street, Room 410, Tampa, Florida 33602; at the Region IV Office of the Environmental Protection Agency, Office of Regional Counsel, 345 Courtland Street, Atlanta, Georgia 30308; and the Environmental Enforcement Section, Land and Natural Resources Division, United States Department of Justice, Room 1521, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting the proposed consent decree, please send a check or money order in the amount of $2.40 (10 cents per page reproduction charge), made payable to the Treasuree of the United States.

Dated: July 27, 1983.

F. Henry Habicht II,

Acting Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 83-21217 Filed 8-3-83; 8:45 am]

BILLING CODE 4410-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Museums Advisory Panel; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Museums Advisory Panel (Utilization/Visiting Specialists Section) to the National Council on the Arts will be held on

August 23–24, 1983, from 9:00 a.m.–5:30 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9) (b) of Section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: July 28, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-21220 Filed 8-3-83; 8:45 am]

BILLING CODE 7537-01-M

Media Arts Advisory Council; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Service to the Field Section) to the National Council on the Arts will be held on August 22–23, 1983, from 9:00 a.m.–5:30 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, D.C.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9) (b) of Section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: July 28, 1983.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 83-21221 Filed 8-3-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power and Light Co. (Brunswick Steam Electric Plant, Units 1 and 2); Exemption

I

Carolina Power and Light Company (the licensee) is the holder of Facility Operating License Nos. DPR–71 and DPR–62 which authorizes operation of the Brunswick Steam Electric Plant, Units 1 and 2, respectively (Brunswick or the facilities). These licenses provide, among other things, that the facilities are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are boiling water reactors located at the licensee's site in Brunswick County, North Carolina.

II

Section 50.48 of 10 CRF Part 50 requires that licensed operating reactors be subject to the requirements of Appendix R of 10 CFR Part 50. Appendix R contains certain specific requirements of fire protection programs at licensed nuclear facilities. On February 17, 1981, the fire protection rule for nuclear power plants, 10 CFR 50.48 and Appendix R, became effective. This rule required all licensees of plants licensed prior to January 1, 1979, to submit: (1) Plans and schedules for meeting the applicable requirements of Appendix R, (2) a design description of any modifications proposed to provide alternative safe shutdown capability pursuant to Paragraph III.G.3 of Appendix R, and (3) exemption requests for which the tolling provision of § 50.48(c)(6) was to be invoked.

This Exemption relates to the requirements of paragraph III.G.3 of Appendix R as they apply to the Control Building Cable Vaults of Brunswick Units 1 and 2. Exemptions were requested by the licensee by letter dated May 2, 1983. Other pertinent supporting information had previously been supplied by letters dated June 30, 1982 and October 1, 1982.

The Control Building Cable Vaults consist of seven fire zones: CB–1b, CB–2a CB–2b, CB–12a, CB–12b, CB–13a, and CB–13b. The fire protection in these seven zones does not comply with the requirements of paragraph III.G.3 because a fixed fire suppression system has not been provided.

We have evaluated the other fire protection measures that exist in these zones as well as the fire potential of these zones. The combustible loading in the cable vaults consists of the polyvinyl chloride (PVC) jacketing on the conduits. The PVC is coated with a flame retardant coating, which is not a one-hour fire barrier but will act to deter the ignition of the PVC, and if ignited will retard the rate at which the combustible jacket burns. The cable vaults are unventilated and separated from adjacent areas by complete three-hour rated fire barriers. If a fire occurs in one of the cable vaults, it is our opinion that the low fuel load and the added protection provided by the flame retardant coating in conjunction with the installed detection system will provide adequate time for the plant fire brigade to commence manual fire fighting activities before adjacent areas containing safety-related equipment are threatened. Because the alternate shutdown capability that will be provided will be independent of these zones, the addition of fixed fire suppression systems will not significantly enhance fire protection safety.

Based on our evaluation, we find that, since fixed fire suppression equipment in these zones will not significantly increase the level of fire protection, and existing fire protection, in conjunction with alternate shutdown capability for these zones, provides a level of fire protection equivalent to the technical requiremnents of Section III.G.3 of Appendix R, the exemptions should be granted.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law and will not endanger life or property or the common defense and security, and are otherwise in the public interest. The Commission hereby approves the requested exemptions from Appendix R of 10 CFR Part 50 paragraph III.G.3 with regard to the requirement for fixed fire suppression in the Control Building Cable Vaults, including fire zones CB–1b, CB–2a, CB–2b, CB–12a, CB–12b, CB–13a, and CB–13b.

We have 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 27th day of July, 1983.

For the Nuclear Regulatory Commission.

Darrell G. Eisenhut,

Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 83-21253 Filed 8-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-346]

The Toledo Edison Co. and The Cleveland Electric Illuminating Co.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-3, issued to The Toledo Edison Company and The Cleveland Electric Illuminating Company (the licensees), for operation of the Davis-Besse Nuclear Power Station, Unit No. 1 (the facility) located in Ottawa County, Ohio.

In accordance with the licensees' application for amendment dated July 5, 1983, the amendment would permit loading of new fuel and shuffling of existing fuel and control rods for Cycle 4 operation. The loading includes 48 new fuel assemblies and the reinsertion of 37 previously discharged fuel assemblies. There are no mechanical design changes for the reload. Cross-core shuffling is limited to eight fuel assemblies to minimize carry-over effects from flux tilts encountered in earlier cycles. The planned duration of Cycle 4 operation is 240 effective full power days.

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 amendment would permit operation for Cycle 4 with fuel that is not significantly different from that used in previous cycles. The mechanical design of the feed fuel assemblies in Cycle 4 is identical in concept and the fuel assemblies are mechanically interchangable with those used in previous cycles.

There are no significant changes in the Cycle 4 nuclear design. The Cycle 4 physics parameters are similar to the values which applied to Cycle 2 and the beginning of cycle values for Cycle 3. The Cycle 4 reload differs from Cycle 3 in that it does not allow for withdrawal of the Axial Power Shaping Rods to permit coastdown at the end of the cycle. (The licensees plan to submit a future revision to incorporate this feature.)

Except for the TACO 2 fuel performance code and revised cladding models in the Emergency Core Cooling System (ECCS) code package, there have been no significant changes to the analytical methods used and accepted for previous cores to demonstrate conformance with acceptance criteria and NRC regulations. The TACO 2 code calculates fuel rod temperatures and fuel rod gas composition and pressure. The approved TACO 2 code was used to determine the margin for centerline fuel melting and other design calculations for batches 5B and 6. These design margins are reported to be within those previously found acceptable.

The ECCS analysis for Cycle 4 utilizes the TACO 2 code and incorporates revised models for cladding rupture, strain, and flow blockage during and after a loss of coolant accident. These revised models are based upon data presented in NUREG-0630. The ECCS analysis results in operating limits that are more restrictive than those determined for earlier cycles.

The Commission has provided guidance concerning the application of the standards in 10 CFR 50.92 by providing certain examples (48 FR 14870). One of the examples of actions involving no significant hazards considerations relates to reload amendments involving no fuel assemblies significantly different from those found previously acceptable to the NRC for a previous core at the facility in question. This assumes that no significant changes are made to the acceptance criteria for the Technical Specifications, that the analytical methods used to demonstrate conformance with the Technical Specifications and regulations are not significantly changed, and that NRC has previously found such methods acceptable.

As shown in the above discussion, the proposed amendment is similar to this example; therefore, the Commission proposes to determine that the proposed amendment does not involve a significant hazards consideration.

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 September 6, 1983, the licensees may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to

which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., by the above date. Where petitioners 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 Identificaion Number 3737 and the following message addressed to John F. Stolz: 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 Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, N.W., Washington, D.C. 20036, attorney for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a) (1) (i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Bethesda, Maryland, this 29th day of July 1983.

For the Nuclear Regulatory Commission.

John F. Stolz,

Chief, Operating Reactors Branch #4, Division of Licensing.

[FR Doc. 83-21254 Filed 8-3-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-192]

University of Texas; Renewal of Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 10 to Facility Operating License No. R-92 to the University of Texas (the licensee) which renews the license for operation of the pool-type reactor (the facility) located on the University campus in Austin, Texas. The facility is a research reactor that has been operating at steady-state power levels not in excess of 250 kilowatts (thermal).

The amendment extends the duration of Facility Operating License No. R-92 until February 12, 1990.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR, Chapter I. Those findings are set forth in the license amendment. Notice of the proposed issuance of this action was published in the **Federal Register** on April 25, 1980 at 45 FR 28029. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared an environmental impact appraisal for the renewal of the Facility Operating License and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action.

For further details with respect to this action, see: (1) The application for amendment dated January 3, 1980, as supplemented, (2) Amendment No. 10 to License R-92, and (3) the Commission's related Safety Evaluation Report and Environmental Impact Appraisal. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C.

The Safety Evaluation Report (Document No. NUREG-0983) can also be purchased, at current rates, from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 29th day of July 1983.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 83-21255 Filed 8-3-83; 8:45 am]

BILLING CODE 7590-01-M

Advisory Panel for the Decontamination of Three Mile Island, Unit 2

Notice is hereby given pursuant to the Federal Advisory Committee Act that the Advisory Panel for the Decontamination of Three Mile Island, Unit 2 will be meeting on August 17, 1983, from 7:00 p.m. to 10:00 p.m. at the Holiday Inn, 23 South Second Street, Harrisburg, Pennsylvania 17101. The meeting will be open to the public.

The Panel will conduct a work session attempting to reach consensus on a number of cleanup-related issues, including the schedule for the cleanup, the adequacy of funding and worker exposure.

Further information on the meeting may be obtained from Dr. Michael T. Masnik, Three Mile Island Program Office, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301/492-7466.

Dated: August 2, 1983.

John C. Hoyle,

Advisory Committee, Management Officer.

[FR Doc. 83-21384 Filed 8-3-83; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-20011; File No. SR-PSE-83-10]

Self-Regulatory Organizations; Proposed Rule Change; the Pacific Stock Exchange Inc.; Relating to the Listing and Trading of Index Options

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 27, 1983, The Pacific Stock Exchange Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Pacific Stock Exchange Incorporated ("PSE" or the "Exchange") proposes a rule filing providing for the listing and trading of index options. The text of the complete rule change follows.

Rule XXX—Index Options

Introduction

In general, the Rules of the PSE's Board of Governors applicable to the trading of stock options, in particular Rule VI, shall be applicable to the trading of index options as that term is defined below. Rule XXI supplements or replaces those rules relating to stock options where required by the nature of index options. In cases where Rule XXI is silent on an issue, the applicable section of the rules relating to stock options shall be read so as to apply to index options.

Definitions

Section 1. (a) The term "put" means an option contract under which the holder of the option has the right, in accordance with the terms and provisions of the option, to sell to the Clearing Corporation the index value times the index multiplier.

(b) The term "call" means an option contract under which the holder of the option has the right, in accordance with the terms of the option, to purchase from the Clearing Corporation the index value times the index multiplier.

(c) The term "index" shall mean the sum of the reported last sales of those underlying securities, which, as a group, have been designated by the Exchange as underlying an option contract, divided by the Divisor.

(d) The term "class" shall mean an option contract of the same type of option on the same group of underlying securities.

(e) The term "aggregate exercise price" shall mean the exercise price of the option contract times the index multiplier.

(f) The term "exercise price" shall mean the specified price per unit at which the index value may be purchased or sold upon the exercise of the option.

(g) The term "index multiplier" means the value designated by the Exchange by which the index is multiplied.

(h) The term "index value" in respect to a particular index shall mean the sum of the prices of the underlying securities divided by the Divisor, and as reported by the reporting authority for the index.

(i) The term "closing index value" shall be the last index value reported by the reporting authority on a business day. The reporting authority shall use the last sales of the underlying securities which have been reported by 1:00 p.m. Pacific Time to calculate the closing index value.

(j) The term "Divisor" shall mean that number which the sum of the reported last sales of the underlying securities are divided by to obtain the index value, as shall be designated by the Exchange pursuant to Section 5 of this Rule.

(k) The term "underlying security" or "underlying securities" with respect to an index option contract means any of the stocks that are the basis for the calculation of the index.

(l) The term "reporting authority" in respect of particular index means the institution or reporting service designated by the Exchange as the official source for calculating and disseminating the value of the index.

Index Multiplier

Section 2. The Exchange has determined that the index multiplier shall be 100.

Designation of the Index

Section 3. (a) The underlying securities comprising the index shall be selected by the Exchange and may be revised from time to time to maintain the integrity and purpose of the index.

(b) The underlying securities selected need not meet the listing and maintenance standards provided in Rule VI, Sections 12 and 13.

Dissemination of Information

Section 4. (a) The Exchange shall assure that the index value is disseminated to the public after the close of business and from time-to-time on days on which index options are traded on the Exchange.

(b) The Exchange shall maintain, in files available to the public, information identifying the stocks whose prices are the basis for calculation of the index and the method used to determine the index value.

Adjmustments in the Divisor

Section 5. The Divisor ordinarily will be adjusted in the event of a stock dividend, stock distribution, stock split or reverse split, rights offering, distribution, reorganization, recapitalization or reclassification or similar event in respect of any component stock, or in the event a stock is added to or deleted from the index, or one stock is substituted for another. The purpose of adjusting the Divisor in the context of such events is to maintain continuity of index values; the Divisor will not be revised for any other purpose.

No Position and Exercise Limits

Section 6. The provisions of Rule VI, Sections 5 and 8, pertaining to position and exercise limits, shall not be applicable to index options.

Commentary .01. All members and member organizations acquiring or exercising positions of 200 contracts or more in index options shall report this information to the Surveillance Department. The report shall be filed with the Exchange in accordance with the provisions of Rule VI, Section 7(a).

Section 7. Reserved.

Terms of Option Contracts

Section 8. (a) The Exchange shall determine fixed point intervals of exercise prices for call and put options.

(b) The Exchange shall determine the expiration dates as provided in Rule VI, Section 4.

Meaning of Premium Bids and Offers

Section 9. Bids and offers shall be expressed in terms of dollars and fractions per unit of the index (e.g. a bid of 5½ would represent a bid of $5.50 per unit).

Trading Rotations

Section 10. The provisions of Rule VI, Section 36, regarding trading rotations shall apply to index options, except as otherwise provided in Rule XXI. The opening rotation for index options shall be held as soon as practicable after 50 percent of the underlying securities have opened for trading. The Order Book Official shall open first those series of a class which have the nearest expiration. Thereafter the Order Book Official shall open the remaining series in a manner he deems appropriate under the circumstances. One and one-half hours after the opening rotation, trading shall become subject to Section 11 of this Rule, unless the Exchange determines it is in the public interest to suspend trading at an earlier time.

Trading Halts or Suspensions

Section 11. Trading on the Exchange in any index option shall be halted or suspended whenever trading is halted or is suspended in 20 percent of the underlying securities. Trading in an index option shall also be halted whenever the Exchange deems such action appropriate in the interests of a fair and orderly market or to protect investors. Among the factors that may be considered by the Exchange are the following:

(i) all trading has been halted or suspended in the market that is the primary market for a plurality of the underlying stocks;

(ii) the current calculation of the index derived from the current market prices of the stocks is not available; or

(iii) other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

Trading in index options of a class or series that has been the subject of a halt or suspension by the Exchange may resume if the Exchange determines that the conditions which led to the halt or suspension are no longer present, or that the interests of a fair and orderly market are best served by a resumption of trading.

Section 12. Reserved

Limitation of Liability

Section 13. The Exchange shall have no liability for damages, claims, losses or expenses caused by an errors, omissions or delays in calculating or disseminating the index value.

Section 14. Reserved

Exercise of Option Contracts

Section 15. The provisions of Rule VI, Section 30, shall apply to index options, except as follows:

With respect to index option contracts, Clearing Members must follow the procedures of the Clearing Corporation for tendering exercise notices and Member Organizations also must follow the procedures set forth below:

(a) a memorandum to exercise any contract issued or to be issued in a customer or Market-Maker account at the Clearing Corporation must be received or prepared by the Member Organization no latter than 1:10 P.M. Pacific Time, and must be time-stamped at the time it is received or prepared. Member Organizations must accept exercise instructions until 1:10 P.M. Pacific Time;

(b) a memorandum to exercise any contract issued or to be issued in a firm account at the Clearing Corporation must be prepared by the Member Organization no later than 1:10 P.M. Pacific Time, and must be time-stamped at the time it is prepared;

(c) failure of any member to follow the procedures and meet the deadlines in this Section 16 may result in the assessment of fines in an amount determined by the Exchange, and further disciplinary action as may be appropriate;

(d) all memoranda of exercise instructions are subject to SEC Rules 17a-3(a)(6) and 17a-4(b); and

(e) the above provisions specified in Sections 16(a) through 16(d) are not applicable to expiring series on the business day prior to expiration.

Margins

Section 16(a) This Section sets forth the minimum amount of margin which must be deposited and maintained in margin accounts of customers having positions in index option contracts dealt in on the Exchange. The Exchange may at any time impose higher margin requirements in respect to such positions when it deems such higher margin requirements to be advisable. The initial deposit of margin required under this rule must be made within seven full business days after the date on which a transaction giving rise to a margin requirement is effected. For purposes of this Rule, the term "current market value" of an index option shall mean the total cost or net proceeds of the option transaction on the day the option was purchased or sold and at any other time shall mean the closing price of that series of options on the Exchange on any day with respect to which a determination of current market value is made.

(b) For each put or call index option contract carried in a short position in the account, margin must be deposited and maintained equal to at least 100% of the current market value of the contract plus 10% of the index value times the index multiplier. In each case, the amount shall be decreased by any excess of the aggregate exercise price of the option over the index value as multiplied by the index multiplier in the case of a call, or any excess of the index value as multiplied by the index multiplier over the aggregate exercise price of the option in the case of a put; provided, however, that the minimum margin required on each such option contract shall not be less than the option market value plus 2% of the index value times the index multiplier.

(c) The requirement set forth in paragraph (b) hereof is subject to the following exceptions, which in each case may be applied at the discretion of the member organization with which the account is maintained.

(1) Short option offset by long option where long option expires with or after short option. The subparagraph (c)(1) applies to accounts carrying positions in long call index options (or long put index options) which are offset by positions in short call index options (or short put index options) for the same underlying index with the same index multiplier, provided that the expiration date of the long calls (or long puts) is the same as or subsequent to the expiration date of the offsetting short calls (or short puts).

(A) When the exercise price of the long call index option (or short put index option) is less than or equal to the exercise price of the offsetting short call index option (or long put index option), no margin is required.

(B) When the exercise price of the long call index option (or short put index option) is greater than the exercise price of the offsetting short call index option (or long put index option) margin is required equal to the difference in aggregate exercise prices.

(2) Short put and short call. This subparagraph (c)(2) applies to accounts carrying positions in short put index options which are offset by positions in short call index options for the same underlying index with the same index multiplier. The margin required for such a position shall be the margin required for the short put option contract or the margin required for the short call option contract (pursuant to paragraph (b) of this Rule), whichever is greater, as determined by (b) above, increased by the amount of any unrealized loss on the other option contract.

Settlement

Section 17. In accordance with the applicable Rules of the Options Clearing Corporation, the settlement of index option contracts will be by the delivery of the difference between the closing index value on the day of exercise and the exercise price times the index multiplier, denominated in United States dollars.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for the Proposed Rule Change

This proposed rule change is designed to permit trading on the PSE of options on stock indices. The current proposal would establish an index option on one hundred underlying securities. These underlying securities will represent a broad spectrum of companies principally engaged in manufacturing or service-related products within the advanced technology fields. Attached in Appendix A is a list of the one hundred securities comprising the PSE Technology Index (the "Index").

The purpose of the PSE Technology Index is to provide an option contract which allows an investor to participate in the price movement of an index based on a portfolio of one hundred securities in the technology area. The PSE Technology Index will also allow investors holding positions in some or all of the underlying securities in the Index to hedge the risk associated with their portfolios.

It is this firm-specific risk that the PSE Technology Index has been designed to address. An investor can protect his investment in a company or group of companies whose advanced technology may become outmoded through technnological improvement by other companies whose securities are underlying securities in the Index, or who fail to compete successfully against other companies whose securities also comprise some of the underlying securities of the Index.

The nature of many manufacturing or service companies involved in advanced technology presents a greater degree of risk to an investor than companies involved in fields whose technology is better established. By and large, the products and processes of these companies are unproven in the marketplace. Investing in the underlying securities of many of these companies can be associated with a high degree of risk, due to the rapidly changing nature of modern technology. A position in an option on a broad-based index, like the PSE Technology Index, will allow the investor to hedge this risk.

The purpose of the proposed index options rules as they apply to the PSE Technology Index are set forth below.

Section 1. This section sets forth the definitions which are essential to the establishment, pricing, trading, and settlement of index options. The terms "put," "call," "aggregate exercise price," "exercise price," and "index multiplier," defined in Sections 1(a), 1(b), 1(e), 1(f), and 1(g) of Rule XXI provide the basis for calculating the dollar amounts a purchaser or seller of an index option will deliver or receive upon exercise.

The "index," as defined in Section 1(c) of Rule XXI, shall be calculated on the basis of securities which are reported sales as of 1:00 p.m. Pacific Time, either by an exchange through the Consolidated Transaction Reporting System or by the National Association of Securities Dealers Incorporated through the NASDAQ System. The PSE has designated the group of stocks listed in Appendix A as underlying the PSE Technology Index.

The term "class" defined in Section 1(d) of Rule XXI assumes the replacement of an underlying security in the PSE Technology Index will not result in a new index, and therefore not result in the introduction of a new class of option contracts.

The "index value" as defined in Section 1(h) of Rule XXI will be computed and disseminated on a current basis by the reporting authority. The last "index value" disseminated by the reporting authority on a given day shall be considered the "closing index value" for that day, as defined in Section 1(i) of Rule XXI.

Section 2. The index multiplier represents the number of underlying securities which comprise the index. In the case of the PSE Technology Index, the number of underlying securities is one hundred.

Section 3. The PSE has decided to list the PSE Technology Index for the reasons which have been stated herein. Many of the underlying securities which are proposed to comprise the PSE Technology Index, and which are listed in Appendix A of this filing, do not meet the criteria for listed options trading as specifically provided in PSE Rule VI, Sections 12 and 13. Because these securities are not eligible for listed options trading, their inclusion in the Index will enable an investor to limit the risk of his investment. Section 3 also permits the PSE to replace underlying securities in the Index if necessary in order to maintain the integrity and purpose of the Index. The Exchange intends to describe in detail the mechanism by which underlying securities will be replaced prior to the initiation of trading of the Index options.

Section 4. This section provides that the Index value will be widely disseminated during those times options on the Index are traded. This section also provides that the public shall be kept fully informed of the composition of the underlying securities in the Index, and of the method used to calculate the Index value. This dissemination permits the public to calculate the value of each option series on the Index.

Section 5. The PSE Technology Index is a price-weighted index. This price-weighted index involves the summation of the prices per share of each of the underlying securities included in the Index, and the division by a constant Divisor. The price of each security is given equal weight. Therefore, the higher-priced securities will comprise a larger part of the Index value than lower-priced securities. The PSE intends

the Index value to be 100 on the first day of trading, and the Divisor will be calculated to achieve that result. In the case of the events described in Section 5 of Rule XXI, the Divisor will be adjusted to maintain the same Index value as before the event.

Section 6. The PSE has determined that a cash-settled index option involving a large number of underlying securities requires no position or exercise limits. The purpose behind establishing position and exercise limits for listed options was to minimize the motivation for manipulation of both an option and its underlying security. In the *Report of the Special Study of the Options Markets,* the Securities and Exchange Commission has stated that this manipulative potential is based on the possible effect options exercise and assignment may have on an underlying security. However, this potential is not present in a cash-settled index option. The result of the exercise and assignment in a cash-settled option is the exchange of cash between an exeriser and an assignee. At no time during the exercise of the option does the assignee have to effect a transaction in an underlying security. Thus, the concern that exercises in a cash-settled index option will effect one or more of its underlying securities is without merit.

In order to manipulate the index value of a cash-settled index option to the benefit of an existing option position, the manipulator would have to affect the price in a significant number of the underlying securities of the index option. Even by effecting price changes in the higher-priced securities underlying the index, the cost of affecting the price in enough underlying securities to have a sufficient effect on an index comprised of one hundred securities would outweigh the beneficial effect on any options position. Thus, the motivation to manipulate a cash-settled index option or its underlying securities to the benefit of an existing index option position is lacking.

Section 7. This section provides that the PSE Surveillance Department will receive reports of positions and exercises of greater than two hundred contracts in the Index options. The Surveillance Department will monitor the Index value, the prices of the underlying securities in the Index, and the Index option series for any unusual activity. The PSE believes that these actions will be sufficient to protect investors in the Index options.

Section 8. This section empowers the PSE to set the exercise price intervals and expiration dates for index options. The PSE anticipates that the PSE Technology Index options will trade in a January-April-July-October expiration cycle. The exercise price intervals will be five points when the Index value is less than two hundred, and ten points when the Index value is greater than two hundred. New exercise prices will be added when the Index value reaches an existing exercise price, so long as forty-five days remain until expiration. The expiration time of Index options shall be the same as that of listed stock options.

Section 9. Bids and offers for Index options will be expressed in the same terms as bids and offers for listed stock options, except the bids and offers will represent a unit of the Index.

Section 10. Trading rotations will be conducted in the same manner as trading rotations on listed stock options. The opening rotation shall be held as soon as practicable after fifty of the Index options' underlying securities have opened for trading. For those securities which remain unopened at the time the Index option was opened, the PSE will use the last reported sale of those securities to calculate the Index value. Should twenty or more of the Index options' underlying securities remain unopened after one and one-half hours after the Index options' opening rotation, trading in the Index options will be halted unless it is in the public interest to halt trading at an earlier time.

The PSE has determined that a closing rotation on expiration Friday is not necessary for cash-settled Index options. As the expiration date of an Index option series approaches, Index option volume is likely to decrease. In contrast, stock option volume generally increases as the expiration date approaches. The PSE expects Index option volume to behave in this manner because of the cash-settlement feature of the contract. Near expiration, an investor who is long or short an Index option contract achieves the same result by exercising his contract or entering a closing transaction. In either case, the investor will receive a cash amount equal to the difference between the closing index value and the exercise price. An investor will receive the same amount exercising as he would from a closing transaction, since the expiring index option series will be priced at parity with the Index value. Therefore, a closing rotation will not be necessary to handle any disproportionate expiration order flows.

Section 11. As discussed in connection with opening rotations, trading in the Index options will be halted when trading in twenty of the underlying securities is suspended or halted. Trading in the Index options shall also be halted whenever it is necessary for the maintenance of a fair and orderly market or to protect investors.

Trading in the Index options shall be resumed if the conditions which lead to the half or suspension are no longer present, or the interests of a fair and orderly market are best served by a resumption of trading.

Section 13. Under Article VI, Section 6, of the PSE Constitution, the PSE accepts no liability for any damages sustained by members through the use of its facilities. One notable exception to this limitation of liability has been provided in PSE Rule VI, Section 72, for those circumstances involving errors or omissions of an Order Book Official made in the course of executing an option order in the custody of the Order Book. Section 72 will apply to transactions in Index options. Thus, the PSE will accept liability for errors or omissions of Order Book Officials made in connection with the execution of Index option orders handled by the Order Book.

Section 13 of Rule XXI provides that the Exchange shall have no liability for any losses arising out of the calculation or dissemination of the Index value.

Section 15. This Section provides procedures for the exercise of index options. Specifically, member organizations must accept from all customers and market makers exercise instructions for stock index options up until, but no later than, 1:10 p.m. Pacific Time. The notice of exercise must be time-stamped at the time it is received or prepared. Second, a memorandum to exercise a stock index option contract issues or to be issued in a firm account must be prepared no latter than 1:10 p.m. Pacific Time. The above provisions, however, would not be applicable to expiring series on the last day of trading prior to expiration.

The proposed rule change will enable persons holding long positions to tender exercise notices on a given day knowing the value of the index at the close of trading. Conversely, in order to protect holders of short positions in index options from unanticipated events occurring after the close of the market, no exercise notice may be issued after 1:10 p.m. Pacific Time.

Section 16. Section 16 sets forth the minimum amount of margin which a customer holding a position in index options must deposit and maintain in his margin account. For each short position in put or call Index option contracts, a customer must deposit and maintain margin equal to at least one hundred percent of current market value of the Index option contract plus ten percent of

the Index value multiplied by the Index multiplier. The amount of margin required may be decreased by certain exception as set forth more specifically in the Section.

The PSC reserve the right to impose higher margin requirement when it deems such to be in the public interest. The PSE believes the above-stated margin treatment adequate for the Index options, as these amounts have been approved for other stock options indices. The Federal Reserve Board is currently conducting an investigation into the entire subject of margin requirements for stock option indices. Should the Federal Reserve Board's study conclude that differeent margin treatment for stock option indices is appropriate, the PSE will amend Section 16 of Rule XXI accordingly.

Section 17. Section 17 provides that the settlement of an index option contract upon exercise will be by the delivery of the dollar amount of the differences between the closing Index value on the day of exercise and the exercise price multiplied by the Index multiplier. The PSE is of the opinion that the only practical method of settling an option on an index of one hundred underlying securities is through the delivery of cash, rather than the delivery of each of the Index option's underlying securities.

The basis for the proposal is Section 6(b)(5) of the Securities Exchange Act of 1934 and its general goal of protecting investors and the public interest.

(B) *Self-Regulatory Organization's Statement on Burden on Competition*

The proposed rule change imposes no burden on competition.

(C) *Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others*

The proposed rule change was considered and approved by the New Products Committee, comprised of members of the PSE.

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of the publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change; or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned, self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted within 21 days after the date of this publication.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 27, 1983.

George A. Fitzsimmons,

Secretary.

Appendix A

ADAC Laboratories
Advanced Micro Devices, Inc.
Altos Computer Systems
Amdahl Corporation
Analog Devices, Inc.
Apollo Computer, Inc.
Apple Computer, Inc.
Applied Magnetics Corporation
Applied Materials, Inc.
ASK Computer Systems, Inc.
Avantek, Inc.
AVX Corporation
BMC Industries, Inc.
Burroughs Corporation
Centronics Data Computer Corporation
Cetus Corporation
Cipher Data Products, Inc.
Cobe Laboratories, Inc.
Commodore International Limited
Communications Industries, Inc.
Communications Satellite Corporation
Computer & Communications Technology
Computervision Corporation
Conrac Corporation
Control Data Corporation
Control Laser Corporation
Convergent Technologies, Inc.
Corvus Systems, Inc.
CPT Corporation
Cray Research, Inc.
Data I/O Corporation
Data General Corporation
Datapoint Corporation
Datum, Inc.
Digital Equipment Corporation
Dysan Corporation
Electro-Biology, Inc.
Electronic Associates, Inc.
Electronic Memories & Magnetics Corporation
Evans & Sutherland Computer Corporation
Finnigan Corporation
Floating Point Systems, Inc.
Flow General Inc.
Fluke (John) Manufacturing Company, Inc.
Fortune Systems Corporation
GCA Corporation
Genentech, Inc.
General DataComm Industries, Inc.
GenRad, Inc.
Gould Inc.
Granger Associates
Harris Corporation
Healthdyne, Inc.
Hewlett-Packard Company
Honeywell, Inc.
Hybritech Inc.
Information Displays, Inc.
Intel Corporation
Intergraph Corporation
Intermedics, Inc.
International Business Machines Corporation
Lexidata Corporation
Medtronic, Inc.
Micom Systems, Inc.
Millipore Corporation
Modular Computer Systems, Inc.
Monolithic Memories, Inc.
Motorola, Inc.
National Micronetics, Inc.
National Semiconductor Corporation
NBI, Inc.
NCR Corporation
Network Systems Corporation
Nicolet Instrument Corporation
Novo Industri A/S
ONYX + IMI, Incorporated
Paradyne Corporation
Perkin-Elmer Corporation
Prime Computer, Inc.
Quantum Corporation
Rogers Corporation
Scientific-Atlanta, Inc.
Seagate Technology
Silicon Systems, Inc.
Spectra-Physics, Inc.
Sperry Corporation
Standard Microsystems Corporation
Storage Technology Corporation
Tandem Computers Incorporated
Tandon Corporation
Tektronix, Inc.
TeleVideo Systems, Inc.
Telex Corporation
Teradyne, Inc.
Texas Instruments Incorporated
Timeplex, Inc.
Vector Graphic, Inc.
Varian Associates, Inc.
Verbatim Corporation
Wang Laboratories, Inc.

[FR Doc. 83-21229 Filed 8-3-83; 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

Rule 15c3-3.

No. 270-87.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission has submitted for an extension of the previously granted clearance Rule 15c3-3, (17 CFR 240.15c3-3) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). Rule 15c3-3 sets standards for the acceptance, use and custody of customers' securities and the maintenance of reserves with respect to customer deposits and credit balances or monies obtained from the use of customer securities (17 CFR 240.15c3-3). The potential respondents are all registered brokers and dealers and exchange members.

Submit comments to OMB Desk Officer: Robert Veeder (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235. NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

July 29, 1983.

[FR Doc. 83-21228 Filed 8-3-83; 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

Form N-1A [17 CFR 239.15A, 274.11A].

SEC File No. 270-21.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of approval Form N-1A, a form for the registration of open-end management investment companies other than insurance company separate accounts under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) and the registration of their securities under the Securities Act of 1933 (15 U.S.C. 77a *et seq.*).

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

July 29, 1983.

[FR Doc. 83-21230 Filed 8-3-83; 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

Rule 17a-1.

No. 270-244.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 17a-1 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), the recordkeeping rule for national securities exchanges, national securities associations registered clearing agencies and the Municipal Securities Rulemaking Board.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

July 29, 1983.

[FR Doc. 83-21231 Filed 8-3-83 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension of Approval

Rule 19h-1 (a), (c)-(e), (g).

No. 270-247.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension of OMB approval Rule 19h-1 (a), (c) through (e), (g), (17 CFR 240.19h-1 (a), (c) through (e), (g)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) which governs notice by a self-regulatory organization of proposed admission to or continuance in membership or participation or association with a member of any person subject to a statutory disqualification and applications to the Commission for relief therefrom.

Submit comments to OMB Desk Officer: Mr. Robert Veeder, (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

July 29, 1983.

[FR Doc. 83-21232 Filed 8-3-83; 8:45 am]

BILLING CODE 8010-01-M

Agency Forms Under Review by Office of Management and Budget

Agency Clearane Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs.

Extension

Rule 17a-4.

No. 270-0198.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for an extension of the previously granted clearance Rule 17a-4, (17 CFR 240.17a-4) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). Rule 17a-4 requires brokers and dealers to preserve for specified periods records which they are required to maintain pursuant to Rule 17a-3 (17 CFR 240.17a-3). The potential respondents are all registered brokers and dealers and exchange members.

Submit comments to OMB Desk Officer: Mr. Robert Veeder (202) 395-4814, Office of Information and Regulatory Affairs, Room 3235, NEOB, Washington, D.C. 20503.

George A. Fitzsimmons,

Secretary.

July 29, 1983.

[FR Doc. 83-21233 Filed 8-3-83; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of Reporting Requirements Submitted for OMB Review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATE: Comments must be received on or before August 30, 1983. If you anticipate commenting on a submission but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB reviewer and the agency clearance officer of your intent as early as possible.

COPIES: Copies of the proposed forms, the request for clearance (S.F. 83), supporting statement, instructions, transmittal letters, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer. Comments on the item listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

FOR FURTHER INFORMATION CONTACT:

Agency Clearance Officer: Elizabeth M. Zaic, Small Business Administration, 1441 L St., NW., Room 200, Washington, D.C. 20416, Telephone: (202) 653–8538.

OMB Reviewer: J. Timothy Sprehe, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235, New Executive Office Building, Washington, D.C. 20503, Telephone: (202) 395–4814.

Forms Submitted for Review:

Title: Prime Contracts Program Quarterly Report.

Form Nos.: SBA 843.

Frequency: Quarterly.

Description of Respondents: Procurement Center Representatives collect information from federal agencies.

Annual Response: 1,036.

Annual Burden Hours: 1,036.

Type of Request: New.

Dated: July 29, 1983.

Richard Vizachero, Jr.,

Acting Chief, Paperwork Management Branch, Small Business Administration.

[FR Doc. 83-21143 Filed 8-3-83; 8:45 am]

BILLING CODE 8025-01-M

TENNESSEE VALLEY AUTHORITY

Tennessee Valley Authority Act of 1933 and Public Utility Regulatory Policies Act of 1978; Modification of Guidelines on Dispersed Power Production

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Notice of modification of TVA's guidelines on dispersed power production.

SUMMARY: On June 29, 1983 TVA approved a modification to the guidelines for TVA's dispersed power production program with regard to purchases of power from qualifying facilities located outside the area in which TVA or its distributors are a source of power supply under provisions of the TVA Act. The modification provides for: (1) Negotiated prices for engery and capacity purchases from these facilities with such prices not to exceed TVA's costs that would be avoided by such purchases and (2) metering costs for these qualified facilities to be the responsibility of the owners of the facilities.

EFFECTIVE DATE: The modification of the guidelines is effective as of June 29, 1983.

FOR FURTHER INFORMATION CONTACT: Dawn S. Ford, Tennessee Valley Authority, 400 West Summit Hill Drive, EPB6–C, Knoxville, Tennessee 37902, (615) 632–4402.

SUPPLEMENTARY INFORMATION: TVA's current guidelines on dispersed power production were printed in the **Federal Register** on October 25, 1982 (47 FR 47355).

On April 20, 1981 TVA adopted a policy to encourage dispersed power production in the Tennessee Valley region and an interim program and guidelines to assist TVA and the distributors of TVA power in implementation of the policy. The policy, program, and guidelines encompass cogeneration and small power production facilities included under sections 201 and 210 of the Public Utility Regulatory Policies Act of 1978 (Pub. L. No. 95–617) (PURPA). On September 22, 1982 TVA approved a revised purchase price schedule to be available until October 1, 1983, and extended its Experimental Cogeneration Program until October 1, 1983. Notice that a proposed modification of the guidelines was being considered was published in the **Federal Register** on March 3, 1983.

The guideline modification approved by the TVA Board on June 29, 1983 is shown below.

Dated: July 27, 1983.

W. F. Willis,

General Manager.

Modification to Guidelines

A.3.a. Until October 1, 1983, qualified producers, with facilities located within the area in which TVA or the distributors of TVA power are a source of power supply under provisions of the TVA Act, will have the option of: (1) Receiving payments for the output of their facilities billed under the experimental pricing schedule (see Experimental Price Schedule DPP–XR) or (2) any alternative pricing schedule that TVA may publish for use by itself and the distributors of TVA power prior to that date.

Qualified producers, with facilities located outside the area in which TVA or the distributors of TVA power are a source of power supply and that are able to make arrangements with connecting utility systems to supply their output to TVA's power system, will receive payments for energy based upon a negotiated price. The price agreed upon is not to exceed the avoided cost of energy to the TVA system. The amount of capacity payments will be based upon a negotiated price with the price agreed upon not to exceed the value of such capacity in offsetting TVA's capacity needs over the term of the contract.

A.6.a. Owners of qualified facilities will be required to pay for any additional transmission or distribution costs (including the costs of metering, system protection and safety equipment) to the extent that such costs are in excess of those that the distributors of TVA power and TVA would have incurred if the qualified producers' output had not been purchased. Until October 1, 1983, under the provisions of the Experimental Cogeneration Program, TVA will continue to pay the cost of cogeneration metering installations for facilities qualifying thereunder that are located within the area in which TVA or its distributors are a source of power supply. Owners of qualified cogeneration facilities located outside this area will be wholly responsible for metering installations, including costs.

[FR Doc. 83-21203 Filed 8-3-83; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Anchorage, Alaska

AGENCY: Federal Highway Administration (FHWA), DOT

ACTION: Notice, environmental impact statement.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed transportation system improvement in the Municipality of Anchorage, Alaska

FOR FURTHER INFORMATION CONTACT: Tom Neunaber, Field Operations Engineer, Federal Highway Administration, P.O. Box 1648, Juneau, Alaska 99801, Telephone (907) 586–7428; Terry Fleming, Central Region Environmental Coordinator, Alaska Department of Transportation & Public Facilities, Pouch 6900, Anchorage, Alaska, Telephone (907) 266–1506.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Alaska Department of Transportation and Public Facilities, will prepare an Environmental Impact Statement (EIS) on proposed improvement to the transportation system within the major corridors of the Anchorage Metropolitan Area Transportation Study (AMATS) in the Municipality of Anchorage. The major corridors under consideration are the Northside, Seward Highway, and the 15th Avenue By-Pass. Construction of the proposed transportation improvements is considered necessary for the following reasons: (1) To provide important links within the regional transportation plan; (2) To provide improved access to employment, recreation, and other opportunities for Anchorage area residents; (3) To provide opportunity for orderly economic and population growth of the Anchorage area through improved transportation routes between suitable land uses within the Municipality, (4) To reduce travel time and costs within the Anchorage community; (5) To enhance mass transit operations; and (6) To facilitate conformity with the State Air Quality Implementation Plan.

Alternatives under consideration include:

(1) No action

(2) Upgrade Existing Transportation System (TSM improvements)

(3) Major upgrade and/or realignment within the major corridors

Letters describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies; private organizations; and also to citizens who have previously expressed interest in this proposal. Public information/scoping meetings will be held during late August at times and locations to be determined. At least one meeting will be held during business hours and another meeting will be held in the evening. A public hearing will be held in late 1983 or early 1984 after the Draft Environmental Impact Statement has been completed and made available for public and agency review.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA or the ADOT/PF at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research Planning and Construction. The provisions of OMB Circular No. A–95 regarding State and Local Clearinghouse review of Federal and federally assisted programs and projects apply to this program.)

Issued on July 28, 1983.

Barry Morehead,

Division Administrator, FHWA, Juneau, Alaska.

[FR Doc. 83–21202 Filed 8–3–83; 8:45 am]

BILLING CODE 4910–22–M

Research and Special Programs Administration

[Docket Nos. IRA–20 through IRA–30]

Nuclear Assurance Corporation; Application for Inconsistency Ruling; Nuclear Transportation Requirements in Michigan, New York and Vermont; Public Notice and Invitation To Comment

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Public notice and invitation to comment.

SUMMARY: On May 12, 1983, the Department issued a public notice and invitation to comment on the inconsistency of a number of State and local rules on the transportation of radioactive materials in Michigan, New York and Vermont. (Docket Nos. IRA–20 through IRA–27, 48 FR 21496; Corrections at 48 FR 23747, May 26, 1983.) During the comment period ending July 8, 1983, the State of Vermont adopted new rules governing the transportation of irradiated reactor fuel and nuclear waste. The impact of these rules on radioactive materials routing options and the question of whether these rules are inconsistent with the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder are issues which are directly related to those being examined under Docket Nos. IRA 20 through IRA–27. Therefore, the Department has elected to reopen the comment period on Docket Nos. IRA–20 through IRA–27 and, in accordance with 49 CFR 107.209(b), to invite comments under Docket No. IRA–30 on the question of whether the Vermont rules are inconsistent with the HMTA or the regulations issued thereunder and, thus, preempted.

DATE: Comments received on or before September 19, 1983, will be considered before an inconsistency ruling is issued.

ADDRESSES: The applications, regulations and any comments received may be reviewed in the Dockets Branch, Materials Transportation Bureau, Room 8426, 400 Seventh Street, SW., Washington, D.C. 20590. Comments on any of the docketed items referenced or described in this notice may be submitted to the Dockets Branch at the above address. The correct Docket Number (IRA–) must be indicated in your submission. A signed original and three copies of each submission are required. Parties wishing to supplement their previously submitted comments may do so by reference. A copy of each comment must also be sent in accordance with the following:

Comments Re	Send copy to
All Dockets	Mr. Larry Danese, Manager, Cask Operations, Nuclear Assurance Corporation, 5720 Peachtree Parkway, Norcross, GA 30092.
IRA–20	Mr. Donald A. Devito, Director, Office of Disaster Preparedness, New York State Division of Military and Naval Affairs, Public Safety Building, New York State Campus, Albany, NY 12226.
IRA–21	Col. Gerald L. Hough, Director, Department of State Police, 714 S. Harrison Road, East Lansing, MI 48823; and Dr. Gloria R. Smith, Director, Michigan Department of Public Health, 3500 North Logan Street, Lansing, MI 48909.
IRA–22	Mr. Dean Pineles, Office of the Governor, Pavilion Office Building, Montpelier, VT 05602.
IRA–23	Mr. Joseph E. Pauquette, Director of Operations, New York State Thruway Authority, 200 Southern Boulevard, Albany, NY 12201.
IRA–24	Mr. James P. McGuinness, Executive Director, Ogdensburg Bridge and Port Authority, Ogdensburg, NY 13669.
IRA–25	Mr. Augustus Marscher, Chairman, St. Lawrence County Board of Legislators, Court Street, Canton, NY 13617.
IRA–26	Mr. Russell Wilcox, Executive Director Thousand Islands Bridge Authority, P.O. Box 428, Collins Landing, Alexandria Bay, NY 13607.
IRA–27	Mr. Edward E. Cobb, Chairman, Planning Committee, The County of Jefferson, 175 Arsenal Street, Watertown, NY 13601.

Comments Re	Send copy to
IRA-30	Mr. Patrick J. Garahan, Secretary, Vermont Agency of Transportation, 133 State Street, Montpelier, VT 05602

The fact of submission of copies to the appropriate parties is to be certified at the time the comment is submitted to the Dockets Branch. (The following format is suggested: "I hereby certify that copies of this comment regarding Docket No. ——— have been sent to Mr. Larry Danese and ——— at the addresses noted in the **Federal Register** publication.")

FOR FURTHER INFORMATION CONTACT: Elaine Economides, Office of the Chief Counsel, Research and Special Programs Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (Tel: 202/755-4972).

SUPPLEMENTARY INFORMATION:

1. Preemption Under the HMTA

The HMTA (49 U.S.C. 1801-1812) at section 112(a) (49 U.S.C. 1811(a)) expressly preempts "any requirements, of a State or political subdivision thereof, which is inconsistent with any requirement set forth in (the HMTA) or in a regulation issued under (the HMTA)." However, section 112(b) (49 U.S.C. 1811(b)) provides that an inconsistent requirement of a State or political subdivision thereof ceases to be preempted if, upon the application of an appropriate State agency, the Secretary of Tranportation determines that such requirement (1) provides an equal or greater level of protection to the public than the HMTA or regulations issued thereunder and (2) does not unreasonably burden commerce.

Procedual regulation implementing section 112 of the HMTA are codified at 49 U.S.C. 107.201-107.225. These regulations provide for the issuance of inconsistency rulings and non-preemption determinations. Briefly, an inconsistency ruling is an administrative opinion as to the relationship between a requirement of a State or political subdivision thereof and a requirement of the HMTA or regulations issued under the HMTA. The determination of whether a State or political subdivision requirement is inconsistent is based on consideration of the factors set forth at 49 CFR 107.209(c):

(1) Whether compliance with both the State or political subdivision requirement and the Act or the regulations issued under the Act is possible; and

(2) The extend to which the State or political subdivision requirement is an obstacle to the accomplishment and execution of the Act and the regulations issued under the Act.

If the State or local requirement is found to be inconsistent with a Federal requirement, the State or locality may seek a non-preemption determination, i.e., waiver of preemption pursuant to section 112(b) of the HMTA (49 U.S.C. 1811(b)).

2. Federal Routing Regulations

On January 19, 1981, the Department issued a final rule entitled, "Radioactive materials; Routing and Driver Training Requirements," commonly known by its docket number, "HM-164." In relevant part, the rule provided that highway carriers of large quantity radioactive materials (including spent nuclear fuel) are required to use "preferred routes," which are defined as Interstate System highways or alternative highway routes designated by the States that provide an equal or greater level of safety as compared with the Interstate System (49 CFR 177.825(b)).

The rulemaking had been initiated largely in response to a proliferation of State and local restrictions on the transportation of radioactive materials. The final rule was based on the Department's general conclusions that "the public risks in transporting these materials by highway are too low to justify the unilateral imposition by local governments of bans and other severe restrictions on the highway mode of transportation"; and "public safety can be improved through a nationally uniform rule that ensures the use of available highway routes that are known to be safe for large quantity radioactive materials."

As described above, under the preemptive scheme of the HMTA, State and local requirements that are inconsistent with the HMTA and the regulations issued under it, are preempted. In order to assist the public in interpreting and applying this preemptive scheme in the context of HM-164, the final rule included an appendix to 49 CFR Part 177 setting forth the Department's views regarding the preemptive effects of the rule (46 FR 5317). This appendix provides that the Department generally regards State and local requirements to be inconsistent if they:

- Prohibit the highway transport of large quantity radioactive materials without providing for an alternative highway route for the duration of the prohibition;
- Require additional or special personnel, equipment, or escort;
- Require additional or different shipping paper entries, placards, or other hazard warning devices;
- Require filing route plans or other documents containing information that is specific to individual shipments;
- Require prenotification;
- Require accident or incident reporting other than as immediately necessary for emergency assistance; or
- Unnecessarily delay transportation.

3. Background

On May 12, 1983, the Department issued a public notice and invitation to comment on the inconsistency of a number of State and local rules on the transportation of radioactive materials in Michigan, New York and Vermont. (Docket Nos. IRA-20 through IRA-27, 48 FR 21496; Corrections at 48 FR 23747, May 26, 1983.) During the comment period ending July 8, 1983, the State of Vermont adopted new rules governing the transportation of irradiated reactor fuel and nuclear waste. The impact of these rules on radioactive materials routing options and the question of whether these rules are inconsistent with the Hazardous Materials Transportation Act (HMTA) or the regulations issued thereunder are issues which are directly related to those being examined under Docket Nos. IRA-20 through IRA-27. Therefore, the Department has elected to reopen the comment period on Docket Nos. IRA-20 through IRA-27 and, in accordance with 49 CFR 107.209(b), to invite comments under Docket No. IRA-30 on the question of whether the Vermont rules are inconsistent with the HMTA or the regulations issued thereunder and, thus preempted.

4. Public Comment on Docket Nos. IRA-20 through IRA-27

Persons wishing to submit comments on any or all of the eight dockets numbered IRA-20 through IRA-27 should refer to the notice published on May 12, 1983 and appearing at 48 FR 21496 (corrections published May 26, 1983; 48 FR 23747). Particular attention should be given to the statement of issue set forth in each of those dockets, as comments not germane to the stated issues will not be considered in this proceeding.

5. Docket No. IRA-30 (Vermont Agency of Transportation)

The Vermont regulations entitled "Transportation of Irradiated Reactor Fuel and Nuclear Waste; Approval, Monitoring" (which are appended to this notice) require that proposed shipments of large quantity radioactive materials obtain prior approval of the Vermont Secretary of Transportation through submission of a detailed application and

payment of $1000 per shipment. The regulations also establish requirements regarding scheduling information, escort requirements and vehicle inspection.

As described in Section 2 of this notice, the Department issued regulations (HM-164) regarding highway routing of large quantity radioactive material which became effective on February 1, 1982. In an appendix to that rulemaking which was adopted as Appendix A to 49 CFR Part 177, the Department articulated its policy concerning the relationship between State and local rules and the Federal routing rules contained in Part 177. Appendix A states, inter alia, that a State or local routing rule is inconsistent with Part 177 if it requires escort, filing of information specific to individual shipments, prenotification, or incident reporting beyond that immediately necessary for emergency assistance.

6. Public Comment on Docket No. IRA-30

Comments should be restricted to the following issue: Whether the State of Vermont regulations entitled "Transportation of Irradiated Reactor Fuel and Nuclear Waste; Approval, Monitoring" are inconsistent with the HMTA or the regulations issued thereunder.

Since this proceeding involves an inconsistency ruling, not a non-preemption determination, comments regarding the effect of the Vermont regulations as the effect relates to a waiver of preemption under 49 U.S.C. 1811(b) are inappropriate at this time and will not be considered.

Persons intending to comment on Docket No. IRA-30 should examine: the HMTA (49 U.S.C. 1801-1812); the DOT Hazardous Materials Regulations (49 CFR Parts 171-179); the inconsistency rulings at 43 FR 16954, 44 FR 75566 (Appeal at 45 FR 71881); 46 FR 18918 (Appeal at 47 FR 18457), 47 FR 1231, 47 FR 51991, and 48 FR 760; the procedures governing the Department's issuance of inconsistency rulings (49 CFR 107.201-107.211); the Notice regarding Docket Nos. IRA-20 through IRA-27 (48 FR 21496; corrections at 48 FR 23747); and the Vermont regulations on the transportation of irradiated reactor fuel and nuclear waste (Appendix A of this notice).

Commenters are reminded to indicate Docket No. IRA-30 on their submissions and to comply with the distribution and certification requirements described in the section entitled "ADDRESSES" supra.

Issued in Washington, D.C. on July 27, 1983.

Alan I. Roberts,

Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

Appendix A—Vermont Agency of Transportation Rules For Transportation of Hazardous Materials

Transportation of Irradiated Reactor Fuel and Nuclear Waste; Approval, Monitoring

I. *Definitions.* (a) "Agency" means Agency of Transportation.

(b) "Secretary" means the Secretary of the Agency of Transportation.

(c) "High Level Bridge" means a structure which has a maximum roadway height exceeding 30 feet above the terrain, roadway, or water which it spans.

(d) "NRC" means the United States Nuclear Regulatory Commission.

(e) "RADWAS" means irradiated reactor fuel and radioactive wastes that are large quantity radioactive materials as defined in 49 CFR 173.389(b), or after July 1, 1983, highway route controlled quantities as defined in the latest amended section of 49 CFR 173.403.

(f) "Shipment" means the transport of a consignment of any quantity RADWAS as defined herein, by a motor vehicle, railcar or barge.

(g) "State Monitoring Team" means the persons designated by the Secretary in consultation with other responsible state officials to accompany the shipment and who are exected to assess any incident and give immediate aid at the scene; and provide assistance and advice to local emergency response groups.

II. *Carrier's Responsibility.* The intent of this regulation is to establish a procedure for monitoring and regulating the transportation of RADWAS in the State in order to protect the public health and safety consistent with national transportation policy. Nothing in these regulations or any directives issued under authority thereof shall release a carrier of any responsibility for the safe transportation of RADWAS in the State.

III. *Application; procedure; content.* Application for approval to transport RADWAS in Vermont shall be received by the Secretary not less than 7 working days before the date of the proposed shipment. An application shall be in the form and provide all information required by the Secretary, and shall be accompanied by all the following as applicable:

(A) The proposed route of travel in Vermont, specifying all of the following:

(1) Each road to be used by route number, name, or other indentification.

(2) Each railroad or waterway to be utilized.

(B) The names, addresses, and emergency telephone numbers of the shipper, carrier, and receiver of the RADWAS, specifying the individual to contact for current shipment information.

(C) A description of the shipment as specified in the provisions of 49 CFR 172.203(d).

(D) The estimated date and time of all of the following for each shipment as applicable:

(1) The departure of the RADWAS from the site of origin.

(2) The arrival of the RADWAS at the Vermont boundary and its final destination of the destination is within Vermont.

(3) Scheduled stop(s) in Vermont and reason(s) therefore.

(4) The departure of the RADWAS from Vermont.

(E) Certification that the vehicle has been inspected in compliance with the provisions of 49 CFR 396.

(F) Copies of any required NRC approval of the proposed route of travel and any other NRC licensing action specific to the shipment, such as an import license or a license to transport.

(G) A copy of an emergency plan which describes procedures to be taken by the carrier in an emergency to eliminate or minimize the radiation exposure of the public.

(H) A certification that the shipment will be in compliance with these rules and all applicable state and federal statutes, rules, and regulations governing the shipment, including but not limited to Parts 172, 173 and 177 of 49 CFR and Parts 71 and 73 of 10 CFR.

(I) A copy of the certificate of compliance for the container issued by the NRC, as evidence the container has been approved for hypothetical accident conditions pursuant to the provisions of 10 CFR 71.36.

(J) A certificate that a bond or insurance acceptable to the Secretary has been posted to cover all types of damages caused by release of the shipped RADWAS materials, and in no event shall such bond or insurance be for less than Five Million Dollars ($5,000,000) total damages.

(K) A certificate giving the point of origin and point of destination of the shipment and stating that the route to be used is the shortest and most direct, or if not so, then stating the explicit reason(s) that the proposed route was chosen.

(L) A cashier's check in the amount of $1,000.00 payable to Treasurer, State of Vermont for *each* proposed shipment. When moved as a group, two or more

vehicles, railcars or barges will be considered one shipment for the purpose of this subsection.

IV. *Transportation approval; criteria.* RADWAS shall not be transported in this state without the written approval of the Secretary. All of the following criteria shall be satisfied before approval is granted:

(A) The application requirements of Subsection III above have been fulfilled.

(B) The plan required by Subsection III (G) has been determined to be acceptable to the Secretary.

(C) If the proposed route from origin to destination is not the shortest and most direct, the route has been determined to be acceptable by the Secretary after consultation with the Commissioners of Health and Public Safety on the health, safety and security aspects of the proposal. Avoidance or circumvention of one or more jurisdictions which have precluded or restricted shipments or radioactive materials shall not constitute an acceptable reason for approval of a route through Vermont which is not the shortest and most direct.

V. *Approval notification.* Upon the Secretary granting approval to transport, the applicant shall be notified in writing, not less than 48 hours before the scheduled shipment and the Secretary shall indicate any conditions or limitations to the approval, including but not limited to: operation of highway vehicles or railcars at reduced speed over High Level Bridge(s) or other locales deemed of risk; and prohibition or interruption of transport due to inclement weather or other adverse conditions.

IV. *Transporter notification of Changes.* Unless otherwise specified in the approval notification, the carrier, driver, or operator transporting RADWAS shall notify the Secretary or his designee of the following not less than 4 hours prior to beginning movement in the State:

(A) Any schedule change that differs by more than 1 hour from the schedule information previously furnished.

(B) Any incident or situation anticipated to cause a delay in the transport of the RADWAS through Vermont.

VII. *Monitoring.* (A) Each motor vehicle shipment of RADWAS shall be monitored by:

(1) A leading State Police vehicle occupied by at least one law enforcement officer;

(2) A vehicle occupied by State Monitoring Team personnel; and

(3) A trailing State Police vehicle occupied by at least one law enforcement officer.

(B) Each shipment by railcar or barge through or in the state shall be accompanied as directed by the Secretary.

(C) The ranking state police officer accompanying the shipment shall be the authority to modify the conditions of the approval in response to weather, accident or exigent circumstances which may affect the safety of the shipment. Any modification which will result in a delay of more than two hours in the time of departure of the shipment from Vermont shall be approved by the Secretary or his designee.

VIII. *Schedule information, confidentiality.* RADWAS shipment schedule information provided to the Secretary shall be confidential, except that the information may be shared with other governmental agencies as required by law or when deemed necessary to protect the public health and safety. The confidentiality requirement shall terminate 10 days after a shipment has entered or originated within the state for a single shipment whose schedule is not related to the schedule of any subsequent shipment or 10 days after the last shipment has entered or originated within the state for a series of shipments whose schedules are related.

IX. *Transport inspection.* Shipments of RADWAS and transport vehicles may be inspected by such law enforcement and State Monitoring Team personnel as the Secretary, and consultation with the other responsible State officials, may deem appropriate for compliance with applicable state and federal statues, rules, and regulations, at any reasonable time and place.

[FR Doc. 83-20870 Filed 8-3-83; 8:45 am]
BILLING CODE 4910-60-M

Urban Mass Transportation Administration

Intent To Prepare an Environmental Impact Statement on Alternative Transit Improvements in the East Urban Corridor Cities of San Diego, Lemon Grove, La Mesa, and El Cajon, California

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice to prepare an Environmental Impact Statement.

SUMMARY: The Urban Mass Transportation Administration (UMTA) and the San Diego Metropolitan Transit Development Board (MTDB) are undertaking the preparation of an Environmental Impact Statement (EIS) for alternative transit improvements in the East Urban Corridor of San Diego County. This corridor includes portions of the cities of San Diego, Lemon Grove, La Mesa, El Cajon, Santee, and a portion of the unincorporated area of San Diego County. The EIS is being prepared in conformance with 40 CFR Part 1500, Council on Environmental Quality (CEQ), Regulations for Implementing the Procedural Requirements of the National Environmental Policy Act of 1969 as amended; and 49 CFR Part 622, Federal Highway Administration and Urban Mass Transportation Administration, Environmental Impact and Related Procedures.

FOR FURTHER INFORMATION CONTACT: Ms. Carmen Clark, UMTA Region IX, 2 Embarcadero Center, Suite 620, San Francisco, California 94111, telephone (415) 556-9364.

SUPPLEMENTARY INFORMATION:

Scoping Meeting

Two Public scoping meeting will be held on Thursday, August 25, 1983. The first will be held in the afternoon at 1:00 p.m. in the MTDB conference room (620 C Street, Suite 400, San Diego, CA 92101) and the second in the evening at 7:30 p.m. in the Lemon Grove Community Center (3146 School Lane, Lemon Grove, CA 92045). The meetings will be held to help establish the purpose, scope, framework and approach for the alternative and environmental analysis. At each scoping meeting, staff will present a description of the proposed scope of the study, using maps and visual aids, as well as a plan for an active citizen involvement program, a projected work schedule, and order of magnitude estimated costs. Members of the public and interested federal, state and local agencies are invited to attend either or both meetings and comment on the proposed scope of work, alternatives to be assessed, environmental impacts to be analyzed and the evaluation criteria to be used to arrive at a decision. Comments may be made either orally at the meeting or in writing to MTDB, 620 C Street, Suite 400, San Diego, California 92101, Attention: Thomas F. Larwin, General Manager.

Corridor Description

The East Urban Corridor is a major travel corridor which begins in downtown San Diego and incorporates a width of three to four miles at the west end and eight miles at the east end. Major travel facilities within the corridor include the I-8, SR-94 and SR-125 and the parallel right-or-way of the San Diego and Arizona Eastern Railway. These corridor limits include most of the City of San Diego's Southeast San Diego community planning area, the eastern cities of Lemon Grove, La Mesa, El

Cajon and Santee, and the unincorporated areas of Spring Valley and Lakeside.

Alternatives

The transportation alternatives proposed for consideration in the corridor are the following:

1. A no-build or null option, under which transit services would continue to operate at existing levels;

2. A baseline option, today's transit service with incremental service increases due to population and demand;

3. An express bus option, which would be the optimal mix of arterial, freeway and exclusive right-of-way for express bus;

4. A light rail option, which would utilize the existing San Diego and Arizona Eastern Railway's right-of-way.

Comments at the scoping meetings should focus on the appropriateness of these and other options for consideration in the study, not on individual preferences for a particular alternative as the most desirable for implementation.

Probable Effects

Impacts proposed for analysis include changes in the natural environment (air quality, noise, water quality, aesthetics), changes in the social environment (land use, development, neighborhoods), impacts on parklands and historic sites, changes in transit service and patronage, associated changes in highway congestion, capital costs, operating and maintenance costs, and financial implications. Impacts will be identified both for the construction period and for the long-term operation of the alternatives.

The proposed evaluation criteria include transportation, environmental, social, economic and financial measures as required by the current federal National Environmental Protection Act (NEPA) and state environmental laws and current CEQ and UMTA guidelines. Mitigating measures will be explored for any adverse impacts that are identified.

Comments at the scoping meeting should focus on the completeness of the proposed sets of impacts and evaluation criteria. Other impacts or criteria judged relevant to local decision-making should be identified.

Issued on: July 20, 1983.

Brigid Hynes-Cherin,

Regional Administrator.

[FR Doc. 83-21038 Filed 8-3-83; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 479; Ref: ATF 0 1100.113A]

Delegation of Certain Authorities of the Director in 27 CFR Parts 47, 178, and 179

Purpose

This order delegates certain authorities now vested in the Director by regulations in 27 CFR Parts 47, 178, and 179 to the Assistant Director (Regulatory Enforcement). The order also permits the redelegation of certain authorities to lower organizational levels.

Cancellation

ATF 0 1100.113, Delegation Order—Delegation of Certain Authorities of the Director in 27 CFR Parts 47, 178, 179, dated 10/26/79, is canceled.

Background

a. Under current regulations, the Director has authority to take final action on certain matters relating to:

(1) Commerce in Firearms and Ammunition, 27 CFR Part 178.

(2) Machineguns, Destructive Devices, and Certain Other Firearms, 27 CFR Part 179.

(3) Importation of Arms, Ammunition, and Implements of War, 27 CFR Part 47.

b. Certain of these authorities were delegated by the Director to the Assistant Director (Technical and Scientific Services). The internal realignment of certain organizational units has necessitated that these authorities now be delegated to the Assistant Director (Regulatory Enforcement).

c. In order to properly carry out ATF responsibilities with respect to these delegated authorities, the Assistant Director (Regulatory Enforcement) will coordinate actions that may have an impact on law enforcement activities with the Assistant Director (Criminal Enforcement). Authorities redelegated by the Assistant Director (Regulatory Enforcement) to lower organizational levels will be coordinated with the appropriate Criminal Enforcement office.

Delegations

Under the authority vested in the Director, Bureau of Alcohol, Tobacco and Firearms, by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, the authority to take final action on the following matters is hereby delegated to the Assistant Director (Regulatory Enforcement):

a. 27 CFR Part 178

(1) To prescribe all forms required by 27 CFR Part 178, under 27 CFR 178.21.

(2) To compile for publication in the **Federal Register**, and annually revise, a list of published ordinances which are relevant to the enforcement of Part 178, under 27 CFR 178.24.

(3) To approve written applications for emergency variations, under 27 CFR 178.22(a).

(4) To withdraw authority for any violation, under 27 CFR 178.22(b).

(5) To determine whether a particular firearm or ammunition is a curio or relic, under 27 CFR 178.26.

(6) To determine whether a device is excluded from the definition of a destructive device, under 27 CFR 178.26.

(7) To approve the transportation in interstate or foreign commerce of any destructive device, machine-gun, short-barreled shotgun, or short-barreled rifle, under 27 CFR 178.28.

(8) To approve applications to import firearms and ammunition, under Subpart G of 27 CFR Part 178, under 27 CFR 178.112, 178.113, 178.114, and 178.116.

(9) To authorize alternate means of identification of a firearm or a destructive device by a licensed importer or licensed manufacturer, under 27 CFR 178.92.

(10) To require the filing of ATF F 4483-A (5300.11), Quarterly Firearms Manufacturing and Exportation Report, under 27 CFR 178.126(a).

b. 27 CFR Part 179

(1) To prescribe all forms required by 27 CFR Part 179, under 27 CFR 179.21

(2) To determine whether a device is excluded from the definition of a destructive device, under 27 CFR 179.24.

(3) To determine whether a device or firearm may be removed from the National Firearms Act as a collector's item not likely to be used as a weapon, under 27 CFR 179.25.

(4) To relieve qualified persons of the requirement to pay special (occupational) tax, under 27 CFR 179.33(a).

(5) To relieve qualified manufacturers from compliance with any provision of 27 CFR Part 179, under 27 CFR 179.33(a).

(6) To approve applications to make a firearm, under 27 CFR 179.64.

(7) To approve applications to make a firearm for the United States, under 27 CFR 179.69.

(8) To approve applications to make a firearm by or on behalf of certain Government entities, under 27 CFR 179.70.

(9) To approve applications to transfer firearms, under 27 CFR 179.86.

(10) To approve applications to transfer firearms to special (occupational) taxpayers, under 27 CFR 179.88.

(11) To approve applications to transfer firearms to certain Government entities, under 27 CFR 179.90.

(12) To approve applications to transfer unserviceable firearms as a curio or ornament, under 27 CFR 179.91.

(13) To authorize other means of identification of firearms and destructive devices, under 27 CFR 179.102.

(14) To receive notice and effectuate registration of firearms manufactured, under 27 CFR 179.103.

(15) To approve registration of firearms acquired by certain Government entities, under 27 CFR 179.104.

(16) To approve importations of firearms, under 27 CFR 179.111.

(17) To receive notice and effectuate registration of imported firearms, under 27 CFR 179.112.

(18) To approve applications for the conditional importation of firearms, under 27 CFR 179.113.

(19) To approve applications and execute permits for the exportation of firearms, under 27 CFR 179.115.

(20) To vary the requirements relating to permits and supporting documents for firearms exported to persons in the insular possessions of the U.S., under 27 CFR 179.121.

(21) To issue duplicate documents evidencing possession of a firearm, under 27 CFR 179.142.

c. 27 CFR Part 47

(1) To approve applications for registration of persons to import articles enumerated on the U.S. Munitions Import List, under 27 CFR 47.32.

(2) To approve the refund of registration fee, under 27 CFR 47.32.

(3) To prescribe a longer or shorter period of records retention, under 27 CFR 47.34(b).

(4) To prescribe all forms required by 27 CFR Part 47, under 27 CFR 47.35.

(5) To approve permit applications to import firearms, ammunition, and implements of war, under 27 CFR 47.42.

(6) To amend, alter, or certify permits to import firearms, ammunition, and implements of war, under 27 CFR 47.43(c).

(7) To deny, revoke, suspend, or revise permits to import firearms, ammunition, and implements of war, under 27 CFR 47.44 (a) and (b).

(8) To certify to the legality of importation of articles on the U.S. Munitions Import List, under 27 CFR 47.51.

Redelegation

a. The authorities in paragraphs a(5), a(6), a(9), b(2), b(3), and b(13) may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters, but not lower than the position of division chief.

b. The authorities delegated in paragraphs a(1), a(4), a (10), b(1), b(4), b(5), c(3), c(4), and c(7) may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters, but not lower than the position of branch chief.

c. The authorities in paragraphs a(8), b(6), b(7), b(8), b(9), b(10), b(11), b(12), b(14), b(15), b(16), b(17), b(18), b(19), b(20), b(21), c(1), c(2), c(5), c(6), and c(8) may be redelegated to Regulatory Enforcement personnel in Bureau Headquarters, but not lower than the position of application examiner.

d. The authorities in paragraphs a(2), a(3), and a(7) man be redelegated to Regulatory Enforcement personnel in Bureau Headquarters, but not lower than the position of specialist.

e. The authority in paragraph a(3) may be redelegated to the regional regulatory administrator who may redelegate the authority to a position not lower than chief, technical services, or area supervisor. The authority in paragraph a(4) may be redelegated to the regional regulatory administrator who may redelegate the authority to a position not lower than chief, technical services, regarding emergency variations approved by regional offices only.

For Further Information Contact

Robert G. Hardt, Procedures Branch, 1200 Pennsylvania Avenue, NW., Washington, DC 20226; telephone (202) 566-7602.

Effective date

This delegation order becomes effective on August 4, 1983.

Signed: July 29, 1983.

Stephen E. Higgins,

Director.

[FR Doc. 83-21222 Filed 8-3-83; 8:45 am]

BILLING CODE 4810-31-M

[Notice No. 478; Ref: ATF O 1100.77E]

Authority To Affix the Seal of the Department of the Treasury; Delegation Order

1. *Purpose.* This order sets forth delegation of authority to affix the seal of the Department of the Treasury.

2. *Cancellation.* ATF O 1100.77D, Delegation Order—Authority to Affix the Seal of the Department of the Treasury, dated September 17, 1982, is canceled.

3. *Delegation.* Pursuant to the authority delegated to the Director, Bureau of Alcohol, Tobacco and Firearms by Treasury Department Order 101-12, dated October 12, 1979, authority to affix the seal of the Department of the Treasury in the authentication of originals and copies of books, records, papers, writings, and documents of the Bureau, for all purposes, including the purposes authorized by 28 U.S.C. 1733(b), is hereby redelegated as follows:

a. To the officials listed below, without restriction:

(1) Assistant Director (Regulatory Enforcement).

(2) Chief, Industry Compliance Division.

(3) Chief, Product Compliance Branch.

(4) Chief, Regulations and Procedures Division.

(5) Chief, FAA, Wine and Beer Branch.

(6) Chief, Distilled Spirits and Tobacco Branch.

(7) Chief, Firearms and Explosives Division.

(8) Chief, National Firearms Act Branch.

(9) Regional Regulatory Administrators.

(10) Assistant Director (Criminal Enforcement).

(11) Chief, Special Operations Division.

(12) Chief, Firearms Division.

(13) Chief, Explosives Division.

(14) Assistant Director (Administration).

(15) Chief, Administrative Programs Division.

(16) Chief, Paperwork and Distribution Management Branch.

(17) Supervisor, ATF Records Repository.

(18) Regional Administrative Officers.

(19) Assistant Director (Technical and Scientific Services).

b. To Chiefs, Technical Services in the authentication of records pertaining to firearms licenses and explosives licenses and permits.

c. This authority may not be redelegated.

4. *For Information Contact.* David M. Purcell, Procedures Branch, 1200 Pennsylvania Avenue, NW., Washington, D.C. 20226 (202) 556-7602.

5. *Effective Date.* This delegation order becomes effective on August 4, 1983.

6. *Approval.*

Stephen E. Higgins,

Director.

July 29, 1983.

[FR Doc. 83-21223 Filed 8-3-83; 8:45 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 151
Thursday, August 4, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Thursday, August 11, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Fiscal Year 1985 Budget*
The Commission and the staff will discuss the fiscal year 1985 budget.

For a recorded message containing the latest agenda information: Call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

[S-1125-83 Filed 8-2-83; 2:14 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, August 10, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. *Petition HP82-1 to Ban Volatile Nitrites in Room Odorizers*
The staff will brief the Commission on the Petition HP82-1 concerning the potential adverse health effects associated inhalation of room odorizer products containing volatile nitrites.

2. *Toy Chests: Proposed Standard*
The staff will brief the Commission on the Commission's rulemaking proceeding to address the strangulation risk presented by toy chests.

Closed to the Public:

3. *FOIA Appeal (OS #5693)*
The Commission will consider issues related to FOIA appeal OS #5693

4. *FOIA Appeal (OS #5909)*
The Commission will consider issues related to FOIA appeal OS #5909.

For a recorded message containing the latest agenda information: Call 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207; 301-492-6800.

[S-1126-83 Filed 8-2-83; 2:14 pm]

BILLING CODE 6355-01-M

3

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From July 28th Open Meeting

July 28, 1983.

The following item has been deleted at the request of the Chairman's office from the list of agenda items scheduled for consideration at the July 28, 1983, Open Meeting and previously listed in the Commission's Notice of July 21, 1983.

Agenda, Item No., and Subject

Video—3—*Title:* Application for review of staff action filed by Mountain TV Network, Inc. *Summary:* Mountain TV Network, Inc., filed an application for review of the action of the Chief of the Mass Media Bureau which directed it to submit evidence of its financial ability to construct and operate the 2,379 low power television facilities for which it has filed applications for construction permits.

Issued: July 28, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1117-83 Filed 8-2-83; 11:31 am]

BILLING CODE 6712-01-M

4

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Agenda Item From July 28th Open Meeting

July 28, 1983.

The following item has been deleted at the request of the Mass Media Bureau from the list of agenda items scheduled for consideration at the July 28, 1983, Open Meeting and previously listed in the Commission's Notice of July 21, 1983.

Agenda, Item No., and Subject

Audio—1—*Title:* Application for review filed by Inter American Broadcasters, Inc., licensee of WSDL, Slidell, Louisiana. *Summary:* The Commission considers a request for waiver of the AM minimum power requirements.

Issued: July 28, 1983.

William J. Tricarico,

Secretary, Federal Communications Commission.

[S-1118-83 Filed 8-2-83; 11:31 am]

BILLING CODE 6712-01-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, August 8, 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.

Application for Federal deposit insurance and for consent to exercise limited trust powers:

Vanguard Fiduciary Trust Company, Wayne, Pennsylvania, an operating noninsured trust company.

Applications for Federal deposit insurance for two U.S. branches of a foreign bank:

Bank Leumi le-Israel B.M., Tel Aviv, Israel, for two branches to be located at 707 South Hill Street, Los Angeles, California, and at 590 Market Street, San Francisco, California.

Applications for Federal deposit insurance and for consent to purchase assets and assume liabilities and establish eight branches, and a related application for consent to merge:

Eastern Savings Bank, Lynn, Massachusetts, an operating non-federally-insured State-chartered mutual savings bank, for Federal deposit insurance and for consent to purchase the assets of and assume the liability to pay deposits made in Naumkeag Trust Company, Salem, Massachusetts, a State member bank, and to establish the eight offices of Naumkeag Trust Company as branches of Eastern Savings Bank; and a related application of Naumkeag Trust Company for consent to merge, under its charter and title, with Interim Trust Company, a Massachusetts corporation in organization, which will be a wholly-owned subsidiary of Eastern Savings Bank.

Request for reconsideration of a previous denial of an application for consent to establish a branch:

Hoosier State Bank of Indiana, Hammond, Indiana, for consent to establish a branch within the Strack and Vantil Grocery Store, Routes 30 and 41, Schererville, Indiana.

Application for consent to merge and establish four branches:

Franklin State Bank, Franklin Township (P.O. Somerset), New Jersey, an insured State nonmember bank, for consent to merge, under its charter and title, with Independent Bank and Trust Company, Ewing Township (P.O. West Trenton), New Jersey, and to establish the three existing offices and one approved but unopened office of Independent Bank and Trust Company as branches of the resultant bank.

Memorandum and Resolution re: Final amendment to Part 303 of the Corporation's rules and regulations, entitled "Applications, Requests, Submittals, Delegations of Authority, and Notices of Acquisition of Control," which would delegate authority to the Director of the Division of Bank Supervision or, where confirmed in writing by the Director, to an Associate Director of the Division of Bank Supervision, to execute and issue consent cease-and-desist orders under section 8(b) of the Federal Deposit Insurance Act when the bank or other respondent consents to the issuance of such an order prior to the issuance of a notice of charges, and formally waives any right to a notice of charges, a hearing on the charges, defenses to the charges, and findings of fact, conclusions of law and a recommended decision of an administrative law judge.

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 an Associate Director 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: Summary of Two Liquidation Site Audits Performed Jointly by OCAI and Public Accounting Firms, dated June 30, 1983.

Discussion Agenda:

No matters scheduled.

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550 17th Street, NW., 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: August 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1120-83 Filed 8-2-83; 12:45 pm]

BILLING CODE 6714-01-M

6

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Monday, August 8, 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)(4), (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.

Appeal from a previous denial of a request for information pursuant to the Privacy Act of 1974.

Discussion Agenda:

Application for Federal deposit insurance:

First Savings Company of Norfolk, Norfolk, Nebraska, an operating noninsured industrial bank.

Application for consent to purchase assets and assume liabilities and establish thirty-five branches:

Goldome Bank for Savings, Buffalo, New York, an insured mutual savings bank, for consent to purchase certain assets of and assume the liability to pay certain deposits made in thirty-five branches of Bankers Trust Company of Albany, National Association, Albany, New York, and to establish those thirty-five offices as branches of Goldome Bank for Savings.

Recommendations, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation make special examination of certain national banks to determine the condition of such banks for insurance purposes:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8) and (c)(9)(A)(ii)).

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: August 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1121-83 Filed 8-2-83; 12:45 pm]

BILLING CODE 6714-01-M

7

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 10 a.m. on Monday, August 1, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Spague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matter:

Recommendation regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 45,087–L (Amended): International City Bank and Trust Company, New Orleans, Louisiana.

By the same majority vote, the Board further determined that Corporation business required, on less than seven day's notice to the public, the withdrawal from the agenda for consideration in open session and the addition to the agenda from consideration at the Board's closed meeting to be held at 10:30 a.m. the same day, of the following matters:

Application of South Valley State Bank, Klamath Falls, Oregon, for consent to establish branches at 637 Main Street and at 2014 Biehn Street, both within Klamath Falls, Oregon.
Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agent of those assets:
Case No. 54,740–L First National Bank of Oak Lawn, Oak Lawn, Illinois
Memorandum and Resolution re: National Security Bank, Tyler, Texas

In voting to move these matters from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matters in a meeting open to public observation and that the matters could be considered in a closed meeting by authority of subsection (c)(4), (c)(6), (c)(8), (c)(9),(A)(ii), (c)(9)(B), and (c)(10) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), (c)(9)(B), and (c)(10)).

By the same majority vote, the Board further determined that no earlier notice of these changes in the subject matter of the meeting was practicable.

Dated: August 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1122-83 Filed 8-3-83; 12:15 pm]

BILLING CODE 6714-01-M

8

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 10:30 a.m. on Monday, August 1, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters.

Recommendations regarding the Corporation's assistance agreements involving three insured banks pursuant to section 13 of the Federal Deposit Insurance Act.
Application of Korea First Bank of New York, New York (Manhattan), New York, a proposed new bank to be located at 29 West 30th Street, New York (Manhattan), New York, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(4), (c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: August 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1123-83 Filed 8-3-83; 12:45 pm]

BILLING CODE 6714-01-M

9

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, August 9, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, August 11, 1983 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C. (fifth floor).

STATUS: This meeting will be open to the public.

MATTERSTO BE CONSIDERED:

Setting of Dates for Future Meetings
Correction and Approval of Minutes
Eligibility Report for Candidates to Receive Presidential Primary Matching Funds
Draft Advisory Opinion 1983–18: Judith W. Rosbe, on behalf of Stop & Shop Companies
Third Quarter Budget Analysis
Routine Administrative Matters

PERSON TO CONTACT FOR MORE INFORMATION: Mr. Fred Eiland, Information Officer, telephone 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[S-1124-83 Filed 8-2-83; 2:14 pm]

BILLING CODE 6715-01-M

10

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

July 29, 1983.

TIME AND DATE: 10 a.m., Wednesday, August 3, 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. Earth Coal Company, Incorporated, Docket No. LAKE 83–32; Petition for Discretionary Review. (Issues include whether default order should be set aside.)

It was determined by a unanimous vote of Commissioners that Commission business required that a meeting be held on this item and that no earlier announcement of the meeting was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632

[S-1119-83 Filed 8-2-83; 11:31 am]

BILLING CODE 6735-01-M

11

FEDERAL RESERVE SYSTEM

Board of Governors

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 4B FR 28601, Wednesday, June 22, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Monday, June 27, 1983.

CHANGES IN THE MEETING: One of the items announced for inclusion at this meeting was consideration of any agenda items carried forward from a previous meeting; the following such closed item(s) was added:

Proposed building design plans and budget for the Jacksonville Branch of the Federal Reserve Bank of Atlanta. (This item was originally announced for a closed meeting on June 22, 1983.)

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: August 1, 1983.

James McAfee,

Associate Secretary of the Board

S-1116-83 Filed 8-1-83; 4:41 pm

BILLING CODE 6210-01-M

12

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 August 8, 1983, at 450 5th Street, N.W., Washington, D.C.

A closed meeting will be held on Tuesday, August 9, 1983, at 10 a.m. An open meeting will be held on Thursday, August 11, 1983, at 9 a.m.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. 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 meeting 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, Longstreth and Treadway voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting scheduled for Tuesday, August 9, 1983, at 10 a.m., will be:

Formal order of investigation.
Institution of administrative proceeding of an enforcement nature.
Institution of injunctive action.

The subject matter of the open meeting scheduled for Thursday, August 11, 1983, at 9 a.m., will be:

1. Consideration of the Twelfth Annual Report of the Securities Investor Protection Corporation ("SIPC"). Pursuant to the Securities Investor Protection Act of 1970, SIPC has submitted its Annual Report to the Commission which, in turn, is required to transmit the report to the President and Congress with such comment as the Commission deems appropriate. For further information, please contact Elizabeth S. York at (202) 272-2377.

2. Consideration of whether to share with self-regulatory organizations certain computer programs designed to analyze trading and other activity in broker-dealers' customers' accounts. For further information, please contact Robert A. Love at (202) 272-2792.

3. Consideration of whether to issue final amendments to the portions of the Industry Guides for Statistical Disclosures by Bank Holding Companies relating to disclosures about past due, nonaccrual and restructured loans, potential problem loans, foreign outstandings and loan concentrations. For further information, please contact Michael P. McLaughlin at (202) 275-2130.

4. Consideration of whether to approve proposed rule changes by the American Stock Exchange, Inc. to trade options on industry stock indices, specifically the Computer Technology Index and the Oil and Gas Index (File No. SR-Amex-82-22). For further information, please contact Richard T. Chase at (202) 272-2893.

5. Consideration of whether to resolicit comment on proposed Rule 3a12-7 which would exempt for purposes of the Securities Exchange Act certain over-the-counter options on government securities. The resolicitation would be addressed to a modification of the proposed rule which would limit its application to options on government securities with principal amounts of $250,000 or more. For further information, please contact Kevin S. Fogarty at (202) 272-7345.

6. Consideration of whether to adopt Form N-1A to be used for registration under the Investment Company Act of 1940 and the Securities Act of 1933 by open-end management investment companies; to adopt certain related rules and rule amendments; and to publish staff guidelines relating to Form N-1A. For further information, please contact Gregory K. Todd at (202) 272-7317.

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: JoAnn Zuercher at (202) 272-2014.

August 1, 1983.

[S-1115-83 Filed 8-1-83; 4:27pm]

BILLING CODE 8010-01-M

federal register

Thursday
August 4, 1983

Part II

Department of Health and Human Services

Office of Human Development Services

Administration of Native Americans Program Announcement 13612-841; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

Administration for Native Americans Program Announcement 13612-841

AGENCY: Office of Human Development Services, HHS.

SUBJECT: Announcement of Program Priorities and Evaluation Criteria for Fiscal Year 1984 Competitive Renewals and Competitive Continuations of all Current Native American Social and Economic Development Projects.

SUMMARY: The Administration for Native Americans (ANA) announces applications are being accepted for competitive renewals and competitive continuations of current financial assistance grants under Section 803 of the Native American Program Act of 1974, Pub. L. 93-644, as amended. Regulations covering this program are published in the Code of Federal Regulations in 45 CFR Part 1336.

DATE: The closing date for receipt of applications is 90 days prior to the Budget Period End Date of the Current ANA grant.

Scope of This Program Announcement

This program announcement is directed to Fiscal Year 1983 grantees of the Administration for Native Americans (ANA). It solicits applications for Fiscal Year 1984 grants; notifies the public of the Administration for Native American's funding priorities and evaluation criteria for the competitive evaluation of applications for Fiscal Year 1984; and provides guidance for the preparation of applications for Fiscal Year 1984 funds from the Administration for Native Americans.

This announcement solicits applications only from Indian tribes, urban Indian centers, Native Hawaiian organizations, rural off-reservation groups, and other Native American organizations which are ANA Fiscal Year 1983 grantees. This announcement is a funding guidance and offers Fiscal Year 1983 ANA grantees the opportunity to apply for Fiscal Year 1984 funds. Competition for new grant awards in Fiscal year 1984, if any, will be announced separately in the **Federal Register.** A listing of the Fiscal Year 1983 ANA grantees that are included in this solicitation appears at the end of this announcement.

ANA Mission

The purpose of the Administration for Native Americans is to promote economic and social self-sufficiency for American Indians, Alaska Natives, and Native Hawaiians. In this context, self-sufficiency is the level of development and degree to which a Native American community can provide for the needs of its community members and pursue its own social and economic goals.

ANA Program Goals

ANA has three program goals:

1. *Governance:* To develop or strengthen tribal governments and Native American institutions and local leadership to assure local control and decision-making over all resources.

2. *Economic Development:* To foster the development of stable, diversified local economies and economic activities which provide jobs, promote economic well-being, and reduce dependency on welfare services.

3. *Social Development:* To support local access to, and coordination of, services and programs which safeguard the health and well-being of Native Americans, and which are essential to a thriving and self-sufficient community.

In Fiscal Year 1982, the Administration for Native Americans implemented a new program direction that moved from funding core administration for Native American organizations, and providing funds for services on a gap-filling basis, to funding projects that represent local social and economic development strategies (SEDS) for achieving self-sufficiency.

In Fiscal Year 1984, ANA will continue this SEDS focus to promote self-sufficiency through support of projects that are expected to make a lasting impact on the prosperity and well-being of Native American communities.

In support of the mission of ANA to promote self-sufficiency, ANA provides financial assistance to public and private non-profit organizations including Indian tribes, urban Indian centers, Alaska Native villages, Native Hawaiian organizations, rural off-reservation groups, and other Native American organizations to enable them to develop and implement social and economic development strategies that promote self-sufficiency. These projects are expected to result in sustained improvement in the social and economic conditions of Native Americans within their communities and, at the same time, to increase the effectiveness of Indian tribes and Native American organizations to achieve their own economic and social goals.

The local Native American community is considered to have the primary responsibility for determining its own needs and priorities, and to plan and implement its own programs. The local community is in the best position to weigh the trade-offs in deciding on the best approach to pursuing social and economic self-sufficiency

Purpose of This Program Announcement

The purpose of this program announcement is to provide financial assistance to promote self-sufficiency for Native Americans through support of local social and economic development projects. Proposed project(s) submitted by Fiscal Year 1983 grantees of ANA will be reviewed on a competitive basis against the evaluation criteria identified in this announcement.

Program Priority and Expected Outcomes

The ANA program priority is for projects that will make the greatest impact in promoting social and economic self-sufficiency for Native Americans. The applicant's proposal must clearly identify in measurable terms the expected results or the impact of achieving the proposed project objectives. Some examples of the types of measures and results expected from the ANA supported projects are the following:

Governance—ANA Goal No. 1

- Increase in number of programs operated by the Indian tribe that were previously run by Federal employees.
- Tribal commercial codes enacted to control commerce in Indian country and promote an environment conducive to economic development.
- Adoption codes enacted by the tribe separately or as part of comprehensive tribal children's code.
- Child abuse and neglect reporting code enacted by the tribe separately or as part of a comprehensive children's code
- Environmental protection codes enacted.
- Taxation codes enacted and revenue generated to cover some of the costs of tribal governmental/operations.
- Energy development codes enacted to protect the environment and promote energy development and socio-economic growth of the local economy.
- Implementation of a merit employment personnel system to provide a stable, efficient and effective tribal civil service system.
- Increase in the ratio of tribal employees to Federal employees providing services to Indians.
- Cooperative tribal/state agreements executed in new areas of mutual support and benefit.

• Indian representation on city, county, and/or state advisory boards or commissions that have influence in allocating public resources and planning public services.

• Indian tribes seeking to clarify their status as governmental entities.

Economic Development—ANA Goal No. 2

• Number of business starts and expanded manufacturing trade/retail efforts initiated.

• Number of new agricultural and mining efforts initiated.

• Number of Indian owned and operated businesses established or expanded.

• Number of non-Indian owned businesses established on reservation.

• Amount of revenue generated from energy development or other increased revenue efforts.

• Number of urban Indian business enterprises initiated.

• Number of urban Indian economic business development projects expanded.

• Federal housing units transferred from Federal control to Indian tribal management and used for rent or sale to include, but not limited to, housing currently operated by BIA and IHS serving Federal employees on Indian reservations.

• Increase in home ownership in community by Native Americans.

• Number of jobs resulting from ar ANA grant project.

• Number of jobs created by the enactment of tribal employment ordinances (TERO).

• Establishment under tribal sponsorship of a for-profit health care system for Indians and non-Indians including outpatient and hospital care through fee-for-service, insurance reimbursements and other third-party claims, and contracts for Indian health services operating at the local level.

• Number of housing units started.

Social Development—ANA Goal No. 3

• Local control of planning and delivering social services in Native American communities.

• Licenses obtained by Native American urban organizations to provide social or other services for stat and local governments.

• New service programs established with ANA funds and funded for continued operation by local communities or private sector.

• Reduction in rate of out-of-home placements of Native American children.

• Increase in Indian children adopted or placed in permanent homes that would otherwise be in foster care or institutions.

• Increase in Indian children returning home from foster homes.

• Increase in number of developmentally disabled Indian children served by appropriate agencies.

• Decrease in General Assistance (welfare) caseload and Aid to Families with Dependent Children (AFDC) caseload in Indian country.

• Decrease in Indian child welfare caseload.

• Decrease in Native American suicides.

• Decrease in Indian child abuse and neglect incidences as a result of improved social conditions such as employment and improved social services in the community.

• Decrease of fetal alcohol syndrome.

• Urban Indian organizations establishing formal linkages with local governments.

This is not an all inclusive list. There are other definitive results, benefits, and impacts that can accrue from a project. The major emphasis is that ANA resources are to be used to create a definite, measurable, and positive impact in the community by the end of the budget period.

Please Note. Under the Social Development goal, ANA will reject applications which request funding for on-going direct social service delivery. Projects addressing this goal must be developmental in nature, to be maintained by other than ANA resources, and result in an improvement in the well-being of the members of the community.

Cooperative Management Initiative

The Cooperative Management Initiative (CMI) is an Office of Human Development Services (HDS) management initiative to strengthen local coordination and enhance the efficiency of HDS Indian programs, ANA social and economic development grants, ACYF Head Start grants and AoA Title VI grants. The purpose of local cooperative management of Federal programs is to reduce administrative burden and duplicative reporting requirements which Indian tribes encounter when they administer more than one HDS grant. Additionally, CMI facilitates management improvements and joint use of facilities at the tribal level.

All eligible Indian tribes (those which have two or more HDS grants) are strongly encouraged to join in this cooperative effort. Indian tribes that are currently participating in CMI or that are interested in joining CMI should include their intent in the narrative portion of their application. For further information on CMI, contract: Bernice Harris, CMI Coordinator, Office of Human Development Services, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, D.C. 20201; (202) 245–7730.

Contact Person

Applicants who wish information regarding this program announcement may contact Pecita Lonewolf or Lucille Dawson, Office of Human Development Services, Department of Health and Human Services, 330 Independence Avenue, SW., Washington, D.C. 20201; (202) 245–7714.

Eligible Applicants

Indian tribes, urban Indian centers, Hawaiian Native, rural off-reservation and other Native American organizations, which are Fiscal Year 1983 grantees of the Administration for Native Americans, are eligible to apply for a grant award under this announcement. See *Appendix A* for a partial list of Fiscal Year 1983 ANA grantees funded to date. The final list will be published later. Any Fiscal Year 1983 grantees not listed should contact their ANA Program Specialist for clarification if necessary.

Alaska Native villages and Regional Alaska Native non-profit corporations are excluded from eligibility under this program announcement because a separate program announcement was published exclusively for Fiscal Year 1984 funding of Alaska Native Projects: Program Announcement No. 13612–833, published in the **Federal Register** on May 16, 1983 (48 FR 22126–22128).

Available Funds

ANA anticipates that $17 million will be available under this program announcement to Indian tribes and Native American organizations in Fiscal year 1984. Approximately 90 grants will be funded in Fiscal Year 1984 under this program announcement.

Applications for projects of one, two, or three years duration, or fraction thereof, may be submitted. Applicants who are proposing projects of more than one year must submit full applications, including detailed budgets, for the entire project period, not just for the first year However, the budget period for each grant award will be twelve (12) months. Refunding after the first year for multi-year project period grantees will depend upon the grantee's satisfactory progress according to the approved project work plan, the availability of funds, and

compliance with the Native American Program Regulations.

For projects approved for more than one year, only minimal application information for subsequent year funds will be required. Specific guidance will be provided to those grantees to whom this applies.

Grantee Share of Project

Grantees must provide at least 20% of the total approved cost of the project, which may be cash in-kind. The total approved cost of the project is the sum of the Federal Share and the non-Federal Share. A budget detailing applicant's non-Federal share in the project must be included in the application.

The Application Process

Availability of application forms. In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied, including the new Part IV, *OMB 0980–0016*, and in the manner prescribed by ANA. ANA will send kits to applicants at the appropriate time. If there are any questions about the receipt of the application kit, contact: Department of Health and Human Services, Administration for Native Americans, Room 5300, North Building, 330 Independence Avenue, S.W., Washington, D.C. 20201, *Attn:* Mrs. Cassandra Byrd, (202) 245–7727, *Attention: No. 13612–841.*

Application submission. One signed original and the appropriate number of copies of the grant application, including all attachments, must be submitted to the address specified in the application kit. The application shall be signed by an individual authorized to act for the applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award, including Native American Program Rules and Regulations.

A–95 notification process. In compliance with the Department of Health and Human Services' implementation of the Office of Management and Budget Circular No. A–95 Revised (procedures at 41 FR 2052, January 13, 1976), applicants, with the exception of Federally recognized tribes, must notify both the State and area-wide Clearinghouses of their intent to apply for Federal financial assistance prior to applying. Some State and area-wide Clearinghouses provide their own forms and others use the facesheet (SF–424) of the application form. Contact the appropriate Clearinghouses (listed at 42 FR 2210, January 10, 1977) for information on how your organization can meet the A–95 requirements.

Application consideration. The Commissioner of ANA determines the final action to be taken with respect to each grant application received under this announcement.

- Applications which do not conform to this announcement, or are not complete, will not be accepted for review. Applicants will be notified in writing accordingly.
- Applications which are complete, and conform to all the requirements of this program announcement, are subjected to the monthly competitive review and evaluation process. The results of this review will assist the Commissioner to make final funding decisions.
- The Commissioner's consideration also takes into account the comments of the A–95 Clearinghouses, ANA staff, and other interested parties.
- The Commissioner makes grant awards consistent with:
- The purpose of the Native American Programs Act;
- The ANA regulations; and
- This program announcement; within the limits of funds announced available in this program announcement.
- After the Commissioner has reached a decision to disapprove, defer, or fund a grant application, unsuccessful applicants are notified in writing. Successful applicants are notified through an official Notice of Financial Assistance Awarded. This notice states the amount of funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the budget period, the project period, and the amount of non-Federal share grantee participation.
- A proportionate amount of the funds available under this program announcement will be set aside for each monthly group of eligible grantees. The Commissioner will fund acceptable applications only up to the amount of funds set aside for each monthly competition. Applications which are not approved may be deferred to be considered at a later date to the extent that funds are available.

Criteria for Review and Conditions for Funding Under This Announcement

- Applications which are late, or imcomplete, will be returned without consideration for funding.
- The applicant's performance with regard to timeliness, and adequacy of submission of all required reports for the previous and current funding year will be reviewed. This performance is a factor in the Commissioner's final funding decision.

Applications will be evaluated against the following criteria:

(1) The proposed project(s), when completed, will show a measurable increase in the social and economic self-sufficiency of a specific tribe or community. The benefits or impact expected in the community as a result of achieving the project objectives are quantifiable and measurable, and do not depend upon on-going support from ANA. See Section labeled "PROGRAM PRIORITY AND EXPECTED OUTCOMES" for examples of quantifiable and measurable impact and benefit. (25 Points)

(2) The overall application specifies long-range community goals and project priorities; identifies a well-defined strategy and a sound methodology for achieving the project objectives; and clearly identifies how results will be sustained at the end of ANA's funding. The goals, objectives, and expected results relate to each other, are realistic, and are based on a locally developed social and economic development strategy. Specific evidence of the commitment of the local community and the support of the governing body, for the project, are contained in the application, e.g., resource commitments from the community and applicant organization for the proposed project, completed feasibility studies to support the proposed projects, etc. (15 Points)

(3) The proposed project objectives identifies in Part IV of the application are clearly defined, sufficiently detailed, and in logical order. They explain the tasks to be done to achieve each objective and to provide a basis for project monitoring. (15 Points)

(4) The application presents a detailed budget related to each objective in Part IV. It has complete explanations and justification of line items, including technical assistance, if needed, that is related to the objectives in Part IV. The budget is of reasonable cost of the government in terms of the outcomes and benefits expected. (10 Points)

(5) The application identifies all proposed keep personnel by position or role, and also all consultants or contractors. It demonstrates their qualifications to achieve the project objectives by including resumes, position descriptions, or consultant and contractor capability statements. (10 Points)

(6) Specific evidence of the necessary management and administrative capabilities of the applicant is in the application to ensure accountability and to justify receipt of Federal funds. (5 Points)

(7) The application contains, for the project period, a plan for the applicant's coordinated management and use of specific non-Federal and Federal resources (other than from ANA) as part of its strategy to move towards self-sufficiency through social and economic development. (5 Points)

(8) The application contains a project progress report which clearly states the results and accomplishments of the current ANA funded objectives or gives evidence of timely progress in the achievement of those objectives. The report specifies prior-year results or impacts, and also how these related directly to the proposed objectives in the application. (15 Points)

Due Date for Receipt of Applications

The closing date for applications submitted in response to this program announcement is ninety (90) days prior to the applicant's current Budget Period End (BPE) date, with the exception of grantees with a BPE of 10/31/83. Those applicants will have an additional 30 days to prepare their applications. See *Appendix A* for a partial list of closing dates. The final list will be published at a later date.

Mailed applications. Applications mailed through the U.S. Postal Service shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or,

2. Sent by first class mail, postmarked on or before the deadline date, and received in time for submission to the review panel (one week after closing date). (Applicants are cautioned to request a legible U.S. Postal Service postmark or to use express mail or certified or registered mail and obtain a legibly dated mailing receipt from the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.) Applications submitted by other means except mailing first class through the U.S. Postal Service shall be considered as meeting the deadline only if they are physically received before close of business on or before the deadline date.

Late applications. Applications which do not meet these criteria are considered late applications and will not be considered in the current competition.

(Catalog of Federal Domestic Assistance Program Number 13.612 Native American Programs)

Dated: July 5, 1983.

Casimer R. Wichlacz,

Acting Commissioner, Administration for Native Americans.

Approved: July 29, 1983.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Grantees	State	BPE	Application due date
Cherokee Nation of Oklahoma.	OK	10/31/83	10/03/83
Las Vegas Paiute Tribe	NV	10/31/83	10/03/83
Fort Belknap Indian Community.	MT	10/31/83	10/03/83
Bay Mills Indian Community.	MI	10/31/83	10/03/83
Mescalero Apache Tribe	NM	10/31/83	10/03/83
Lumbee Regional Development Association.	NC	10/31/83	10/03/83
Many Tribes Inc	MS	10/31/83	10/03/83
Seneca Cayuga Tribe of Oklahoma.	OK	10/31/83	10/03/83
Office of Hawaiian Affairs	HI	10/31/83	10/03/83
Santo Domingo Tribe	NM	10/31/83	10/03/83
Makah Indian Tribe	WA	10/31/83	10/03/83
Apache Tribe of Oklahoma.	OK	10/31/83	10/03/83
Native American Center	MT	10/31/83	10/03/83
Paiute Indian Tribe of Utah.	UT	10/31/83	10/03/83
Prairie Band of Potawatomi Indians.	KS	10/31/83	10/03/83
Quapaw Tribe of Oklahoma.	OK	10/31/83	10/03/83
Nez Perce Tribe of Idaho	ID	11/30/83	10/03/83
Great Lakes Inter-Tribal Council, Inc.	WI	11/30/83	10/03/83
Ute Indian Tribe	UT	11/30/83	10/03/83
Alu Like, Inc.	HI	11/30/83	10/03/83
Americans For Indian Opportunity.	DC	11/30/83	10/03/83
Native American Rights Fund.	CO	11/30/83	10/03/83
Inter-Tribal Council, Inc	OK	11/30/83	10/03/83
Confederated Tribes of Grand Ronde.	OR	11/30/83	10/03/83
California Indian Manpower Consortium.	CA	11/30/83	10/03/83
Cumberland County Assoc.	NC	11/30/83	10/03/83
Upper Skagit Indian Tribe	WA	11/30/83	10/03/83
Mississippi Band of Choctaw Indians.	MS	12/31/83	10/03/83
Pueblo of Zuni	NM	12/31/83	10/03/83
Jicarilla Apache Tribe	NM	12/31/83	10/03/83
Five Sandoval Indian Pueblos, Inc.	NM	12/31/83	10/03/83
Southern Ute Indian Tribe.	CO	12/31/83	10/03/83
Kiowa Tribe of Oklahoma	OK	12/31/83	10/03/83
Klamath Tribe	OK	12/31/83	10/03/83
Committee for American Indian Development.	OK	12/31/83	10/03/83
Montana Inter-Tribal Policy Board.	MT	12/31/83	10/03/83
Spokane Tribe of Indians	WA	12/31/83	10/03/83
Menominee Indian Tribe of Wisconsin.	WI	12/31/83	10/03/83
Navajo Tribal Council	AZ	12/31/83	10/03/83
San Carlos Apache Tribe	AZ	12/31/83	10/03/83
Duckwater Shoshone Tribal Council.	NV	12/31/83	10/03/83
Colville Confederated Tribes.	WA	12/31/83	10/03/83
Montana Indian Targeted Jobs.	MT	12/31/83	10/03/83
Red Lake Tribal Council	MN	12/31/83	10/03/83
Pueblo of Zia	NM	12/31/83	10/03/83
The Tulalip Tribes	WA	1/31/84	11/03/83
Confederated Tribes and Bands of the Yakima.	WA	1/31/84	11/03/83
Fond Du Lac Reservation	MN	1/31/84	11/03/83
Oglala Sioux Tribe	SD	1/31/84	11/03/83
Creek Nation East of Mississippi.	AL	1/31/84	11/03/83
Abenaki Self-Help Association.	VT	1/31/84	11/03/83
Wampanoag Tribal Council of Gay Head.	MA	1/31/84	11/03/83
Narragansett Tribe	RI	1/31/84	11/03/83
South Eastern Michigan Indians, Inc.	MI	1/31/84	11/03/83
Farmington Inter-Tribal Indian.	NM	1/31/84	11/03/83
Guilford Native American Association.	NC	1/31/84	11/03/83
Coharie Intra-Tribal Council, Inc.	NC	1/31/84	11/03/83
Muckleshoot Indian Tribe	WA	1/31/84	11/03/83
Minneapolis American Indian Center.	MI	1/31/84	11/03/83
Candelaria American Indian Council.	CA	1/31/84	11/03/83
Poarch Band of Creeks	AL	1/31/84	11/03/83
Chumash-Santa Barbara Indian Center.	CA	1/31/84	11/03/83
Shasta Tribe, Inc.	CA	1/31/84	11/03/83
Miami Nation of Indians of Indiana, Inc.	IN	1/31/84	11/03/83
Pokagon Band of Potawatomi.	MI	1/31/84	11/03/83
Waccamaw Siouan Development Association.	NC	1/31/84	11/03/83
Confederated Coos, Lower Umpqua, and Siuslaw Indian Tribes.	OR	1/31/84	11/03/83
Chinook Indian Tribe	WA	1/31/84	11/03/83
Steilacoom Tribe of Indians.	WA	1/31/84	11/03/83
Brotherton Indian Nation	WI	1/31/84	11/03/83
Northern California Indian Development Council.	CA	2/29/84	12/1/83
Inter-Tribal Friendship House, Inc.	CA	2/29/84	12/1/83
Urban Indian Council	OR	2/29/84	12/1/83
Blackfeet Tribal Business Council.	MT	2/29/84	11/1/83
United Indian Assoc. of Central Washington.	WA	2/29/84	11/1/83
Indian Center, Inc	NE	2/29/84	12/1/83
Nisqually Indian Tribe	WA	2/29/84	12/1/83
Rapid City Indian Service Council, Inc.	SD	2/29/84	12/1/83
Central Maine Indian Association, Inc.	ME	2/29/84	12/1/83
Santee Sioux Tribe of Nebraska.	NE	2/29/84	12/1/83
Covelo Indian Community Council.	CA	2/29/84	12/1/83
Sault Ste Marie Tribe of Chippewa Indian.	MI	2/29/84	12/1/83
Grand Rapids Inter-Tribal Council.	MI	2/29/84	12/1/83
Council of Energy Resource Tribes, Inc.	CO	2/29/84	12/1/83
All Indian Pueblo Council	NM	2/29/84	12/1/83
Native Americans for Community Action.	AZ	3/31/84	1/1/84
Leech Lake Reservation Business.	MN	3/31/84	1/1/84
Eight Northern Indian Pueblos Council.	NM	3/31/84	1/1/84
Chippewa Cree Tribe	MT	3/31/84	1/1/84
Shoshone & Arapahoe	WY	3/31/84	1/1/84
Oneida Tribe of Indians of Wisconsin.	WI	3/31/84	1/1/84
Boston Indian Council, Inc.	MA	3/31/84	1/1/84
Genesee Valley Indian Association.	MI	3/31/84	1/1/84
Walker River Paiute Tribe	NV	3/31/84	1/1/84
Baltimore American Indian Center.	MD	3/31/84	1/1/84
Metlakatla Indian Community.	AK	3/31/84	1/1/84
Mowa Band of Choctaw Indians.	AL	3/31/84	1/1/84
Aroostock Micmac Council, Inc.	ME	3/31/84	1/1/84
Miccousukee Indian Tribe of Florida.	FL	4/30/84	1/31/84
Ute Mountain Ute Tribe	CO	4/30/84	1/31/84

Grantees	State	BPE	Application due date
Community Action for the Urbanized Indian.	CA	4/30/84	1/31/84
Indian Development District of Arizona.	AZ	4/30/84	1/31/84
American Indian Community Center.	WA	4/30/84	1/31/84
Oklahomans for Indian Opportunity.	OK	5/31/84	3/03/84
Rhode Island Indian Council.	RI	5/31/84	3/03/84
Jamestown Klallum Tribe	WA	5/31/84	3/03/84
DNA Peoples Legal Services, Inc.	AZ	5/31/84	3/03/84
Chickasaw Nation of OK	OK	5/31/84	3/03/84
Lummi Tribe	WA	5/31/84	3/03/84
Kalispel Tribe	WA	5/31/84	3/03/84
Couer d'Alene Tribe	ID	5/31/84	3/03/84
Grand Traverse Band of Ottawa.	MI	5/31/84	3/03/84
Fort Bidwell Indian Association.	CA	5/31/84	3/03/84
Sac and Fox Tribe of Indians of Oklahoma.	OK	5/31/84	3/03/84
White Earth Reservation Business.	MN	5/31/84	3/03/84
Yavapai-Apache Tribe	AZ	5/31/84	3/03/84
Kootenai Tribe of Idaho	ID	5/31/84	3/03/84
Swinomish Indian Tribal Community.	WA	5/31/84	3/03/84
Small Tribes of Western Washington.	WA	5/31/84	3/03/84
Reno Sparks Indian Colony.	NV	5/31/84	3/03/84
Houlton Band of Maliseet	ME	5/31/84	3/03/84
Port Gamble Klallam Indian Colony.	WA	5/31/84	3/03/84
Native American Center of Tulsa.	OK	6/30/84	4/01/84
Native American Center of Oklahoma City.	OK	6/30/84	4/01/84
Powhatan Renape Nation	NJ	6/30/84	4/01/84
Seneca Nation	NY	6/30/84	4/01/84
Passamaquoddy Tribe	ME	6/30/84	4/01/84
Seattle Indian Center	WA	6/30/84	4/01/84
Hopi Tribe	AZ	6/30/84	4/01/84
Turtle Mountain Band of Chippewa.	ND	6/30/84	4/01/84
Council for Tribal Employment Rights.	WA	6/30/84	4/01/84
Phoenix Indian Center	AZ	6/30/84	4/01/84
The Suquamish Tribe	WA	6/30/84	4/01/84
The Kaw Tribe of Oklahoma.	OK	6/30/84	4/01/84
Fort Berthold-Three Affiliated Tribes.	ND	6/30/84	4/01/84
Fresno American Indian Center.	CA	6/30/84	4/01/84
Pueblo of Acoma	NM	6/30/84	4/01/84
Fort McDermott-Paiute Shoshone.	NV	6/30/84	4/01/84
Pawnee Tribe of Oklahoma.	OK	7/31/84	5/03/84
Southern California Chairmen's Association.	CA	7/31/84	5/03/84

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Part III

Department of Commerce

National Oceanic and Atmospheric Administration

Announcement of National Marine Sanctuary Program Final Site Evaluation List

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Announcement of National Marine Sanctuary Program Final Site Evaluation List

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

ACTION: Notice.

SUMMARY: NOAA is publishing a final list of marine sites (Site Evaluation List) that will provide the pool of areas from which NOAA will select sites to evaluate as candidates for potential national marine sanctuaries.

FOR FURTHER INFORMATION CONTACT: Dr. Nancy Foster, Chief, Sanctuary Programs Division, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, 3300 Whitehaven Street, NW., Washington, D.C. 20235, (202) 634–4236.

SUPPLEMENTARY INFORMATION:

I. Authority

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, 16 U.S.C. 1431 (the Act) authorizes the Secretary of Commerce, with Presidential approval, to designate ocean waters as far seaward as the outer edge of the continental shelf as marine sanctuaries to preserve or restore their distinctive conservation, recreational, ecological, or aesthetic values. That authority is administered by the National Oceanic and Atmospheric Administration (NOAA) through the Office of Ocean and Coastal Resource Management (OCRM), Sanctuary Programs Division (SPD).

In January 1982, NOAA published a Program Development Plan (PDP) for the Program. The PDP describes the Program's mission and goals; site identification and selection criteria; and establishes a sanctuary nomination and designation process. On September 7, 1982, NOAA published proposed regulations for the continued operation of the Program (47 FR 39191). Pursuant to the PDP and the regulations, NOAA published a proposed Site Evaluation List (SEL) March 1, 1983 (48 FR 8527). The public comment period on the proposed SEL ended May 31, 1983. On May 31, 1983, NOAA published final regulations for designating marine sanctuaries and the continued operation of the Program (48 FR 24296). Pursuant to these final regulations, NOAA is publishing the final Site Evaluation List (SEL).

II. SEL Process

The purpose of the SEL is to establish a list comprising the most highly qualified marine sites identified and recommended by the regional resource evaluation teams. The teams made these recommendations in accordance with the Program's mission and goals set forth in the Program Development Plan, in § 922.1 of the final program regulations, and the site identification and selection criteria described in Appendix 1 of the regulations. NOAA emphasizes that these sites are included on the SEL because they are areas of high natural resource value, and may warrant further analysis to determine their feasibility as active candidates for consideration as national marine sanctuaries. Listing a site on the SEL does not mean that the site is a proposed sanctuary, or that it will necessarily be considered as an active candidate for sanctuary designation. However, with limited exceptions as described in § 922.22(c) of the final program regulations, NOAA will only consider those sites on the SEL for further review as active candidates for marine sanctuary designation. Thus, the SEL serves as the pool from which potential future marine sanctuaries will be drawn.

Placement of sites on the SEL or selection for further consideration as active candidates does not subject such sites to any regulatory controls under Federal law. Such regulations may only be established after designation, as provided under § 922.31 of the final program regulations.

III. Summary of Significant Comments on the Proposed Regulations and NOAA's Responses

NOAA received comments from approximately 400 sources. Commenters included Federal and State agencies, representatives of the oil and gas industry, environmental and public interest groups and private citizens. All comments received are on file at the Sanctuary Programs Division, Office of Ocean and Coastal Resource Management. The comments are available at that office for review upon request. The major issues raised by commenters have been summarized and NOAA's responses provided under the relevant subheadings in this section. Site descriptions follow the comments.

Generic Comments

1. Size of Proposed Sites. Several commenters objected to the size of proposed SEL sites including Nantucket Sound/Shoals/Oceanographer Canyon (1805 sq mi), Green Bay (1300sq.mi) and Virginia/Assateague (1200 sq mi). These commenters believe the sites to be too large and suggest that the geographic expanse of these sites be reexamined.

NOAA Response NOAA agrees that a few of the sites on the proposed SEL cover relatively large expanses of marine areas. The site boundaries provided in the SEL are general study area boundaries and will be refined and in most cases reduced if a site is brought to active candidate status. Although no maximum or minimum size limits are established, the final National Marine Sanctuary Program Regulations (48 FR 24296) provide that the Channel Islands and Point Reyes-Farallon Islands National Marine Sanctuaries, covering 1,252 and 948 square nautical miles respectively, are likely to represent the upper end of the sanctuary size spectrum and that future sanctuaries will be no larger. Size considerations are specifically addressed under the Mission and Goals (§ 922.1(d)) and the Active Candidate Criteria (§ 922.30(b)(4)) of the final program regulations.

2.Showing of Necessity. Several reviewers suggested that NOAA should demonstrate that SEL sites are unique and deserving of special attention and that other existing State or Federal authorities are inadequate to provide such protection.

NOAA Response—Title III (the Act) authorizes the Secretary to designate marine sanctuaries to preserve or restore their conservation, recreational, ecological, or esthetic values. The Act does not specify that marine sanctuaries must be "unique" marine areas; however, § 922.30(b)(1) of the final program regulations states that a primary reason for selecting a site as an Active Candidate is its "high national resource and human use values" (§ 922.30)(b)(1). Existing Federal and State regulations and authorities are considered in determining whether to designate sanctuaries and in developing site specific management frameworks. Section 922.30(b)(3) of the final program regulations states that one of the criteria for selecting Active Candidates is an assessment of the adequacy of existing management requirements for protecting resources.

3. Development of Regulations. Several reviewers expressed concern that possible regulations for individual SEL sites were not discussed and that in the future regulations could be imposed that would be unreasonable or developed without input from affected users.

NOAA Response—The purpose of the SEL is to indicate sites of high resource

value. The regulation of activities is considered as part of the development of a draft management plan and draft environmental impact statement (DEIS), once a site is selected as an Active Candidate. The management plan and any necessary regulations are drafted in consultation with concerned Federal, State, local agencies, Regional Fishery Management Councils and other interested persons and groups. This dialog begins early in the development of the DEIS and includes public meetings and review of significant issues (§ 922.31(a)(c)). The DEIS is subject to public review, and a public hearing on the proposal in the area or areas most affected, by the sanctuary designation is required (section 302(e) of the Act).

As part of the designation process NOAA develops a designation document which specifies, among other things, the types of activities subject to regulation. Only activities included in the terms of the designation may be regulated and the designation document may be modified only by same process by which the original designation was made, including holding public hearings and obtaining Presidential approval.

Moveover, existing Federal and State regulations are considered in determining whether to designate marine sanctuaries and in developing the management framework for such sanctuaries. NOAA will rely upon existing Federal and State regulations to preserve or restore a santuary's natural resource and human use values when such regulations are adequate to meet the purposes for which the sanctuary was designated.

Site Specific Comments: North Atlantic Region

Mid Coast Maine

(1) Several reviewers supported the Mid Coast Maine site. No reviewers specifically opposed placement on the SEL.

NOAA Response—No response necessary.

Stellwagen Banks

(1) Over eighty-five (85) reviewers supported Stellwagen Banks for placement on the SEL citing the significance of the whale communities or the importance of the fishery habitat. These commenters included the State of Massachusetts Executive Office of Environmental Affairs.

NOAA Response—No response necessary.

(2) One reviewer supported the site but was concerned that there might be prohibitions on submarine electric cables. One reviewer opposed any eventual marine sanctuary at Stellwagen, because of the fear that sanctuary designation will eventually lead to regulation of commercial fishing.

NOAA Response—Marine Sanctuary designation does not automatically restrict or prohibit any particular activity. For a discussion of when and how decisions on regulating activities are made, please see Generic Response #3.

Nantucket Sound/Shoals/ Oceanographer Canyon

(1) Several reviewers support the placement of this site on the SEL, including the Massachusetts Executive Office of Environmental Affairs.

NOAA Response—No response necessary.

(2) One reviewer supported the site but was concerned that there might be a prohibition on submarine electric cables. Another commenter indicated that part of the site has been or is currently being studied for potential oil/gas leasing and that portions of Oceanographer Canyon possess high resource potential. Several gas and oil industry reviewers opposed inclusion of the site on the SEL. Several commenters believe the site to be too large and/or not "unique". Several believe that future pipeline corridors might be affected.

NOAA Response—Designation of a marine sanctuary does not necessarily restrict or prohibit any particular activity. For a discussion of when and how regulating activities are made, please see General Response #3. Reviewers concerned about the question of size are referred to Generic Response #1. For a discussion as to whether or not sites must be "unique" as a prerequisite for inclusion on the SEL commenters are referred to Generic Response #2.

Assateague/Virginia Barrier Islands

Approximately 16 comments were received regarding the Virginia Assateague Barrier Islands area. Six were in favor; ten comments opposed inclusion on the SEL.

(1) The Maryland State Department of Natural Resources requested that the Maryland portion of the site remain on the SEL and expressed the belief that the local opposition was based on misinformation. The Commonwealth of Virginia Council on the Environment did not object to inclusion on the SEL and further evaluation, but expressed doubts about the benefits of marine sanctuary status. Another reviewer supported the site but was concerned that the area may be too large to manage. Several other reviewers supported inclusion on the SEL.

NOAA Response—Before selecting a site for active candidacy, NOAA evaluates the area in terms of such factors as benefits derived from sanctuary designation and adequacy of existing management regimes (§ 922.30). For a discussion regarding the size of SEL sites please see Generic Response #2.

(2) Many Maryland and Virginia local or county governments are opposed to including this site on the SEL. These reviewers expressed concern that possible sanctury designation would result in adverse economic impacts to the fishing industry and prevent possible offshore gas and oil development.

A public meeting to receive comments on listing this site on the SEL was held on March 2, 1983, at Berlin, Maryland, where many individuals expressed opposition to the proposed listing. Generally, the commenters believe that sanctuary designation will automatically preclude recreational and commercial fishing activities. Two commenters opposed the site because they did not know what the eventual restrictions would be.

NOAA Repsonse—NOAA reiterates that the purpose of the SEL is to identify a pool of sites with high natural resource values from which a particular site may be selected for future analysis to determine whether the feasibility of its further consideraton for designation as marine sanctury. None of these reviewers took the position that the site was not highly significant or that the area did not meet criteria for inclusion on the SEL. The issues of regulation and prohibition of activities are worked out during the development of a management plan. No activities are automatically restricted or prohibited in a marine sanctuary. In fact, § 922.1 (b)(4) of the final program regulations specifically provides for compatible multiple use of national marine sanctuaries. For a more detailed discussion of how regulations are developed for a proposed sanctuary, please see Generic Response No. 3.

(3) Several gas and oil industry reviewers opposed the site because in their view it is too large and/or not "unique."

NOAA Response—For a discussion regarding the size of SEL sites please see Generic Response No. 1 Comment and for discussion as to whether a site must be "unique", please see Generic Response No. 2.

South Atlantic

Port Royal Sound

(1) Twenty-two (22) commenters supported Port Royal Sound, including the Governor of South Carolina. These reviewers believe that the significance of the resources of the area warrant inclusion on the SEL.

NOAA Response—No response necessary.

(2) One reviewer opposed the site expressing concern that an estuarine system located completely within State waters is inappropriate for consideration as a marine sanctuary.

NOAA Response—The Act authorizes designating/establishing marine sanctuaries in waters where the tide ebbs and flows, or in the great Lakes and their connecting waters. Such areas include State waters—usually an area within three miles.

(3) Another reviewer objected to the site because NOAA did not indicate what type of restrictions might be placed on fishing.

NOAA Response—Please see Generic Response No. 3 for a discussion on the procedure for developing regulations for proposed marine sanctuaries.

(4) One reviewer believes that the Port Royal Sound was rejected by the regional scientific team in July of 1982 and questions why it appears as a site possibility in October 1982.

NOAA Response—Although the regional team did not include the site in the July list for public review, a public nomination was submitted in response to the July mailing. The nomination detailed the significance of the resources and enjoyed substantial public support. Consequently, the team reassessed the area and subsequently placed it on the October list of possible sites presented for public review.

Florida Coral Grounds

(1) Six (6) comments were received on the Florida Coral Grounds. Four reviewers, including the Governor of Florida, supported inclusion of the site on the SEL, indicating that the resources of the area warranted listing. Another commenter concurred and noted that a portion of the *Oculina* site may be studied for potential gas/oil leasing.

NOAA Response—No response necessary

(2) Another reviewer indicated that the *Oculina* Reefs were an important fishing area and believes that the views of the Fishery Management Council should determine the nature of any regulation on fishing activities.

NOAA Response—NOAA consults with the appropriate Fishery Management Council before selecting a site as an Active Candidate (§ 922.30 (b) (c) of the final program regulations) and as part of the development of a draft management plan (§ 922.31(a)). In addition, NOAA may and, in certain cases has, left regulation of fishing to the appropriate Fishery Management Council. For a further discussion on development of regulations, please see Generic Response No. 3.

(3) Another reviewer suggested several corrections to make the site description more accurate.

NOAA Response—NOAA has incorporated these changes.

Ten Fathom Ledge—Big Rock

(1) One reviewer supported inclusion of the site on the SEL.

NOAA Response—No response necessary.

(2) Another indicated that the area was being studied for potential oil and gas leasing, and a third believes the areas should not be listed until the exploratory drilling determines the hydorcarbon potential of the area.

NOAA Response—Because the only purpose of establishing the SEL is to identify areas with high natural resource and human use value, NOAA will consider existing or potential users of the site when it determines whether to select it as an Active Candidate.

Gulf of Mexico Region

Flower Garden Banks

(1) Twenty-seven (27) comments were received on Flower Garden Banks. Twenty-five (25) reviewers supported its listing on the SEL. These reviewers believe that the biological significance of the banks warrant further consideration. One of the commenters added that sanctuary designation may be the only way to protect the reefs from certain damage caused by activities other federal programs are unable to regulate.

NOAA Response—No response necessary.

(2) Two reviewers opposed placement on the final SEL. These commenters believe that existing federal regulatory programs are adequate to protect the Banks.

NOAA Response—Detailed analysis of the adequacy of existing regulatory schemes will be undertaken should the site be considered for Active Candidacy. For more discussion on the process NOAA uses to develop regulations for proposed sanctuaries, please see Generic Response #3.

Big Bend Grassbeds

(1) Ten (10) comments were received in support of the Big Bend Grassbeds. The Governor of Florida and nine other reviewers believe the site warrants further consideration and should be placed on the SEL.

NOAA Response—No response necessary.

(2) One of these reviewers recommended that the site boundaries be drawn to include Crystal River and Bay.

NOAA Response—The boundaries presented in the SEL are study area boundaries and in many cases will be modified when a management plan and environmental impact statement are developed. One of the stated reasons for considering the Big Bend Grassbeds as a potential sanctuary is the importance of the area as habitat for the endangered manatee. Accordingly, emphasis will be placed on drawing the boundaries to include important habitat areas.

(3) One reviewer opposed inclusion of the site on the grounds that it is not unique. Another reviewer stated there were no threats and that existing laws and regulations provide adequate protection for the resources of the area.

NOAA Response—The SEL identifies areas of high resource and human use values. The final program regulations provide for a consideration of threats and adequacy of existing management or regulatory schemes (§ 922.30(b)(2) (3)) before selection as an active candidate. Please see Generic Response #2 for further discussion.

(4) One commenter indicated that current fishing regulation is extensive and suggested that NOAA should rely on the Regional Fishery Management Council to determine any fishing regulations.

NOAA Response—The final program regulations require consulation with the appropriate Fishery Management Council before selecting a site as an Active Candidate (§922.31(a)). In addition, NOAA may and, in certain cases, has left regulation of fisheries to the FMC. For further discussion of development of regulations please see Generic Response #3.

Shoalwater Bay—Chandeleur Sound, Louisiana

(1) On reviewer supported inclusion on the list citing the natural significance of the resources.

NOAA Response—No response necessary.

(2) Two reviewers expressed the belief that the area was not threatened and indicated that the area was already adequately managed for fish and wildlife purposes by the State of Louisiania. Two other commenters concurred expressing the belief that

added federal control in state waters was not justified. The Governor of Mississippi withdrew a previous endorsement of the site, indicating that sufficient management regimes exist to protect the area.

NOAA Response—Placement on the SEL only indicates high resource and human use values. Other considerations such as the adequacy of existing management/protective regimes are addressed when and if the site is considered for Active Candidate status For further discussion of these issues please see Generic Response #2.

Baffin Bay

(1) Five individuals supported the inclusion of Baffin Bay on the SEL.

NOAA Response—No response necessary.

(2) One reviewer expressed reservations about the "national interest" in the resources of the site, and another suggested that the site was better suited for an estuarine sanctuary.

NOAA Response—Before selecting a site as an active candidate, NOAA will consider the site's relative contribution to the Program's mission and goals and further evaluate the natural resource values of the area as provided for by §922.30(b)(1).

(3) Two reviewers believe that the area is not threatened and that existing laws and regulations are adequate to protect the resources.

NOAA Response—Before selecting a site as an Active Candidate, NOAA considers such factors as the existing management/regulatory schemes. Please see Generic Response #2 for further discussion.

(4) Two other reviewers indicated that the area has ongoing gas and oil activities and believe that the area is of limited ecological value and not appropriate for eventual consideration as a marine sanctuary.

NOAA Response—The mission and goals of the National Marine Sanctuary Program provide for multiple use of marine sanctuaries (§ 922.1(a)). NOAA will consider existing and proposed uses before selecting a site as an Active Candidate (§922.30 (b)(5)).

Eastern Pacific Region

Washington Nearshore

(1) Over forty-five (45) reviewers supported inclusion of the site on the SEL.

NOAA Response—No response necessary.

(2) One commenter did not express a formal position but recognized the importance of the area and expressed a desire to be involved in any further actions.

NOAA Response—The process for designating a national marine sanctuary provides a number of opportunities for public involvement. The junctures for public involvement in the designation process include: preliminary public consultation prior to selection of an Active Candidate (§ 922.30(c)); local public meetings after Active Candidate selection and while preparing the draft management plan and environmental impact statement (§922.31 (a) and (c)); and during the public comment period and public hearing after publication of the draft management plan and draft environmental impact statement.

(3) One reviewer expressed the concern that management of a sanctuary should not restrict recreational use. Other commenters indicated that fishing in the area is an important and traditional use that should be allowed to continue.

NOAA Response—Designation of a national marine sanctuary does not automatically restrict or prohibit any particular activity. Decisions of this nature are made during the development of the management plan after selection as an Active Candidate. For further discussion on the development of regulations, please see Generic Response #3.

(3) Two other commenters opposed placement of the site on the SEL. These reviewers do not believe that inland waters are appropriate for consideration as marine sanctuaries.

NOAA Response—The Act authorizes designating/establishing marine sanctuaries in areas where the tide ebbs and flows, or in the Great Lakes and their connecting waters. Such areas can include State waters.

(4) Two other reviewers believe that the site is too large to be classified as "unique".

NOAA Response—For a discussion on the size of the SEl sites, please see Generic Response #1. For a discussion on whether an area must be "unique" to qualify for the SEL, please see Generic Response #2.

(5) Several commenters believe that the Skagit Bay, Dungeness Bay, and the waters around McNeil and Gertrude Islands should be included in the site for SEL purposes.

NOAA Response—The Eastern Pacific Regional Team recommended Skagit Bay. NOAA considered the site but did not place it on the list for two reasons:

(1) There was an absence of local and State support. During the preliminary stages of formulating the SEL, there was significant local opposition to placement of any area in Puget Sound placed on the SEL. While the State of Washington Department of Ecology did not specifically object to Skagit Bay, it did not offer support;

(2) There was the issue of relative ecological significance. While Skagit Bay is an area of ecological importance, NOAA believes that in light of the lack of strong support, the most reasonable approach is to list the regional area of greatest nature resource value. We believe that area is the waters around the San Juan Islands.

Washington Outercoast

(1) Several reviewers supported inclusion of the site on the SEL.

NOAA Response—No response necessary.

(2) One commenter believes that any sanctuary proposal should allow for recreational use. Two others indicate that fishing is an important traditional use that should be allowed to continue.

NOAA Response—For further discussion of the development of regulations please see Generic Response #3.

(3) The Makah Tribal Council indicated that it would like to support the site but was concerned over issues such as treaty rights, extent of regulation and the role the Tribe would play in the management planning process.

NOAA Response—For a discussion of the development of regulations if a national marine sanctuary is designated please see the response (2) above and Generic Response #3. The relation of treaty rights to sanctuary designation would be addressed if the site is selected as an Active Candidate.

The process for designating a national marine sanctuary provides a number of opportunities for public involvement: before selecting a site as an Active Candidate NOAA requests comments from the Public (§ 922.30(c)); after selecting the site as an Active Candidate and while preparing the draft management plan and environmental impact statement (§ 922.31(a) and (c)) and after publication of the draft management plan and draft environmental impact statement.

Heceta Stonewall Banks

(1) Two commenters supported inclusion of this site on the SEL.

NOAA Response—No reponse necessary.

(2) One reviewer notes that exploratory hydrocarbon activities have taken place in the area and believes that NOAA should provide assurances that sanctuary designation would not prohibit oil and gas activities.

NOAA Response—The purpose of the SEL is to identify sites with high natural resource and human use values. The decisions on which activities are restricted or prohibited are made after a site is selected as an active candidate. For further discussion on how and under what circumstances regulations are developed, please see Generic Response #3.

Morro Bay

(1) Several reviewers and a petition with over 80 signatures supported inclusion of Morro Bay on the SEL. These reviewers emphasized the crucial role the Bay plays as a vital stopover for migratory birds along with Pacific Flyway.

NOAA Response—No reponse necessary.

(2) Two reviewers opposed placement on the SEL indicating that the State has taken steps to protect the Bay.

NOAA Response—An analysis of existing regulatory/management schemes and their adequacy is undertaken when a site is selected as an active candidate. For further discussion please see Generic Response #2.

Tanner-Cortes Banks

(1) Two reviewers supported inclusion on the SEL, indicating that the area was a reasonable size and contained unique resources.

NOAA Response—No reponse necessary.

(2) One reviewer opposed placement on the list expressing the belief that the quality of the resources did not justify the expense of a marine sanctuary.

NOAA Response—Section 922.30(b)(5) of the final program regulations directs NOAA at the time of evaluation for Active Candidate Status to consider the economic impacts and benefits of sanctuary designation.

Western Pacific

(1) Two comments were received on the Western Pacific Region. One reviewer expressed concern that there may be conflict between any possible marine sanctuary and present and future development of Cocos Lagoon and indicated that a feasibility study and harbor master plan for a deep draft harbor at Tanapag, Saipan has been developed.

NOAA Response—The mission and goals of the National Marine Sanctuary Program provide for multiple compatible use of marine sanctuaries (§ 922.1(a)). NOAA will consider existing and proposed development before selecting a site as an active candidate (§ 922.30(b)(5)).

(2) One reviewer provided unqualified support for Cocos Lagoon and Papaloloa Point but questioned the large size of the Southern Mariana Islands site and the need for sanctuary status of the Facpi Point to Santo Angel site.

NOAA Response—For a discussion on the size of SEL sites, please see Generic Response #1. With respect to the need for sanctuary status, NOAA will consider existing management/regulatory regimes before selecting a site as an active candidate (§ 922.30(b)(4)). For further discussion on this point, please see Generic Response #2.

Caribbean

Only two comment letters were received on these proposed Caribbean sites. One reviewer supported all three sites. The other reviewer supported the East End St. Croix site and indicated that the waters have been utilized by commerical interests and recreational divers.

NOAA Response—NOAA appreciates this information regarding uses of the resources and will take such activities into consideration if the site is evaluated for selection as an Active Candidate.

Great Lakes

(1) One reviewer expressed concern over any designation of marine sanctuaries in the Great Lakes. This commenter believes the areas on the proposed SEL are too large; that existing state regulations are adequate to protect the resources; and that the sites include incompatible areas such as dredged shipping channels.

NOAA Response—For a discussion of boundaries of the SEL sites please see Generic Response #1 and for a discussion of the adequacy of existing State legislation please see General Response #2. Before selecting a site as an Active Candidate, NOAA will consider existing uses of an area such as dredged shipping channels and determine whether those uses are compatible with the purposes for which the site is being considered for designation.

Green Bay

(1) One reviewer supported the site believing that the proposal is consistent with the "Future of the Bay Program."

NOAA Response—No response necessary.

(2) Several reviewers opposed placement of the Green Bay site on the SEL. One commenter believes that industries relying on water transportation would be put out of business if a marine sanctuary were established.

NOAA Response—Designation of a marine sanctuary does not automatically restrict or prohibit any particular activity. Please see Generic Response No. 3 for a further discussion on how and when regulations are developed.

(3) Several reviewers believe that this site is not of comparable value to the other proposed SEL sites because it is warm water, estuarine and polluted. These reviewers also doubt that "restoration" is in order. One commenter indicated that the lower Bay is totally developed and additional plans for enlarging the harbor have been adopted. Another reviewer indicated that two harbors in lower Green Bay have substantial dredging needs. One reviewer also suggested that the lower Bay was unsuitable for a marine sanctuary and proposed limiting the area to the upper portion of the site.

NOAA Response—NOAA appreciates this information regarding (past) existing uses of the resources of the lower Green Bay site provided by these reviewers. The area was originally recommended and placed on the draft SEL because of the possibility of "restoring" the site, as Section 302(a) of the Act permits designation of marine sanctuaries for "the purpose of preserving or restoring such areas . . .". Although NOAA will place this site on the SEL, if a preliminary decision is made to pursue this site NOAA will evaluate carefully the feasibility of including the lower Bay in the Active Candidate determination in light of the information and concerns provided by these reviews. In addition, at that same time NOAA will contact these reviewers and request additional information.

Western Lake Erie Island Including Sandusky Bay

(1) Several reviewers, including the Ohio Department of Natural Resources, believe that the quality and diversity of the resources of the site warrant further consideration and possible sanctuary status.

NOAA Response—No response necessary.

(2) One reviewer expressed concern that a marine sanctuary might result in additional regulation of the nuclear power plant located in the area. Another was concerned that the sancturay designation may be in conflict with maintenance dredging and spoil disposal that presently occur within the site.

NOAA Response—Before NOAA selects sites as active candidates, the area is further assessed in light of national resource and human use values

and the adequacy of existing protection/regulatory schemes (§ 922.30(b)(3)). For further discussion please see Generic Response No. 2.

Cape Vincent

(1) One reviewer supported inclusion on the SEL noting that the area contains high recreational values.

NOAA Response—No response necessary.

(2) Two reviewers opposed placing the site on the SEL. These reviewers believe that existing New York State regulations offer adequate protection.

NOAA Response—Before selecting a site as an Active Cndidate, NOAA considers such factors as the existing management/regulatory framework. For further discussion please see Generic Response No. 2.

Thunder Bay

(1) Two reviewers support inclusion of the side on the SEL.

NOAA Response—No response necessary.

(2) One commenter believes that the site has potential for sanctuary designation but is concerned that much of the area may be inaccessible.

NOAA Response—The purpose of the SEL is to identify areas of high resource value. Before selecting an area as an Active Candidate, NOAA evaluated the site in terms of the human values and benefits to be derived from sanctuary designation (§ 922130(b)(1)(3)). Accessibility for the public is one factor in this evaluation.

Lake Superior

(1) Two reviewers support inclusion of the site on the SEL noting the significance of the resources.

NOAA Response—No response necessary.

(2) The State of Michigan Department of Natural Resources opposed placement of the Isle Royale portion on the SEL because the U.S. National Park Service already has jurisdiction over the area and additional protection and management is not warranted.

NOAA Response—If NOAA decides to proceed with this site, close contact and coordination with the Department of the Interior will be undertaken to determine whether or not there are significant benefits from including Isle Royale as a proposed sanctuary.

Site Evaluation List: North Atlantic

Mid-Coastal Maine, Maine

This site covers an area of 430 mi² of coastal waters including both State and Federal waters. The site encompasses the mouths of three major estuaries and two bays. It contains intertidal shallow, and deep water zones which vary greatly in bottoms type, wave exposure, and biological components. The three rivers are the Kennebec, Sheepscot, and the Damariscotta; the site includes the waters of Johns and Muscongus Bays, and Southport, Sequin, Damariscove, Fishermen's Inner Heron, Outer Heron, White, Squirrel, Georges, and Monhegan Islands. Three marine research and educational facilities are situated on land adjacent to the site; the Maine Department of Marine Resources laboratory, the Bigelow Laboratory for Ocean Sciences (both in Boothbay Harbor), and the University of Maine Darling Center in Walpole, ME.

Stellwagen Bank

This site is approximately 31.7 miles (50 km) by 19.1 miles (30.6 km) covering approximately 605 mi² (1.567 km²). The site is entirely within Federal waters situated on submerged Stellwagen Bank which is 6.3 miles (10.2 km) north of Cape Cod, Massachusetts.

Scientific and educational interest has been drawn to Stellwagen Bank due to the recurring seasonal abundance of several cetaceans, species, including the largest high-latitude population of humpback whales in the contiguous United States. The biologically-productive waters of the Bank provide important feeding and nursery grounds for this and other cetaceans, including fin, minke, and northern white whales. There are at least seven cetacean species occurring at Stellwagen Bank.

Commercially valuable fishery resources are also found in the area, including mackeral, bluefin tuna, and blue fish. The Bank is extensively used by commercial and recreational fishermen, whalewatchers, and cargo vessels.

Smaller cetacean species include the Atlantic white-sided dolphin, the white-beaked dolphin, and the harbor porpoise. In addition to these frequently observed cetacean species, killer whales and pilot whales have also been spotted.

Nantucket Sound/Shoals and Oceanographer Canyon

The proposed Nantucket Shelf site encompasses approximately 1.805 mi² (4,650 km²) and represents a variety of habitats within the biogeographic transition zone between the northern Acadian and southern Virginian regions. Habitats included are open bay (Nantucket Sound), nearshore open ocean and shoals (Nantucket Shoals), and a shelf-edge submarine canyon (Oceanographer Canyon). The Nantucket Sound site is in Federal waters between Nantucket Island and Cape Cod, Massachusetts, and its boundaries are contiguous with the Massachusetts Ocean Sanctuaries. The Nantucket Shoals and Oceanographer Canyon sites lie wholly within Federal waters off the coast of Massachusetts.

a. *Nantucket Sound:* Located south of Cape Cod, the Sound is affected by the convergence of two major ocean currents, the Labrador Current and the Gulf Stream. The mixture of these systems contributes to the large diversity of species found here. The richness of this transition zone ecology enhances the stability of plant life and the productivity of the estuaries in bordering coastlands that provide habitats for the many species that use the proposed marine sanctuary areas as nursery and feeding grounds. More than 16 species of fish and shellfish are commercially harvested in the area. The most common species found are alewife, bluefish, cod, flounder, clams, whelks, scallops, and squid.

b. *Nantucket Shoals:* Nantucket Shoals are a series of shifting sand shoals, derived from glacially deposited sediments that have been winnowed by marine processes. Most of the shoals are found under water depths of only 25 feet (8 m). Between many of the shallow areas are channels extending 60–120 feet (18–36 m) deep. The site includes Great South Channel.

Fishes common to this area include bluefish, striped bass, pollock, little tuna, Atlantic cod, and mackerel. Clams, scallops, and quahogs are found in some of the shoal's areas. Sea ducks overwinter in this area, and humpback whales occasionally feed within the proposed site.

c. *Oceanographer Canyon:* Submarine canyons, in general, provide a heterogeneous environment characterized by a variety of substrate types, and because they act as conduits for the transport of material from the shelf to the abyss, filter feeding organisms are more common there than on the shelf. Within Oceanographer Canyon, the concentrations of organisms per 100 m² shows peak values of 400–450 around depths of 1,300 feet (400 m) to 6,000 feet (1.800 m). Major faunal groups include corals (primarily alcyonarians), echinoderms, fish and crustaceans (particularly shrimp).

Virginia/Assateague Island

The candidate site would cover approximately 1,200 mi² (3,100 km²) and lies within both State (Virginia and Maryland) and Federal waters. The site would include the estuarine waters and wetlands adjacent to the barrier islands and mainland along the Atlantic coast of Virginia and Maryland from the north

end of Assateague Island southward to Fisherman's Island out to 10 miles (16 km) from shore.

Along the periphery of this area are extensive, immensely productive salt marshes dominated by *Spartina alterniflora*. Dozens of benthic species are found here including at least 18 species of decapods crustaceans. Crabs, oysters, and clams feed upon the vegetation and microorganisms within these waters. More than 96 species of fish inhabit or migrate through these waters. Seals and dolphins are occasionally reported in this area. The threatened Atlantic loggerhead and green turtles occur here. Tracts of widgeon and eelgrass cover bay bottoms, and scallops inhabit beds of seagrass. A great diversity of waterfowl and shorebirds, including both migratory and resident species, is abundant. Active breeding colonies of birds exist on islands surrounded by these estuarine waters. Eagles, ospreys, brants, peregrine falcons, and the endangered brown pelican utilize the habitat of the area.

South Atlantic Region

Ten Fathom Ledge—Big Rock

This site consists of two areas. The inner shelf site (Ten Fathom Ledge) is a 135 mi² rectangle with its center located about 17 miles south of Cape Lookout, NC. The outer shelf site, "Big Rock" is located on the shelf break about 36 miles offshore, and is a 36 square mile area. These are both hard-bottom areas, with high productivity and assemblages of tropical marine organisms at the northern extreme of their range. The inner site includes four popular recreational diving spots; one of which includes a World War II German submarine.

Port Royal Sound, South Carolina

The site lies entirely within State waters covering an area of approximately 54.6 mi² (140 km²). Port Royal Sound is South Carolina's largest deepwater sound and largest high salinity body of water. Freshwater influence is primarily from the Coosawatchie and Pocotaligo Rivers. the site is bordered in part by extensive tracts of highly productive marshlands which provide important nutrient input for the area's food web. Numerous shellfish including shrimp, oysters, crabs, and clams inhabit these waters. Many species, such as king and Spanish mackerel, found primarily in coastal ocean waters elsewhere, are common. The site is a habitat for the endangered bald eagle, brown pelican, and alligator. The threatened green turtle has been reported in the area and the loggerhead turtle nests on beaches in the vicinity, and endangered turtle species which are occasionally reported in the area include: Leatherback, hawksbill, and Kemp's Ridley. Bottle-nosed dolphins are also common.

Florida Coral Grounds, Florida

This site consists of two areas off the cost of Florida. These two areas are the 4.5 mi² "worm," or "bathtub," reef at St. Lucie, FL, and 92 mi² of the Oculina Reefs located 17 miles off the Florida coast in 70 to 100 m of water. The Oculina Reefs are unusual formations of ivory tree coral that forms delicately branched structures of moderate to high relief. *Oculina variosca* provides a substrate and protection for a diversity of marine macroinvertebrates. The Oculina Reefs are also important breeding grounds for commercially valuable populations of gag and scamp grouper, nursery grounds for juvenile snowy grouper, and feeding grounds for these and other fish including black sea bass, red grouper, amberjack, and red snapper. This shelfedge system may form part of the migration pathway for king mackerel. Large populations of commercially important squid, *Illex oxygonius*, spawn on reefs and spiny tail stingray use the reef region for courtship and mating.

St. Lucie Nearshore Reefs are hard bottom nearshore reefs of moderate to high relief, 1–15 feet (0.3–4.6 m), situated at a depth of 5–27 feet (1.5–8 m) adjacent to St. Lucie Inlet, south of Ft. Pierce, Florida. Hard corals such as the ivory tree coral *(Oculina varicosa)*, soft corals, and tube-forming sabellariid worms grow on limestone ledges, 15 feet (4.6 m) arches, and spur-and-groove buttresses. St. Lucie reef represents the northern limit for several species of hard corals *(Diploria clivosa, Oculina diffusa)* and soft corals.

Caribbean Region

Cordillera Reefs, Puerto Rico

This site includes approximately 62 mi² (160 km²) around the Cordillera Islands totally lying within the waters of the Commonwealth off the northeast coasts of Puerto Rico. The area contains extensive and well-developed coral formation and provides habitat for the endangered manatee *(Trichechus manatus)* and the hawskbill turtle *(Eretmochelys impricata)*.

Southeast St. Thomas, U.S. Virgin Islands

This site consists of 12.3 mi² (32 km²) of Virgin Islands' territorial waters immediately southeast of St. Thomas. Jersey and Cowpet Bays, and the waters surrounding Great and Little St. James, Dog, Buck and Capella Islands. The area encompasses diverse tropical marine ecosystems, important coral reefs, and transitional marine meadows of algae and turtle grass.

East End, St. Croix, U.S. Virgin Islands

The area of this site is approximately 40 mi² (102 km²). The site is within territorial waters and is adjacent to the east end of St. Croix, including the waters east of Buck Island and the area of Lang Bank out to a 60 foot depth to Great Pond Bay on the south coast. The site consists of a rich diversity of tropical species and marine habitats, including corals, marine meadows and fish.

Gulf of Mexico Region

Big Bend Seagrass Beds, Florida

This site is composed of 100 mi² of seagrass beds in the "big bend" region of Florida. These beds extend up to 22 miles (35 km) offshore and are a vastly productive habitat supporting a rich diversity of marine organisms including the endangered manatee. The seagrass community greatly increases the surface area available for plants and animals and provides a suitable substrate for many organisms that would not be able to colonize bare sand. In this way, the seagrass beds sustain the growth and proliferation of vast numbers of marine invertebrates and algae which interact in a delicately balanced food web that supports several commercially important species such as oysters, scallops, blue crab, stone crab, shrimp, red drum, spotted sea trout, and mullet.

In addition to supporting a rich diversity of food organisms for commercially important indigenous and migratory species of finfish, detrital material derived from the seagrass beds may also provide an important source of nutrition supporting the adjacent oyster reef communities.

Shoalwater Bay—Chandeleur Sound, Louisiana

This site includes approximately 80 mi² (207 km²) of State waters, pristine, shallow-water seagrass beds and algae located upon a subsiding remnant of abandoned Mississippi River delta. Adjacent to the east of this site is the Breton National Wildlife Refuge.

Dense stands of manatee grass (Syringodium), turtle grass (Thalassia), shoalgrass (Halodule), and widgeon grass (Ruppia) provide shallow-water habitat for numerous finfish and shellfish in the proposed sanctuary. All five species of marine turtles which

inhabit the Gulf of Mexico historically have been known to forage and nest in this area. These are the loggerhead turtle (*Caretta caraetta*) and the threatened green turtle (*Chelonia mydas*), as well as three endangered turtles: hawksbill (*Eretmochelys imbricata*), Atlantic ridley (*Ledipochelys kempi*), and leatherback (*Dermochelys coriacea*).

The island shores adjoining the proposed site support black mangrove (*Avicennia germinans*) and intertidal marsh grass communities. Approximately 13,000 migratory waterfowl rely upon the shoals of this area for winter foraging.

Flower Garden Banks

This site is located 110 miles (160 km) offshore, consisting of east and west sections approximately 16 miles (25 km) apart and representing the northermost coral reef community in the western Gulf of Mexico. The borders of any proposed sanctuary would conform to the Bureau of Land Management "no activity zone" and encompass a total of 44 mi^2 (114 km^2). The area is a valuable representation of a tropical coral reef community dominated by hermatypic coral (*Montastra annualaris, M. Cavernosa, Porites astreoides*, and *Diploria strigosa*) and associated reef fishes and invertebrates.

Baffin Bay

At high tide, this site covers approximately 95 mi^2 (246 km^2), entirely within Texas State waters, and includes Baffin Bay, Laguan Salada, Cayo del Grullo, and Alazan Bay. Approximately 25 percent of the Bay system is composed of intertidal salt flat communities. The waters of the Bay are confluent with the upper Lagna Madre; however, the waters of the Bay system remain notably hypersaline.

The Bafflin Bay complex occupies a former river valley, drowned as the sea level rose after the last ice age, 5,000–10,000 years ago. Depths throughout this area are shallow, averaging less than 9 feet (3 m). Extensive areas of soft black and grey mud, rich in hydrogen sulphide, cover the central bay bottoms. Isolated reef rocks and reef fields, composed of masses of calcareous tubes of living and dead serpulid worms, are scattered over the bay bottom, and are most notable across the mouths of Baffin Bay and Alazan Bay.

Eastern Pacific

Washington State Nearshore, Washington

This consists of waters around the San Juan Islands within Puget Sound. It encompasses approximately 250–275 mi^2 and is representative of rocky-shore, deep-water, and shallow-embayment habitats. The area contains mud and sand flats, sheltered bays and marshes. Biotic zonation patterns typical of rocky shore habitats are clearly evident as the 12 foot (3.7 m) tidal range exposes a rich diversity of marine flora and fauna. Rockweed and a variety of smaller green, red, and brown microalgae form the basis of the nearshore food web, and support vast populations of isopods, amphipods, hermit crabs, shrimp, barnacles, and other marine organisms associated with rocky shore habitats. Subtidally, rockfish, lingcod, cabezone, sculpins, and salmon abound in large numbers. The deeper waters serve as an important habitat for minke, gray, killer, and pilot whales, harbor and dall porpoises, harbor seals, stellar sea lions, and elephant seals. Bird nesting and feeding sites are interspersed throughout the San Juan Island complex, which supports the highest known concentration of nesting oystercatchers in the United States. Bald eagles are common and depend upon the marine environment for much of their food.

Western Washington Outer Coast, Washington

This site extends from Duntz Rock (north of Tatoosh Island on the northwestern tip of Washington State), 90 miles (145 km) southward along the coast to Point Grenville. The area lies within Washington State's jurisdiction. The inshore boundary would extend to mean high water; the offshore boundary is contiguous with the boundary established for the Washington Islands National Wildlife Refuge, 2–3 miles (3.2–4.8 km) offshore and would encompass approximately 230 mi^2. The area is representative of high wave-energy, rocky shore ecosystems, but is unique as a breeding and feeding ground for migratory marine birds, mammals, and fish. The area includes offshore kelp beds, numerous pocket beaches of fine or coarse-grained sands, and richly productive estuarine systems.

Heceta-Stonewall Banks of Oregon

This site is a hard-bottom bank which has an area of approximately 400 square miles (1,000 km^2) lying entirely within Federal waters. The outer boundary of the site lies along the 100-fathom depth contour. The surface waters of this area are highly productive, especially during the summer when northerly winds drive surface water offshore and nutrient-rich water upwells into the area. Bottom topography also causes turbulence bringing nutrient-rich waters to the surface. The Columbia River influences the area during the summer, adding nutrients which contribute to the high productivity.

The highly productive waters at this site provide a large food supply for fish populations. Abundant zooplankton thrive upon the phytoplankton blooms and, in turn, are eaten by other marine animals. The commercially important rockfish feed upon the euphausid shrimp, small fish, squid, and various zooplankton that inhabit this area. Fish caught in this area include: various rockfish, hake, lingcod, ocean perch, flounder, sole, halibut, mackerel, salmon, sablefish, skate, sculpin, and ratfish.

Morro Bay, California

Situated south of the city of Morro Bay in San Luis Obispo County, this 2,000 acre embayment supports three habitats: coastal salt marsh, tidal mud flats, and deep-water channels. Morro Bay, within California State waters, is a heavily used fishing port and one of the largest bay wildlife habitats on California's coast. At low tide, 1,400 acres of mud flats are exposed, providing a vast feeding ground for over 250 species of birds and access to an extensive clam shellfishery resource. This is an important nesting area for egrets, herons, and the endangered American peregrine falcon. A portion of this site falls within a State Park.

Tanner-Cortes Banks off California

This site consists of two neighboring rocky-bottom sites some 112 miles (180 km) west of San Diego, California. The composite area of these two sites is approximately 10 mi^2 extending down to the 200 feet (60 m) depth contour. The location of the banks in relation to oceanic currents results in a combination of both nearshore and offshore organisms. The underwater visibility is normally in excess of 10 feet (20 m). This area contains accessible, rare, relict lifeforms and newly-discovered species which have been the subject of scientific investigations. This area is important for maintenance of those species.

Western Pacific Region

Northern Mariana Islands

This site includes the waters out to 12 miles (20 km) from Uracus, Maug, Asuncion, Pagan, Guguan and Saigan Islands; and encompasses approximately 700 mi^2. All of the islands are unpopulated and the area consists of a unique north-south orientation that presents a natural setting for biogeographical studies of marine organisms along a temperature gradient.

Sea turtles (green and hawksbill), porpoises, whales (humpback and sperm) and marine birds are present in the area.

Southern Marians Islands

This site consists of a variety of tropical marine habitats in selected sites off the islands of Saipan, Rota, and Tinian, as well as the waters surrounding Aguijan Islands and Naftan Rock. All sites extend from the high-water line to the 150 foot (46 m), depth contour. The site includes Tanapag Lagoon, the fringing reefs around Managaha Island, the barrier reef down to 150 feet (46 m), around the northern tip (Point Sabaneta), and south to Point Tanke. On Tinian Island, the patch reef just south of the harbor is proposed. On Rota, the fringing reefs and submarine terrace from West Dock south around Puntan Taipingot to East Dock as well as the south-eastern portion of Sosanjaya Bay are proposed. The proposed sites of Saipan, Rota, Tinian, and Aguijan include a wide variety of marine organisms found in various habitats, i.e., lagoons, fringing reefs, barrier reefs, patch reefs and wave-washed beaches. The lagoon around Managaha Island is unique in that few lagoons exist in the Mariana Islands. An assemblage of marine birds nest on Bird Island (Saipan) and Naftan Rock (off Aguijan). The northern portion of Tanapag Lagoon (Wing Beach) is a known nesting area for green turtles.

Cocos Lagoon, Guam

This site includes the Cocos barrier reefs, Cocos Lagoon, three islets (Cocos Island, Babe Island, and a third sandy island), and the coastal region lying between the mouth of Mamaon and Manell Channels. The Triangular Lagoon is enclosed by barrier reefs nearly 3 miles (5 km) long on the northwest side, 3.5 miles (5.6 km) long on the south side, and by 2.5 miles (4 km) of steep mountainous land and alluvial coastal lowland on the northeast side. The area of the barrier reefs and lagoon together is 3.9 mi² (10 km²).

The Cocos Lagoon site consists of various habitats and a unique community of marine organisms: (1) fringing reef flats and nearshore area, (2) barrier reef with its seaward slopes and lagoonal slopes, (3) deep channels with vertical and oblique sloping walls, (4) patch reefs, and (5) shallow lagoon floor.

Facpi Point to Fort Santo Angel, Guam

The proposed area includes the offshore waters to depths of 60 feet (18.3 m) from Facpi Point to Fort Santo Angel on the northern side of Umatac Bay. The total area of the site is approximately 2 mi² (5 km²). The shoreline consists of rocky volcanic headlands with steep volcanic shorelines and beaches at the heads of three bays: Sella Bay, Cetti Bay, and Fouha Bay. Low-lying narrow terraces of limestone border much of the shoreline. The bordering reef flat is a narrow intertidal reef. A wide variety of coral and fish are found in the area. Both the green and hawksbill turtles utilize the area. The coastline also contains seven prehistoric archaeological sites and five historic sites from the Spanish occupation.

Papalola Point, Ofu Island, American Samoa

The site extends from the southernmost tip of Ofu Island eastward to Asagatai Point. It encompasses approximately 3 miles (4.8 km) of shoreline and adjacent fringing reef down to a depth of 150 feet (45 m). Papalola Point is an excellent example of a fringing reef community and is typical of that found throughout the tropical insular South Pacific. Fishes, corals, and other invertebrates are highly diverse and abundant. The site is unique in that it is the only place in American Samoa where the blue coral, *Heliopora coerulea*, is known to occur.

Great Lakes Region

Cape Vincent (Lake Ontario), New York

This site encompasses 450 mi² (1,165 km²) situated in the northeastern corner of Lake Ontario, and is the gateway to New York State's Thousand Islands resort area and the St. Lawrence Seaway. The Cape Vincent area includes some of the most biologically rich and diverse habitats within the Great Lakes region and represents an environment critical to the life histories of many commercially and recreationally important fisheries of the Great Lakes.

The area contains major fish spawning habitats for 27 species of finfish. Alewives and rainbow smelt (important food fish for Lake Ontario's rapidly growing Pacific salmon fishery), as well as northern pike, bullhead, yellow perch, smallmouth bass, brown trout, and rainbow trout spawn in these bays.

Grenadier Island, Little Galloo Island, and Gull Island are important resting, feeding, and nesting habitats for more than 3,000 birds, representing 69 species of migrating and indigenous waterfowl. Loons, grebes, petrels, gulls, white pelicans, double-crested cormorants, great blue herons, egrets, bitterns, ibises, swans, geese, ducks, teals, widgeons, terns, sandpipers, as well as osprey, bald eagles, and peregrine falcons feed and nest within the boundaries of the area.

Western Lake Erie Islands Including Sandusky Bay, Ohio (Lake Erie)

This site encompasses approximately 440 mi² (1,140 km²) of Sandusky Bay, open Lake Erie waters, lake and bay bed, and wetlands, all within Ohio State jurisdiction. The Muddy Creek Bay wetland on the western end of Sandusky Bay is the most extensive wetland in Ohio along the Lake Erie coast. The site is utilized as a migration area by waterfowl, shorebirds, and passerine (perching) birds. Mallards, black ducks, and blue-winged teals breed in the marsh areas. The endangered bald eagle has historically nested in this area. Dense concentrations of great blue herons, great egrets, and black-crowned night herons nest within the West Sister Island U.S. Game Refuge. Cormorants, gulls, and various waterfowl breed on other islands. The common egret, least bittern, hooded merganser, king rail, and common tern are also found within the proposed site.

Ninety-five species of fish have been reported from this area. The area's dominant fish species which breed withinn these waters are: walleye perch, bass, channel catfish, alewife, gizzard shad, carp, goldfish, freshwater drum, and emerald shiner.

The bottom-dwelling community is composed primarily of wide-spread and abundant chironomids and oligochaetes which are major food items for fish. Also distributed on and with the bottom are polychaete worms, caddis flies, coelenterates, flatworms, molluscs, amphipods, isopods, and other crustaceans. Two dozen species of freshwater mussel have been found on various substrates within the site.

Thunder Bay (Lake Huron), Michigan

This site includes Thunder Bay and vicinity (up to Middle Island) extending out to 83° W. Depths extend to over 300 feet (91 m) along the northeast section of the site. Altogether, the site has an area of approximately 400 mi² (1,034 km²) and is entirely within Michigan State waters.

The underwater limestone sinkhole, the large concentration of historical shipwrecks, and the proximity of the Michigan Islands National Wildlife Refuge establish this area as a particularly valuable historical, educational, and recreational resource.

There is a variety of biological niches in the Thunder Bay area. March vegetation along the edges of the

Michigan Islands provides a habitat and breeding area for thousands of colonial nesting birds such as ringbilled gulls, common terns, and herring gulls. Thunder Island alone hosts 11,000 breeding pairs of shorebirds. The area also serves as a habitat for 20 species of gamefish. Chinook salmon, rainbow trout, brown trout, splake, and steelhead are annually stocked by the Michigan Department of Natural Resources in the inland rivers that feed Thunder Bay.

Green Bay (Lake Michigan), Michigan and Wisconsin

The site covers an area of approximately 1,300 nmi² (3,300 km²) of Michigan and Wisconsin waters in Green Bay and part of Lake Michigan. The site consists of upper and lower units. The upper region is unpolluted and supports an existing (and potentially greater) fishery and important nursery and spawning grounds. The lower potion of the Bay is estuarine and contains warm water. Lower Green Bay is extremely polluted and highly eutrophic, although a concerted local, State, and Federal effort is continuing to improve water quality.

Over 37 species of fish spawn in the area. Salmon and lake trout are stocked by both State and Federal programs. A drastic depletion of certain fish populations occurred during recent times. Cisco are greatly reduced in number and the once common lake sturgeon is now endangered. Introduction of exotic species, such as German carp, alewife, ocean smelt, and sea lamprey, have markedly affected fish species composition in the area.

Bottom-dwelling tubificid worms and midge larve, generally recognized as indicators of poor environmental quality, are abundant near the middle and south portions of the Bay. The pollution-intolerant "shrimp" *Pontoporeia affinis* inhabits the northern Bay bottom.

Apostle Islands/Isle Royale, Lake Superior, Wisconsin

This site, composed of two important subunits, encompasses a total of 1,031 mi² of Wisconsin and Michigan waters situated in the western half of Lake Superior. One unit, roughly 375 mi² (970 km²), of the site lies adjacent to the Federally owned Apostle Islands National Lakeshore. The boundaries of this park extend ¼ mile (0.4 km) into Lake Superior. The proposed site would include submerged lands beyond this boundary owned by the State of Wisconsin. The second unit consists of 656 mi² (1700 km¹) of Michigan State waters and submerged lands surrounding Isle Royal National Park to a depth of 600 feet (183 m). Eastward of Blake Point, the site boundary extends offshore Isle Royale a maximum distance of approximately 11.5 mi (18.5 km).

The waters surrounding the Apostle Islands and Isle Royale represent an important habitat, feeding and breeding grounds for commercially and recreationally important fish and wildlife. Twenty-one species of fish are known to spawn in these waters. Two unusual forms of lake trout (the Sicowet and the "humper") have been found to inhabit the deeper waters of the site. The pygmy whitefish is known to occur only in Lake Superior.

The waters in and around the islands in this region are used extensively as breeding, nursery, and feeding areas for more than 43 species of birds and ducks, including such fish-eating birds as the common loon, bald eagle, osprey, mergansers, and endangered double-crested cormorants which are making a comeback.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: July 27, 1983.

K. E. Taggart,

Acting Assitant Administrator for Ocean Services and Coastal Zone Management.

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Part IV

Department of Agriculture

Forest Service

Disposal of Mineral Materials; Proposed Rule

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Parts 228 and 251

Disposal of Mineral Materials

AGENCY: Forest Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department of Agriculture proposes to revise its regulations for the use and disposal of mineral materials on National Forest lands. The existing regulations comprise two parts which were promulgated in response to separate legislative authorities; resultant inconsistencies have created procedural confusion. The intended effect of this proposed rule is to provide applicants and land managers with a consistent set of clear procedures to follow for the disposal of mineral materials.

DATE: Comments must be received on or before October 3, 1983.

ADDRESSES: Send written comments to: R. Max Peterson, Chief (2800), Forest Service, USDA, P.O. Box 2417, Washington, DC 20013.

All written submissions relative to this notice will be available for public inspection in Room 803, 1621 North Kent Street, Rosslyn Plaza, Building E, Arlington, Virginia, between 7:30 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Howard E. Banta, Director, Minerals and Geology Management, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013 (703) 235–8105.

SUPPLEMENTARY INFORMATION: The Secretary of Agriculture has the statutory authority to dispose of petrified wood and common varieties of sand, stone, gravel, pumice, pumicite, cinders, clay, and other similar materials on lands administered by the Forest Service. That authority derives, in part, from the Multiple-Use Mining Act of 1955 (30 U.S.C. 601, 603, 611–615), which amended the Materials Act of 1947 to permit disposals from National Forest lands reserved from the public domain. The authority to dispose of mineral materials from lands acquired under the authority of the Weeks Act of 1911 (36 Stat. 961) stems from the Act of March 4, 1917 (16 U.S.C. 520). That authority was revested in the Secretary of Agriculture by the Act of June 11, 1960 (74 Stat. 205) for Weeks Act lands and for those lands given Weeks Act status by the Act of September 2, 1958 (16 U.S.C. 521a)). In 1960 and 1956, for lands reserved and acquired respectively, the Forest Service published its current regulations in response to those shifts in authorities; those regulations are set forth at 36 CFR 251.4, for lands reserved from the public domain, and at 36 CFR 251.4a, for acquired and related lands.

The inconsistencies in terminology and application inherent in the present approach have resulted in confusion for applicants and land managers alike. This unnecessary confusion can be best eliminated by a single set of procedures that integrates method of disposal with land status and that uses terminology consistently throughout.

All references to leases and to royalty rates have been eliminated in the revision. The preference right concept remains applicable to certain disposals from acquired National Forest lands; "preference right negotiated sale" will simply replace "preference right lease." The terms "contract" and "contract holder" will then apply specifically to all sales of mineral materials, whether competitive or negotiated; a sale, by definition, represents an exchange of value. The terms "permit" and "permittee" in the proposed rule will apply only to free-use disposals, except where prospecting permits on acquired National Forest lands are indicated.

Sale quantities or limitations will be expressed in volume (or weight equivalent) units rather than in dollar values; this change will provide a constant quantity reference unaffected by variations in price levels. The proposed revisions will have no effect on the amount of mineral materials available for disposal from National Forest lands. While individual sales may have significant local economic effects, annual receipts from sales of such materials from National Forest lands have always been a small fraction of the aggregate mineral-derived revenues; those yearly totals will not be appreciably changed by this rule.

The proposed rule makes no substantive changes in the requirements of applicants or of the Forest Service under the existing rule. It merely clarifies and streamlines the procedures for the disposal and management of mineral materials. An intensive effort was made to simplify the text and to improve its readability.

Regulatory Impact

This proposed rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that this regulation is not a major rule. The regulation will not have an effect on the economy of $100 million or more and, in and of itself, will not increase major costs to consumers, geographic regions, industry, or Federal, State, and local agencies. The regulation is essentially procedural, and, therefore, it will not adversely affect competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete in foreign markets.

Controlling Paperwork Burdens on the Public

This proposed rule contains several information collection requirements as defined in Office of Management and Budget rules for controlling paperwork burdens on the public (5 CFR 1320.7). These requirements relate to information to be provided to Forest Service officials in applying for permits for or the purchase of mineral materials, for submitting operating plans and other information attendant to obtaining approval to extract mineral materials from National Forest lands, or for reporting the quantity of material removed for the purposes of establishing the amount of payment to the United States.

These information collection requirements have been submitted to the Office of Management and Budget for review. Those wishing to comment on the information collection requirements in this proposed rule must direct their comments to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for Forest Service, USDA.

Small Entity Impact

In accordance with the Regulatory Flexibility Act of 1981 (5 U.S.C. 601 et seq.), the Assistant Secretary of Agriculture for Natural Resources and Environment has determined that this action will not have a significant economic impact on a substantial number of small entities. It imposes no new paperwork or recordkeeping requirements on small entities. The only costs to small entities associated with the proposed rule would be those required to apply for a permit for or purchase of mineral materials, or for an extension thereof; to prepare and submit for approval a plan of operations; and, in some cases, to report the quantity of material removed. The information collection and reporting requirements to which a small entity would be subject under the rule have been kept to the minimum necessary for the protection of the surface resources of National Forest lands and to guarantee a fair remuneration to the United States for the value of the material removed. These requirements are well within the capability of small entities involved in extracting mineral materials; therefore, the rule should not affect the

competitive position of small entities in relation to large entities, nor should it affect their cash flow, liquidity, or ability to remain in the market.

Environmental Impact Statement

The Forest Service has determined that the proposed rule is not a major Federal action significantly affecting the quality of the human environment. Therefore, no detailed statement is required by the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

List of Subjects in Part 228

Administrative practice and procedure, Environmental protection, Mineral resources, Mines, National forests, Surety bonds.

For the reasons set out in the preamble, it is proposed to amend 36 CFR Chapter II as follows:

PART 251—[AMENDED]

1. The table of contents of Part 251 is amended by removing the headings for § 251.4, Disposal of materials, and § 251.4a, Use and disposal of materials in acquired and related lands.

§§ 251.4 and 251.4a [Removed]

2. Part 251 is amended by removing §§ 251.4 and 251.4a.

3. Part 228 is amended by adding a table of contents for a new Subpart C to read as follows:

PARTY 228—MINERALS

* * * * *

Subpart C—Disposal of Mineral Materials

Sec.
228.40 Authority.
228.41 Application of other laws and regulations.
228.42 Definitions.
228.43 Scope.
228.44 Policy governing disposal.
228.45 Disposal on existing Federal leased areas.
228.46 Qualifications of applicants.

General Provisions

228.47 General terms and conditions of contracts and permits.
228.48 Appraisal and measurement.
228.49 Reappraisal.
228.50 Production records.
228.51 Performance and reclamation bond.
228.52 Assignments.
228.53 Time allowed for removal.
228.54 Single entry permits or sales.
228.55 Cancellation or suspension of contracts and permits.
228.56 Operating plans.

Types and Methods of Disposal

228.57 Types of disposal.
228.58 Competitive sales or contracts.
228.59 Negotiated or noncompetitive sales.
228.60 Prospecting permit.
228.61 Preference right negotiated sale contract.
228.62 Free use.
228.63 Removal under terms of a timber sale or other Forest Service contract.
228.64 Community pits and common-use areas.
228.65 Payment for sales.
228.66 Refunds.

Authority: 16 U.S.C. 551; 30 U.S.C. 601.

4. Part 228 is amended to establish a new subpart C to read as follows:

Subpart C—Disposal of Mineral Materials

§ 228.40 Authority.

Authority for the disposal of mineral materials is provided by the Materials Act of July 31, 1947 (30 U.S.C. 601 et seq.), as amended by the Acts of August 31, 1950 (30 U.S.C. 603–604), July 23, 1955 (30 U.S.C. 601, 603), and September 25, 1962 (30 U.S.C. 602), and by the following: the Act of June 4, 1897 (16 U.S.C. 477); the Act of March 4, 1917 (16 U.S.C. 520); the Act of September 1, 1949 (Section 3) (30 U.S.C. 192c); the Act of June 30, 1950 (16 U.S.C. 508b); the Act of June 28, 1952 (Section 3) (66 Stat. 285); the Act of June 11, 1960 (74 Stat. 205); the Federal Highway Act of August 27, 1958 (23 U.S.C. 101 et seq.); and the Alaska National Interest Lands Conservation Act of December 2, 1980 (Section 502) (16 U.S.C. 539a).

§ 228.41 Application of other laws and regulations.

All mining operations for removal of mineral materials from National Forest lands are required to meet or exceed applicable Federal, State, and local standards for the protection of public safety, health, and the natural environment.

§ 228.42 Definitions.

For the purposes of this subpart, the following terms are defined:

Acquired National Forest Lands. All National Forest lands acquired pursuant to the Weeks Act of March 1, 1911 (36 Stat. 961), and all National Forest lands with Weeks Act status as provided in the Act of September 2, 1958 (16 U.S.C. 521a).

Authorized Officer. Any Forest Service officer to whom authority for disposal of mineral materials has been delegated.

Common-Use Area. Generally, a broad geographic area from which nonexclusive disposals of mineral materials available on the surface can be made.

Community Site. A site noted on appropriate Forest records and posted on the ground from which nonexclusive disposals and mineral materials may be made.

Mineral Materials. A collective term used throughout this Subpart to describe petrified wood and common varieties of sand, gravel, stone, pumice, pumicite, cinders, clay, and other similar materials. Common varieties do not include deposits of those materials which are valuable because of some property giving them distinct and special value, nor do they include "so-called 'block pumice' " which occurs in nature in pieces having one dimension of 2 inches or more.

Preference Right Negotiated Sale. A negotiated sale awarded in response to the finding and demonstration of a valuable mineral material deposit on acquired National Forest land as the result of exploratory activity conducted under the authority of a prospecting permit.

Prospecting Permit. A written instrument issued by the Forest Service which authorizes prospecting for a mineral material deposit on acquired National Forest lands within specific areas, under stipulated conditions, and for a specified period of time.

Single Entry Source. A source of mineral materials which is expected to be depleted under a single contract or permit or which is reserved for Forest Service use.

Unpatented Mining Claim. A lode or placer mining claim or a millsite located under the General Mining Law of 1872, as amended (30 U.S.C. 21–54), for which a patent under 30 U.S.C. 29 and regulations of the Department of the Interior has not been issued.

Withdrawn National Forest Lands. National Forest lands segregated or otherwise withheld from settlement, sale, location, or entry under some or all of the general land laws (43 U.S.C. 1702(j)).

§ 228.43 Scope.

(a) *Lands to which this subpart applies.* This subpart applies to all National Forest System lands reserved from the public domain of the United States; to all National Forest System lands acquired pursuant to the Weeks Act of March 1, 1911 (36 Stat. 961); to all National Forest System lands with Weeks Act status as provided in the Act of September 2, 1958 (16 U.S.C. 521a); and to public lands within the Copper River addition to the Chugach National Forest (16 U.S.C. 539a). For ease of reference and convenience to the reader, these lands are referred to, throughout this subpart, as "National Forest lands."

(b) *Restrictions.* Disposal of mineral materials from the following National Forest lands is subject to certain restrictions as described:

(1) *Segregations or withdrawals in aid of other agencies.* Disposal of mineral materials from lands segregated or withdrawn in aid of a function of another Federal agency, State, territory, county, municipality, water district, or other governmental subdivision or agency may be made only with the written consent of the governmental unit.

(2) *Segregated or withdrawn National Forest lands.* Except as provided in paragraph (b)(1) above, mineral materials shall not be disposed of from lands which have been segregated or withdrawn from mineral development under the public land laws, including the mining and mineral leasing laws; except where such disposals have been established prior to the effective date of this Subpart and where not prohibited by statute, they may be permitted to continue. Nothing in this subparagraph is intended to prohibit the exercise of valid existing rights.

(3) *Unpatented mining claims.* Provided that claimants are given prior notice and it has been determined that disposal will neither endanger nor materially interfere with prospecting, mining, or processing operations or uses reasonably incident thereto on the claims, disposal of mineral materials may be allowed from:

(i) Unpatented mining claims located after July 23, 1955; and/or

(ii) Unpatented mining claims located prior to July 23, 1955, and on which the United States has established the right to manage the vegetative and other surface resources in accordance with the Multiple-Use Mining Act of July 23, 1955 (30 U.S.C. 601, 603, 611–615).

§ 228.44 Policy governing disposal.

(a) *General.* Forest Service policy is to make mineral materials on National Forest lands available to the public and to local, State, and Federal government agencies where reasonable protection of, or mitigation of effects on, other resources is assured, and where removal is not prohibited. A contract or permit limits processing of the mineral material onsite to the first salable product. Additional onsite processing may be authorized by a separate permit (36 CFR 251.50).

(b) *Methods of disposal.* Subject to the limitations set forth herein, disposal of mineral materials may be made by sale (contract), by free-use permit, or by designation as a mineral materials source in a contract issued by or for the direct use of the Forest Service.

(c) *Price.* Mineral materials shall not be sold for less than the appraised value.

(d) *Conservation.* Adequate measures shall be taken to protect, and minimize damage to, the environment. Mineral materials shall be disposed of only if the authorized officer determines that the disposal is in the public interest.

(e) *Ownership.* Disposal of mineral materials is a conveyance of real property. Title shall vest in the contract holder or permittee immediately before excavation and removal.

§ 228.45 Disposal on existing Federal leased areas.

Mineral material contracts or permits may be issued within existing areas leased under the 1920 Mineral Leasing Act, as amended (30 U.S.C. 181–187); Section 402 of Reorganization Plan No. 3 of 1946 (5 U.S.C. Appendix); the 1947 Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351 et seq.); and the 1970 Geothermal Steam Act (30 U.S.C. 1001–1025), provided that it has been determined that disposal will neither endanger nor unreasonably interfere with lease operations, and provided further that the lease terms do not prohibit disposal.

§ 228.46 Qualifications of applicants.

Applicants for prospecting permits, negotiated contracts, or free-use permits or bidders for the sale of mineral materials may be required by the authorized officer to furnish information necessary to determine their ability to perform the obligations of the contract or permit.

General Provisions

§ 228.47 General terms and conditions of contracts and permits.

(a) *Disposal of designated mineral materials.* Only those specified mineral materials found within the area designated in the contract or permit shall be extracted.

(b) *Unauthorized removal (trespass) of mineral materials.* The removal of mineral materials from National Forest lands, except when authorized in accordance with applicable law and the regulations of the Department of Agriculture, is prohibited (36 CFR 261.9).

(c) *Conservation.* Mineral material contracts and permits shall contain provisions to ensure the efficient removal and conservation of the source of the mineral material and to preclude, to the extent practicable, highgrading of the source.

(d) *Improvements.* Contracts and permits shall contain provisions for removal of Government retention of improvements.

(e) *Use of existing National Forest Development Roads.* Contract holders and permittees are required to obtain appropriate road-use permits, make deposits for or perform their commensurate share of road maintenance, and comply with road-use rules contained in 36 CFR 212.

(f) *Reclamation.* Requirements for reclamation of areas disturbed by the removal of mineral materials shall be included in the contracts and permits.

§ 228.48 Appraisal and measurement.

(a) *Appraisal.* All mineral materials for sale or free use shall be appraised to determine fair market value. Appraisals shall be based on knowledge of the extent of the deposit, quality of material, and economic value. A sale shall not be made at less than the appraised value which may be expressed in either price per cubic yard (or weight equivalent) or a percentage of the pit selling price.

(b) *Measurement.* Mineral material shall be measured by volume, weight, truck tally, by combination of these methods, or by such other form of measurement as the authorized officer determines to be appropriate and in the public interest.

§ 228.49 Reappraisal.

If an extension of time is granted as provided in § 228.53(b), the mineral materials covered by the contract or permit and which remain unexcavated shall be reappraised by the authorized officer at the time of extension. If the reappraised value exceeds the value in the original contract or permit, the reappraised value shall become the new unit value for the remaining material.

§ 228.50 Production records.

The volume in cubic yards (or weight equivalent) shall be furnished annually by the contract holder or permittee to the authorized officer on each National Forest.

§ 228.51 Performance and reclamation bond.

(a) *Bond requirements*—(1) For *advance payment contracts* for 10,000 cubic yards or more in volume (or weight equivalent), a performance and reclamation bond of not less than 10 percent of the total contract price or the value of the estimated annual production (whichever is less), plus the reclamation cost for the area covered by annual mining, shall be required. When the total volume is less than 10,000 cubic yards, bond requirements, if any, shall be at the discretion of the authorized officer.

(2) For any *deferred payment contract*, a performance and reclamation

bond equalling the value of the estimated annual production plus the reclamation cost for the area covered by annual mining shall be required.

(3) A *reclamation bond for free use* shall be sufficient to cover the cost of rehabilitation of the anticipated annual work as determined by the authorized officer.

(b) *Types of bonding.* A performance and/or reclamation bond must be one of the following:

(1) A bond of a corporate surety shown on the latest approved list issued by the U.S. Treasury Department and executed on an approved standard form;

(2) A cash bond;

(3) Negotiable securities of the United States;

(4) An irrevocable letter of credit acceptable to the Forest Service; or

(5) A performance bond required by other Forest Service contracts or permits, provided such bond covers the performance and reclamation requirements related to the removal of mineral material from a designated pit or area for use in the performance of that contract or permit.

§ 228.52 Assignments.

(a) *Limitations.* A contract holder may not assign the contract, or any interest therein, without the written approval of the authorized officer. Permits may not be assigned.

(b) *Requirements of assignee.* The authorized officer shall not approve any proposed assignment involving contract performance unless the assignee:

(1) Submits information necessary to assure the authorized officer of the assignee's ability to meet the same requirements as the original contract holder (assignor); and

(2) Furnishes a bond or obtains a commitment from the previous surety to be bound by the assignment when approved.

(c) *Rights and obligations.* Upon approval of an assignment by the authorized officer, the assignee shall be entitled to all the rights and be subject to all of the obligations under the contract; however, the assignor shall remain liable for the proper performance of the contract.

§ 228.53 Time allowed for removal.

(a) *Time allowed.* Except as provided in § 228.61(e), the time allowed for excavation and removal of mineral materials under contract or permit shall not exceed 1 year from the date of the contract or permit unless a written extension is obtained. For those mineral materials sold under a duration of production contract or under a contract for the sale of all mineral material within a specified area, or under a construction contract where removal cannot reasonably take place before completion of other work under the same contract, the authorized officer shall establish a reasonable time period for removal.

(b) *Extension of time.* If it is shown that a delay in removal was due to causes beyond the control of the contract holder or permittee, the authorized officer may grant an extension, not to exceed 1 year, upon written request. Such written requests must be received between 30 and 90 days before the expiration date of the time allowed for removal. Additional extensions may be similarly requested.

§ 228.54 Single entry permits or sales.

The contract holder or permittee shall be required to rehabilitate a single entry source in accordance with an approved operating plan which describes operating procedures and rehabilitation measures, unless the requirement is waived by the authorized officer.

§ 228.55 Cancellation or suspension of contracts and permits.

The authorized officer may cancel or suspend a contract or permit if the contract holder or permittee fails to comply with its terms and conditions. If the noncompliance is unnecessarily or unreasonably causing injury, loss, or damage to surface resources, the contract or permit may be canceled or suspended immediately. In cases where noncompliance is of a less serious nature, the authorized officer may cancel or suspend a contract or permit if such noncompliance continues for 30 days after service of written notice by the Forest Service.

§ 228.56 Operating plans.

Any surface-disturbing operation under a contract or permit shall be subject to prior approval of a plan of operations and to reasonable conditions as may be required to ensure proper protection of the environment and improvements, including timely reclamation of disturbed lands. Revisions of operating plans require similar approval. The operating plan must include, as a minimum, a map and explanation of the nature of the access, anticipated activity, surface disturbance, and intended reclamation including removal or retention of structures and facilities. Plans shall be prepared by the contract holder or permittee, except as noted in § 228.64(b).

Types and Methods of Disposal

§ 228.57 Types of disposal.

Disposal of mineral materials may be made by:

(a) *Competitive sale* to the highest qualified bidder after formal advertising and other approprite public notice;

(b) *Sale by negotiated contract.* (1) For disposal of materials to be used in connection with a public works improvement program on behalf of a Federal, State, or local government agency if the public exigency will not permit delays incident to advertising, or

(2) For the disposal of mineral materials for which it is impracticable to obtain competition;

(c) *Preference right negotiated sale* to the holder of a Forest Service-issued prospecting permit under which a valuable mineral material deposit has been demonstrated on acquired National Forest lands;

(d) *Free use* when a permit is issued to any nonprofit association, corporation, or individual, for other than commercial purposes, resale, or barter, or to any Federal, State, county, local unit, subdivision, municipality, or county road district for use in public projects; or

(e) *Forest Service force account or by contract* where the material is to be used to carry out various Forest Service programs involving construction and maintenance of physical improvements.

§ 228.58 Competitive sales or contracts.

(a) *Invitation for bid.* Sales shall be awarded after inviting competitive bids through publication and posting. No competitive sales shall be offered by the authorized officer unless there is a right-of-way or other access to the sale area which is available to anyone qualified to bid.

(b) *Advertising*—(1) *Sales over 25,000 cubic yards.* Mineral material sales offered by competitive bidding and which exceed 25,000 cubic yards shall be advertised at least once in a newspaper of general circulation in the area where the material is located and in a trade or industrial newpaper when considered appropriate. Notice of the sale shall be posted in a conspicuous place in the office where bids are to be submitted. In addition, the advertisement may be sent directly to known interested persons. Bids shall be opened 2 weeks after advertising. The 2-week period may be extended at the discretion of the authorized officer.

(2) *Content of advertising.* The advertisement of sale shall specify the location by legal description of the tract or tracts or by any other means identify the location of the mineral material

deposit being offered, the kind of material, estimated quantities, the unit of measurement, appraised price (which sets the minimum acceptable bid), time and place for receiving and opening of bids, minimum deposit required, available access, maintenance required over haul routes, traffic controls, required use permits, required qualifications of bidders, the method of bidding, bonding requirement, notice of the right to reject any or all bids, the office where additional information may be obtained, and additional information the authorized officer deems necessary.

(3) *Advertising smaller sales.* Advertisement of mineral materials amounting to 25,000 cubic yards in volume (or weight equivalent) or less shall be published and/or posted. The methods of advertisement are at the discretion of the authorized officer.

(c) *Conduct of sales.* (1) Bidding at competitive sales shall be conducted by the submission of written sealed bids, oral bids, or a combination of both as directed by the authorized officer. In the event of a tie in high sealed bids, the highest bidder shall be determined by oral auction among those high bidders; when no oral bid is higher than the sealed bids, the selected bidder shall be determined by lot. For all oral auctions, including those used to break sealed-bid ties, the high bidder must confirm the bid in writing immediately upon being declared the high bidder. All bidders shall be notified of the bidding results within 10 days.

(2) At the request of either the authorized officer or the officer conducting the sale, bidders shall furnish evidence of qualification at the time of award or, if such evidence has already been furnished and is still valid, make appropriate reference to the record containing it.

(3) When it is in the interest of the United States to do so, the authorized officer may reject any or all bids.

(d) *Bid deposits and award of contract.* Sealed bids shall be accompanied by a deposit. For mineral materials offered at oral auction, bidders shall make the deposit before opening of the bidding.

(1) For all sale alternatives and sites, the bid deposit shall be equal to the value of mineral materials to be removed during 1 operating month, based on the appraised price. Minimum bid deposits shall not be less than $100.00.

(2) Bid deposits shall be in the form of cash, money order, bank drafts, cashier's or certified checks made payable to the Forest Service, or bonds acceptable to the Forest Service (see Forest Service Manual 6506).

(3) Upon conclusion of the bidding, the Forest Service shall return the deposits of all unsuccessful bidders. The successful bidder has the option to have the deposit either applied toward the purchase price or refunded before removal is begun. If the contract is not awarded to the high bidder due to an inability to perform the obligations of the contract, the deposit, less expenses and damages incurred by the United States, shall be returned. The return of a deposit does not prejudice any rights or remedies of the United States. The contract may be offered and awarded to the next successive qualified high bidder, or, at the discretion of the authorized officer, the sale may be either readvertised or negotiated if it is determined that a competitive sale is impracticable.

(4) Within 30 days after receipt of the contract, the successful bidder shall sign and return the contract, together with any required bond, unless the authorized officer has granted an extension for an additional 30 days. The bidder must apply for the extension in writing within the first 30-day period. If the successful bidder fails to return the contract within the first 30-day period or within an approved extension, the bid deposit, less the costs of readvertising and damages, shall be returned without prejudice to any other rights or remedies of the United States.

(5) All sales shall be processed on Forest Service-approved contract forms. The authorized officer may add provisions to the contract to cover conditions peculiar to the sale area. Such additional provisions shall be made available for inspection by prospective bidders during the advertising period.

§ 228.59 Negotiated or noncompetitive sales.

(a) *Volume limitations.* When it is determined by the authorized officer to be in the public interest and when it is impracticable to obtain competition, mineral materials not exceeding 100,000 cubic yards in volume (or weight equivalent) may be sold in any one sale at not less than the appraised value, without advertising or calling for bids, except as provided in paragraphs (b) and (c) of this section. Preference right negotiated sale contracts (§ 228.61) are exempt from volume limitations. The authorized officer shall not approve noncompetitive sales that exceed the total of 200,000 cubic yards (or weight equivalent) made in any one State for the benefit of any applicant in any one calendar year.

(b) *Government programs.* The authorized officer may sell to an applicant, at not less than the appraised value, without advertising or calling for bids, a volume of mineral materials not to exceed 200,000 cubic yards (or weight equivalent) to be used in connection with a public works improvement program on behalf of a Federal, State, or local governmental agency when the public exigency will not permit delays incident to advertising (30 U.S.C. 602).

(c) *Appropriation for highway purposes.* For interstate and/or Federal aid highways, the Secretary of Transportation may appropriate any volume in accordance with 23 U.S.C. 107 and 317.

(d) *Use in development of Federal mineral leases.* When it is determined to be impracticable to obtain competition and the mineral materials are to be used in connection with the development of a mineral lease issued by the United States (§ 228.45), the authorized officer may sell a volume of mineral material not to exceed 200,000 cubic yards (or weight equivalent) in one State in any one calendar year. No charge shall be made for materials which must be moved in the process of extracting the mineral under lease, as long as the materials remain stockpiled within the boundaries of the leased area.

§ 228.60 Prospecting permit.

(a) *Right conferred.* On acquired National Forest lands, prospecting permits may be issued which grant the permittee the exclusive right to explore for and to demonstrate the existence of a valuable mineral material deposit when existing information is insufficient. After the demonstration of a valuable deposit and confirmation of value by the authorized officer, the permittee is entitled to a perference right negotiated sale contract.

(b) *Limitations.* Mineral material may be removed from lands under a prospecting permit only to the extent necessary for testing and analysis or for the demonstration of the existence of a valuable deposit.

(c) *Environmental analysis.* Prospecting permits shall be issued only after submission by applicant and approval by the Forest Service of a detailed operating plan and in accordance with the National Environmental Policy Act (42 U.S.C. 4321 et seq.).

(d) *Acreage and permit limitations.* A prospecting permit shall not cover more than 640 acres. No individual or group may have an interest at any one time in more than three prospecting permits on a single National Forest or on National Forest lands administered by one Forest Supervisor.

(e) *Duration and extension of permits.* Prospecting permits may be issued for a period not to exceed 24 months, but they may be extended for an additional 24 months if necessary to complete prospecting. Any application for extension must be filed 30 days before expiration of the permit. The application for extension shall provide evidence of diligence and state the reasons why additional time is considered necessary to complete prospecting work.

(f) *Refusal to extend permits.* The authorized officer shall reject applications for extension of prospecting permits for the following reasons:

(1) *Failure to perform.* Failure of the permittee to perform prospecting or exploration work without adequate justification shall result in the denial of an extension; or

(2) *Failure to file.* If an application for extension is not filed within the specified period, the permit shall expire without notice to the permittee.

§ 228.61 Preference right negotiated sale contract.

(a) *Qualification for contract.* When applying for a preference right negotiated sale contract, the permittee must demonstrate that a valuable deposit of mineral materials has been discovered within the area covered by the prospecting permit. This condition is met when it can be shown to the satisfaction of the authorized officer that the revenues from the sale of the discovered mineral material will exceed the costs of developing, extracting, removing, and marketing the material, including the mitigation of adverse environmental impacts and rehabilitation of the disturbed land. Information concerning trade secrets and financial matters submitted by the permittee and identified as confidential shall not be available for public examination except as otherwise agreed upon by the permittee.

(b) *Application for contract.* The application shall be filed in the district Ranger's office on or before the expiration date of the prospecting permit or its extension. The authorized officer may grant 30 additional days for filing the application if requested in writing by the permittee before expiration of the prospecting permit or its extension.

(c) *Terms and conditions of contract.* The terms and conditions shall be evaluated on an individual case basis. Only those mineral materials specified in the contract may be removed by the contract holder. Before a preference right sale contract is issued, an approved operating plan and an environmental analysis are required. The contract shall be subject to the conditions under §§ 228.47 through 228.51.

(d) *Acreage limitations.* The authorized officer shall determine the amount of acreage in the preference right negotiated sale contract based on a presentation of the permittee's needs. The maximum acreage allowable to any individual or group shall not exceed 320 acres on a single National Forest or on National Forest lands administered by one Forest Supervisor. The allowable acreage may be in one or more units which are not necessarily contiguous.

(e) *Contract time allowable.* A contract or a renewal shall not exceed 5 years; however, the contract holder may have renewal options at the end of each contract or renewal period. Approval for renewal is dependent upon the contract holder's diligence in conducting the operation. The contract may be canceled by the authorized officer or forfeited by the contract holder if no substantial commercial production occurs during any continuous 2-year period after the award of the contract or for breach of contract terms and conditions. However, if a delay is caused by conditions beyond the control of the contract holder, an extension equal to the lost time may be granted by the authorized officer.

(f) *Contract renewal reappraisal.* At the time of contract renewal, the mineral material deposit shall be reappraised as in § 228.49.

§ 228.62 Free use.

(a) *Application.* An application for a free-use permit shall be filed in the appropriate District Ranger's office.

(b) *Term.* Permits shall be granted for periods not to exceed 1 year and shall terminate on the expiration date unless extended by the authorized officer as in § 228.53(b). However, the authorized officer may grant permits to any local, State, Federal, or Territorial agency, unit or subdivision, including municipalities and county road districts, for periods up to 10 years. The permittee shall notify the authorized officer upon completion of mineral material removal. The permittee shall complete the reclamation prescribed in the plan of operation.

(c) *Removal by agent.* A free-use permittee may extract the mineral materials through an agent. No part of the material may be used as payment for the services of an agent in obtaining or processing the material.

(d) *Conditions.* Free-use permits may be issued for mineral materials to settlers, miners, residents, and prospectors for uses other than commercial purposes, resale, or barter (16 U.S.C. 477). Free-use permits may be issued to local, State, Federal, or Territorial agencies, units, or subdivisions, including municipalities, or any association or corporation not organized for profit, for other than commercial or industrial purposes or resale (30 U.S.C. 601). Free-use permits shall not be issued when the applicant owns or controls an adequate supply of mineral material in the area of demand. The free-use permit, issued on a Forest Service-approved form, shall include the basis for the free use and for provisions, if any, governing the selection, removal, and use of the mineral materials. No mineral material shall be removed until the permit is issued.

(1) A free-use permit may be issued to any local, State, Federal, or Territorial agency, unit, or subdivision, including municipalities and country road districts, without limitation on the number of permits or on the value of the mineral materials to be extracted or removed.

(2) A free-use permit issued to a nonprofit association, corporation, or individual shall not provide for the disposal of mineral materials having a volume exceeding 5,000 cubic yards (or weight equivalent) during any one calendar year.

(e) *Petrified wood.* (1) Petrified wood shall not be disposed of by sale.

(2) A free-use permit may be issued to amateur collectors and scientists to take limited quantities of petrified wood for personal use. The material taken may not be bartered or sold. Free-use areas may be designated within which a permit may not be required. Removal of material from such areas shall be in accord with rules issued by the authorized officer and posted on the area. Such rules shall also be posted in the District Ranger's and Forest Supervisor's offices and will be available upon request. The rules may vary by area depending on the quantity, quality, and accessibility of the material and the demand for it.

§ 228.63 Removal under terms of a timber sale or other Forest Service contract.

In carrying out programs such as timber sales that involve construction and maintenance of various physical improvements, the Forest Service may specify that mineral materials be mined, manufactured, and/or processed for incorporation into the improvement. Where the mineral material source is located on National Forest lands and is designated in the contract calling for its use, no permit shall be required, and no permit shall be issued to the same contract holder as long as all requirements pertaining to entry, use, and rehabilitation of the source are

contained in the contract provisions. Any of the specified or processed mineral material in excess of that needed to fulfill contract requirements remains the property of the United States without reimbursement to the contract holder or to agents or representatives of the contract holder.

§ 228.64 Community pits and common-use areas.

(a) *Designation.* Nonexclusive disposals may be made from the same deposit or areas designated by the authorized officer; the designation of such an area and any reclamation requirements shall be based on an environmental analysis.

(b) *Pit plans.* The Forest Service shall prepare operating plans as specified by § 228.56 for the efficient removal of the material and for appropriate reclamation of community pits and common-use areas.

(c) *Reclamation.* Reclamation costs for community pits or common-use areas shall be borne by the Forest Service.

§ 228.65 Payment for sales.

(a) *Conditions.* Mineral materials shall not be removed from the sale area until all conditions of payment in the contract have been met.

(b) *Advance payment.* (1) For negotiated and competitive sales the full amount may be paid before removal is begun under the contract or by installment at the discretion of the authorized officer. Installment payments shall be based on the estimated removal rate specified in the operating plan and shall be, as a minimum, the value of 1 month's removal, and as a maximum, the value of 3 months' removal. The first installment shall be paid before removal operations are begun; remaining installments shall be payable in advance of removal of the remaining material as billed by the authorized officer. The total amount of the purchase price shall be paid 60 days before the expiration date of the contract.

(2) All advance payment contracts shall provide for reappraisal of the mineral material at the time of contract renewal or extension. If, upon termination, the total payments made under the contract exceed the total value of the actual material removed, the excess shall be returned to the contract holder, except for payments in lieu of minimum production pursuant to paragraph (b)(3) of this section.

(3) Minimum annual production shall be sufficient to return a payment to the United States equal to the first installment. In lieu of minimum production, there shall be an annual payment in the amount of the first installment which will not be credited to future years' production. Payments for or in lieu of minimum annual production shall be received by the authorized officer on or before the anniversary of the effective date of the contract. If the contract holder fails to make payments when due, the contract shall be considered breached; the contract shall be terminated, and all previous payments shall be forfeited without prejudice to any other rights and remedies of the United States. Forfeiture shall not result when the contract holder is unable to meet the minimum annual production (volume or value) for reasons beyond the control of the contract holder.

(4) In order to determine payment amount, the contract holder shall be required to make a report of operations. The report shall include the amount of mineral material removed, which shall be verified by the authorized officer.

(c) *Deferred payments.* When approved by the authorized officer, deferred payments may be accepted for contracts or permits which are on a 1- to 5-year period with annual renewal option.

(1) Payments may be made monthly or quarterly and shall be based on the in-place value (volume or weight equivalent) of material removed during the payment period. All payments due shall be made before contract renewal.

(2) Performance and reclamation bonds shall be delivered to the authorized officer before operations are begun.

§ 228.66 Refunds.

Upon termination of any negotiated or competitive sale contract, payments in excess of $10 may be refunded under any of the following conditions:

(a) *Payment in excess of value.* If the total payment exceeds the value of the mineral material removed, unless it is the minimum annual payment in lieu of production;

(b) *Insufficiency of material.* If insufficient mineral material existed in the sale area to fulfill the term of the contract;

(c) *Termination.* (1) If the contract is terminated by the authorized officer for reasons which are beyond the control of the contract holder; or

(2) If the contract is terminated by mutual agreement.

This refund provision shall not be construed as a warranty that a specific quantity of material exists in the sale area.

Dated: July 19, 1983.

John B. Crowell, Jr.,

Assistant Secretary for Natural Resources and Environment.

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Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
DOT/COAST GUARD	USDA/FNS		DOT/COAST GUARD	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/FHWA	USDA/SCS		DOT/FHWA	USDA/SCS
DOT/FRA	MSPB/OPM		DOT/FRA	MSPB/OPM
DOT/MA	LABOR		DOT/MA	LABOR
DOT/NHTSA	HHS/FDA		DOT/NHTSA	HHS/FDA
DOT/RSPA			DOT/RSPA	
DOT/SLSDC			DOT/SLSDC	
DOT/UMTA			DOT/UMTA	

Note: The Office of the Federal Register proposes to terminate the formal program of agency publication on assigned days of the week. See 48 FR 19283, April 28, 1983.

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 August 3, 1983

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