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Federal Register

Friday
August 5, 1983

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Merit Systems Protection Board

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Environmental Protection Agency

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Food and Drug Administration

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Presidential Documents

Title 3—

The President

Presidential Determination No. 83–8 of July 19, 1983

Determination to Authorize the Furnishing of Immediate Military Assistance to Chad

Memorandum for the Secretary of State

Pursuant to the authority vested in me by Section 503(a) of the Foreign Assistance Act of 1961, as amended (the Act), I hereby find that the furnishing of military assistance to Chad will strengthen the security of the United States and promote world peace.

Pursuant to the authority vested in me by section 506(a) of the Act, I hereby determine that:

1) an unforeseen emergency exists which requires immediate military assistance to Chad; and

2) the aforementioned emergency requirement cannot be met under the authority of the Arms Export Control Act or any other law except Section 506(a) of the Act.

Therefore, I hereby authorize the furnishing of up to $10,000,000 in defense articles from the stocks of the Department of Defense, defense services of the Department of Defense, and military education and training to Chad under the provisions of chapters 2 and 5 of part II of the Act.

This determination shall be reported to Congress immediately and published in the **Federal Register.**

Ronald Reagan

THE WHITE HOUSE,
Washington, July 19, 1983.

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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Documentation and Verification of Eligibility

AGENCY: Food and Nutrition Service, USDA.

ACTION: Interim rule.

SUMMARY: This interim rule amends Part 226 to implement several provisions of section 803 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. This regulation establishes standards for the documentation of eligibility and sets forth procedures for the verification of information on free and reduced-price applications submitted to insititutions. These actions are intended to prevent errors and abuse in the delivery of free and reduced-price meal benefits.

DATES: This interim rule is effective September 6, 1983. At that time, State agencies shall begin implementation activities to ensure that these regulatory requirements are met for the 1984 Program year, which in most cases begins on October 1, 1983. To be assured of consideration comments on this interim rule must be postmarked on or before December 5, 1983.

ADDRESS: Comments should be sent to Director, Child Care and Summer Programs Division, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written submissions regarding this interim rule and comments received on the proposal will be available for public viewing in Room 416, 3101 Park Center Drive, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5:00 p.m.) Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Beverly Walstrom at the address listed above, or call (703) 756–3888.

SUPPLEMENTARY INFORMATION: *Classification.* This action has been reviewed under Executive Order 12291 and has been classified *not major* because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. The rule is intended to ensure that free and reduced-price benefits are directed to only those children from families whose income falls within the Income Eligibility Guidelines set forth by the Department by household size.

This rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Pursuant to that review, Robert E. Leard the Administrator of the Food and Nutrition Service, has certified that it does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements that are included in this rule have been submitted and approved by the Office of Management and Budget (OMB), under clearance 0584–0055. The Department has chosen to publish an interim rule to permit State agencies and institutions time to operate under these provisions and provide comments based on their experiences. Comments will be accepted on these requirements during the implementation period. Program participants are encouraged to submit comments on the operational aspects of these requirements. This rulemaking will be finalized on schedule with the final National School Lunch Program regulations on eligibility determination and verification.

Background. The Child Care Food Program (CCFP) is authorized by Section 17 of the National School Lunch Act, as amended. On April 15, 1983, the Department published proposed rulemaking, CCFP Documentation and Verification of Eligibility, at 48 FR 16278–16286. The proposal was developed to implement a number of changes in the CCFP resulting from the passage of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. In particular, the proposed regulation was developed in response to various amendments made in the National School Lunch Act (NSLA) by Section 803 of Pub. L. 97–35.

Although a number of the nondiscretionary changes mandated by Pub. L. 97–35 were included in the text of the April 15, 1983, proposal, the public was advised that those provisions were not subject to comment since they were previously implemented through the publication of the interim and final CCFP nondiscretionary rules, published on November 27, 1981 (46 FR 57980–58006), and August 20, 1982 (47 FR 36524–36551), respectively. These provisions appeared in the proposal due to the general reorganization of § 226.23 of the CCFP regulations, and were identified in the preamble to the proposed rule.

The Department has been involved in litigation concerning the collection of social security numbers in the CCFP. In the court order issued June 9, 1983, in the *Alcarez* v. *Block* suit, the judge issued a permanent injunction enjoining the Department from (1) requiring collection of social security numbers as a condition of eligibility for free or reduced-price meals; (2) making any use of social security numbers already collected and (3) denying free or reduced-price meal eligibility status on the basis of social security numbers, until the Department completes a notice-and-comment rulemaking.

The Department has appealed the district court order to the United States Court of Appeals for the Ninth Circuit. The appeal is the early stages of litigation. Because of the injunction issued in the *Alcarez* litigation, and because the Department believes it is imperative to implement the congressionally mandated social security collection requirement, the Department again submitted the collection requirement for public comment in the April 15 proposal. The Department has now completed a second notice and comment rulemaking procedure concerning the collection

requirement. The collection requirement is reinstituted by this interim rule.

Twenty-nine (29) comments were received on the proposal. Commentors included Food and Nutrition Service (FNS) Regional Offices, State administering agencies, advocacy groups, Program participants, and other interested parties. All comments were studied and summarized so that they could be systematically considered during development of this interim rule.

Comments on regulatory issues are presented by issue in the preamble. In most instances, comments which recommended changes contrary to the Program's authorizing statute or which were not accompanied with some justification or rationale are not addressed in this preamble. This preamble sets forth the basis and purpose behind the substantive changes which have been made to the April 15, 1983, proposed regulations. Interested parties can assume that the reasons discussed in the preamble to the proposed rule are still valid for those provisions which are not revised in this interim rule. A thorough understanding of the interim rule may require reference to the preamble of the proposal.

The Department also received a small number of technical and editorial comments from the public. Although it is not possible to list each one of the comments of this nature, some of these recommendations have been incorporated in this rule. Technical and editorial changes which have a clarifying or substantive effect on the regulation, however, are discussed in this preamble.

I. Documentation

Section 803(b) of Pub. L. 97–35 amends section 9 of the NSLA to require the Secretary to prescribe the necessary components which constitute adequate documentation of eligibility for meals. The proposed rule, therefore, included a definition of documentation (§ 226.2) and a number of provisions which deal exclusively with documentation as it relates to the eligibility application. Section 226.23(e) outlines (1) the procedures for distributing eligibility applications, (2) the data which must be requested on the application, (3) the statements of information which must be included on the application, and (4) the documentation which must be submitted by the parents or guardians of enrolled children as a condition of eligibility for free and reduced-price meals.

The documentation portion of the proposed regulation closely paralleled that of the interim rule on application procedures for the National School Lunch Program (NSLP), published on July 23, 1982, at 47 FR 31848–31853. Eleven comments were received on the general documentation requirements. Most of those who commented felt that consistency with the NSLP requirements was appropriate in this regard. However, some commentors indicated specific questions regarding various issues associated with the provision of documentation of eligibility for Program meals.

a. *Definition of Documentation.* The Department, given the statutory authority to prescribe adequate documentation of eligibility, proposed to define documentation as completion of the following information on the application for free and reduced-price meals:

(1) Total current household income;

(2) Names of all household members;

(3) Social security numbers of all adult household members or an indication that a household member does not possess one; and

(4) The signature of an adult member of the household.

The provision of information required on a free and reduced-price application would be considered a condition of eligibility, as required by Pub. L. 97–35. Applications which do not contain such documentation will be considered incomplete and therefore insufficient to justify the amount of reimbursement paid to the institution, or the determination by the institution of children as eligible for free and reduced-price meals.

b. *Day Care Homes.* One commentor misunderstood the documentation provision as it relates to day care homes and their sponsoring organizations by implying that the requirement to collect eligibility applications from all children enrolled in day care homes would be extremely burdensome.

In order to provide clarification on this issue, it should be noted that Section 17(f) of the NSLA, as amended by Pub. L. 97–35, requires that day care home programs collect eligibility applications only for provider's children who are enrolled and participating in the CCFP in order to document that those children are eligible for either free or reduced-price meals. This requirement to collect eligibility information is not extended to other children that participate in day care homes. Sections 226.6(b)(3), 226.15(e)(3) and 226.18(f) of the current CCFP regulations reflect this statutory requirement, as does the amended § 226.23(e).

c. *Current Income.* In the past, institutions could consider either the family's current rate of income *or* the family's income during the past 12 months to determine eligibility for free and reduced-price meals. Section 9 of the NSLA, as amended by Pub. L. 97–35, states that "any child who is a member of a household whose income, at the time the application is submitted, is at an annual rate which does not exceed" the applicable family size income level is eligible to receive free or reduced-price meals. The Department proposed to define "current income" as it is defined for the NSLP i.e., as income received during the month prior to application for free and reduced-price meals and multiplied by 12. If such income does not accurately reflect the household's income, then income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

Nine comments were received on the definition of "current income." Three commentors desired some clarification regarding the method of calculating projected annual income for seasonal and self-employed individuals. Two commentors similarly felt that the definition did not adequately address the situation of recently unemployed and seasonally unemployed individuals in that the use of the projected annual income based on either the prior month's income, multiplied by 12 (the basic standard) or the prior year's income would cause some individual households to be determined ineligible for benefits to which they were entitled.

The Department agrees that while seasonally unemployed workers may be able to formulate a "projection" of current income based on the income received in the prior year, recently unemployed individuals may not. However, while the commentors felt that this definition is restrictive, the Department believes that it is indeed flexible because it allows the reporting of a projected annual household income from which eligibility determinations may be made. Most specifically, while the definition states that the prior year's income *may* be used as a base from which to project annual income, it does not restrict the calculation of projected income to this formula. If the income for the current month (i.e., the month of application for benefits) more accurately reflects what the household believes its yearly income will constitute, the projection may be based on the current month's income.

Moreover, § 226.23(e)(2)(v) makes allowance for determinations of free or reduced-price eligibility during periods

of unemployment for children whose parents or guardians become unemployed, and the loss of income which ensues causes the family income to meet the eligibility standards for those meals. However, in any case, parents or guardians are required to notify institutions of any decreases in family size or increases in income which would exceed $50.00 per month or $600 per year. (226.23(e)(2)(vii)).

One commentor was concerned that the regulations, as proposed, did not contain a definition of "income." The Department wishes to remind the public that the definition of "income" is specified in the Secretary's Income Eligibility Guidelines, which are published annually. The income standards as well as the definition of "income" applies uniformly in the Child Care Food Program, the National School Lunch Program, School Breakfast Program, Special Milk Program, and commodity schools and is incorporated by reference in the Summer Food Service Program regulations (7 CFR Part 225). The notice announcing the Department's annual adjustment to the Income Eligibility Guidelines which shall be used to determine eligibility for Program meals for the period July 1, 1983 through June 30, 1984, was published on June 1, 1983, at 48 FR 24402.

d. *Definitions of "Family" and "Household".* Seven (7) comments were received on the proposed definitions of "family" and "household". While most of the commentors were satisfied with the definitions, some commentors recommended the deletion of one or the other definition and revision of all references to reflect a single term retained in the regulation. The Department feels, however, that the retention of both of the definitions would provide more clarity for Program participants, since both of these terms are used interchangeably throughout other sections of the current regulations, publications and other guidance materials, and in other Special Nutrition Programs.

Three (3) commentors believed that the definitions of "family"/"household" were not adequate. One of these commentors stated that it was not appropriate for individuals living in the same location, but who do not contribute financial support to the applicants, to be required to submit documentation of eligibility to institutions. Another commentor recommended that "nonrelated" be removed from the definition. A third commentor noted that the term "economic unit" should be clarified in this regulation.

The Department wishes to point out that, generally, the definitions included in the proposed rule were intended to refer to members of a "family" or "household" who live together and share expenses. There are many examples of two or more households living at the same location; however, location is not the key element with regard to the determination of household/family status for Program purposes. The important factor to consider is whether the individuals share living expenses. Thus, it is important that this determination be made on a case-by-case basis. In addition, the Department agrees that the term "economic unit" may be clarified and has made an editorial addition to the definition. Therefore, the definition of "family" in § 226.2 has been revised as follows:

"Family" means a group of related or unrelated individuals who are not residents of an institution or boarding house, but who are living as one economic unit, *i.e. sharing living expenses.*

e. *Definition of "Adult".* The proposed rule also included a definition of "adult." Section 226.2 ("Adult") specifies that, for the purpose of the collection of social security numbers, an adult is any individual household member 21 years of age or older. Commentors were advised that this definition was intended to affect the collection of social security numbers only and would *not* affect the requirement to indicate total household income on the eligibility application.

Six (6) comments were received on this definition. Four commentors wished to consider an adult as any member of the household 18 years of age and older, while one commentor wished to require the collection of social security numbers of the parent or guardian, regardless of age, and the numbers of all other household members 21 years of age and older. The Department, however, has not revised this definition because it was determined to be more important to be consistent with the definitions used in 7 CFR 245–NSLP eligibility requirements. Administering agencies constantly emphasize to the Department that policies and terminology should be consistent wherever possible for the Child Nutrition Programs. If the definition poses problems a change could be made at a later date.

Two commentors indicated some confusion on the use of the term "adult" as it relates to the person signing the application for eligibility. These commentors felt that since the eligibility application required that an adult member of the household sign the application in order for a child to be considered eligible for free or reduced-price meals, parents/guardians under 21 would not be considered adults, and therefore, their children would not be able to participate in the CCFP because complete documentation would not be on file. The Department wishes to reiterate that the definition of adult as 21 and over *applies only to the requirement to submit social security numbers.* If a parent or guardian is under 21 years of age, he/she would sign the application as the adult member of the household but would not be required to report their social security number. However, total household income must be reported on the eligibility application.

In response to this concern, however, some editorial changes have been made in §226.23(e) (1)(ii) and (2)(iii) to clarify that social security numbers are required to be reported for all adult members of the household 21 years of age and over.

f. *Application Data Requirements.* Section 226.23(e)(1)(ii) specifies the information which must be included on the eligibility application for free and reduced-price meals. Institutions must request the following household data on the eligibility application distributed to parents or guardians of enrolled children: (1) The names of all children for whom application is made; (2) the names of all other household members; (3) the social security number of all household members 21 years of age and older or an indication that a household member does not possess one; (4) the total current income of the household; and (5) the signature of an adult member of the household.

This data is considered a "condition of eligibility" for the determination of enrolled children as eligible for free or reduced-price meals. Applications which do not contain the above items would be considered to be incomplete documentation, and thus insufficient to substantiate the receipt of Federal funds by the institution, or the determination of children as eligible for free or reduced-price meals.

Four commenters suggested the inclusion of some additional items on the application forms. These were.

(1) The date the application was completed by the parent or guardian; and

(2) The age of each family member.

While additional items may be requested on the application, they may not be required as a condition of eligibility and the application must indicate the additional items are not required. When applications are

received, they must be approved if the basic documentation requirements included in §226.23(e)(1)(ii) are completed.

One commentor questioned the change in wording of § 226.23(e) with regard to the reporting of social security numbers. They requested further clarification as to what would constitute "an indication that a household member does not possess one." The Department wishes to emphasize that applications which do not contain an entry for social security numbers of all adult household members 21 years of age or older will be considered as an incomplete application. Individuals filing an application would need to indicate that an adult member of the household listed on the application does not possess a social security number by filling in the word "none", or something to that effect, on the application form next to that individual's name.

g. Food Stamp Disclosure. The proposal provided that the eligibility application may also include a request for the household to indicate that it is participating in the food stamp program, so long as the applicant is informed that the provision of this information is not a condition of eligibility.

One commentor did not seem to understand this requirement as it relates to the verification process and believed that this request should not be a State agency option, but that it be mandated that all households be given the option to indicate their food stamp participation on the application.

The Department agrees that during the verification process households must be given the choice between producing documentation to substantiate income as reported on the application or documentation of participation in the food stamp program (called "verification information" in the rule (226.23(h)(1)). This requirement was contained in the proposal and is contained in this interim rule. State agencies are required to notify households of this choice whenever the verification information is requested.

This requirement insures that applicants who are participating in the food stamp program, may, if they wish, simply produce information to prove that fact. Once the household has proven food stamp program participation, the State agency cannot require the applicant to furnish additional verification materials. However, if in the verification process the food stamp household chooses to provide income information, or the food stamp certification period is found to have expired, the household shall be subject to routine verification of eligibility.

h. Application Information Requirements (§ 226.23(e)(1)(ii)). In addition to the request for household data, § 226.23(e)(1)(ii) also requires that a statement be included on the application which references the requirement for collection of social security numbers. The purpose of the notice is to inform individuals whether disclosure of social security numbers is mandatory or voluntary, by what statutory or other authority such numbers are solicited, what uses will be made of the numbers and the consequences of not providing the social security numbers. The regulatory wording in this proposal requires all State agencies and institutions to include the wording on the application for benefits distributed to households.

Six (6) comments were received on this required notice. Four commentors misunderstood the regulatory language that follows the statement. Two of these commentors believed that the regulatory language regarding use of social security numbers provided State and local agencies with the authority to use social security numbers for purposes other than that described in the regulation, which is verification of eligibility for the CCFP. Two other commentors were concerned that the statement regarding verification efforts did not make references to contacting food stamp offices to verify food stamp participation.

The Department wishes to emphasize that these regulations authorize the collection of social security numbers for CCFP purposes, only. The notice contained in the regulations is a prototype notice which the Department believes will cover most uses of social security numbers as it relates to the verification of CCFP eligibility.

However, in order to provide clarification of the regulatory language, the Department has made an editorial change in the language to read as follows (change in italic):

"If a State or local agency plans to use the social security numbers *for verification purposes* in a manner not described by this notice, the notice shall be altered to include a description of those uses."

In addition, the same principle applies with regard to inclusion of notification that State agencies may be in contact with food stamp offices to verify eligibility for CCFP meals. This notification was not included in the prototype notice, since §226.23(h)(2) specifies that written evidence shall be used as the primary source of verification. Verification for recipients of food stamp benefits that choose to provide evidence of food stamp participation (letter of determination, other award letters or the authorization to participate card or voucher (the ATP card)) is limited to a review to determine that the period of eligibility for food stamp benefits is current. Given this limitation, State agencies may not typically contact food stamp offices. However, *as stated in the preamble to the proposal*, States may carry out verification efforts that the Department has not anticipated; or State laws may impose them. Therefore, State agencies must review the proposed notice and ensure that their intended uses are included in the notice on all applications. Thus, if they plan to contact food stamp offices, the notification statement must be revised to inform applicants that the State agency may verify eligibility by contacting food stamp offices.

The Department has been involved in litigation concerning the Privacy Act notice (*Alcarez v. Block*). The court in that case determined that the statement satisfied the requirements of the Privacy Act. Further, the Department believes that the notice should be detailed in order to fully explain to applicants the uses which will be made of the numbers. The Department disagrees with the two commentors who have asserted that the notice is not clear. The notice fully and accurately informs persons concerning the collection and use of social security numbers. Therefore, the Department has made no change in the notice, other than that explained above.

i. Letter to Parents (§ 226.23(e)(2)). This rulemaking also includes a provision requiring institutions to distribute a notice or letter to parents which shall accompany the eligibility application distributed to parents or guardians of enrolled children. The regulation provides an itemized listing of the information which must be included in the letter. Most notably, this regulation requires that parents or guardians be informed that they must notify appropriate institution officials during the year of any decreases in household size or increases in income which exceed $50 per month or $600 per year.

Two comments were received regarding the reporting of changes in family size or income to institutions. One commentor felt that this was not in conformity with NSLP regulations. The Department wishes to point out that current NSLP regulations similarly require the reporting of any decreases in household size or increases in income

which exceed $50 per month or $600 per year.

The Department believes that the items included in the list specified in the regulations are minimum informational requirements. If an institution wishes to be more specific or give more information to parents or guardians of enrolled children, it may do so.

Five commentors pointed out that "age" was not included in the nondiscrimination statements in the amended § 226.23. Although the FNS CCFP Civil Right Instruction, FNS–113–4, requires that "age" be included in the nondiscrimination statements issued to the public, this regulation has not yet been amended to include this term. At a future date, the Department will propose that all references made to nondiscrimination be amended to incorporate "age" throughout 7 CFR Part 226. However, this provision against discrimination based on age *is* prohibited under the CCFP.

II. Verification

Section 803 of Pub. L. 97–35 amends section 9(b) of the NSLA to allow the Secretary, State agencies, and local entities to seek verification of the information provided on applications for free and reduced-price meals. The Act also requires Program participants to comply with the regulations prescribed by the Secretary concerning verification of information and to make appropriate changes in eligibility determinations on the basis of such verification. The Department believes that standards of verification should be established so that all administering agencies make efforts to eliminate fraud and abuse in the Program. The Department realizes that State and local officials do not have unlimited resources available to perform verification and believes this procedure provides for a viable system without over-burdening State and local officials. In general, the majority of commentors approved of the two-tiered approach to verification in the CCFP based on an individual institution's status as a pricing or nonpricing program. However, some commentors voiced specific concerns over certain aspects of the verification process. These concerns are described in the following discussion.

a. *Definition of Verification (§ 226.2).* The proposed rule included a definition of verification for the purposes of the CCFP which stated that "Verification," means: (a) A review of the information reported by institutions to the State agency regarding the eligibility of enrolled children for free and reduced-price meals; and (b) in addition, for a pricing program, confirmation of eligibility for benefits under the Program. At a minimum, verification shall include confirmation of income eligibility and, at State agency discretion, verification may also include confirmation of household size.

Two commentors pointed out that it was not clear whether the last sentence applied to both nonpricing and pricing program verification, or simply to pricing programs. While the proposal and this interim regulation provide that State agencies may pursue further verification in nonpricing programs following the procedures for pricing programs, the Department intended the last sentence of the definition to apply to pricing programs only. Therefore, an editorial change has been made in the definition of verification to specify that, at a minimum, verification for a pricing program shall include confirmation of income eligibility and, at State agency discretion, verification may also include confirmation of household size.

The proposal required that administering agencies annually conduct verification of eligibility for both pricing and nonpricing programs participating in the CCFP in the State. The rule provided that the verification process be conducted for institutions on a schedule similar to that of the conduct of Program administrative reviews and, at administering agency discretion, the verification process may be incorporated into the administrative review procedure. If the opportunity arises, an administering agency may also wish to perform verification during the conduct of an audit of an institution. However, the performance of verification for individual institutions shall occur no less frequently than once every four years. In addition, this rule requires that if the verification process discloses any problems regarding the determination of eligibility and/or application procedures, the State agency shall conduct a follow-up review within one year for the purpose of determining that corrective action has been taken by the institution.

Two commentors requested clarification of the language of § 226.23(h) regarding the State agency's responsibility for verification on an annual basis. Section 226.23(h) requires that State agency verification of eligibility must be completed for some participating institutions each year, and provides an option to State agencies to perform verification in conjunction with Program administrative reviews required by § 226.6(k). However, if a State agency wishes to perform verification separate from its administrative review process, or wishes to verify eligibility for institutions that are not scheduled to undergo administrative reviews, it may do so. However, the general scheduling of verification for institutions may be made in accordance with the scheduling requirements of § 226.6(k). A minor editorial change has been incorporated in § 226.23(h) in response to these comments.

b. *Verification Procedures for Nonpricing Programs.* The proposed regulation provided that administering agency verification procedures for nonpricing programs shall consist of a review of the eligibility applications on file for each enrolled child so as to ensure that: (a) The application has been correctly and completely executed by parents or guardians; (b) the institution has correctly determined and classified the eligibility of enrolled children for free or reduced-price meals, or has determined that enrolled children are not eligible for free or reduced-price meals, based on the information included on the application submitted by the parents or guardians; and (c) the institution has accurately reported to the State agency the number of enrolled children meeting the criteria for free and reduced-price meal eligibility and the number of enrolled children that do not meet the eligibility criteria for those meals.

Thirteen comments were received on this proposed procedure. Six commentors approved of this approach to nonpricing verification, while two commentors felt that reviewing all of the eligibility applications on file would be burdensome to the State agency, especially given the size of certain multi-site institutions. The Department believes that, given the system of institution payment based on the determination of eligibility made by institutions with regard to free, reduced-price and paid meals, it is critical that the method of verification provide a thorough review of an institution's methods and results of determinations of eligibility for Program meals. It should be remembered that a review of an institution's free and reduced-price applications may be incorporated into the agency's administrative review procedure. Thus, this requirement should not place an additional burden on States.

One commentor believed that pricing program verification requirements should be applied to nonpricing programs. While the Department feels that mandating this procedure for all nonpricing programs would be too burdensome on State agencies, both the proposed regulation, and this interim rule, provide State agencies this option. Section 226.23(h)(1) specifies that, in

certain instances, a State agency may wish to pursue further verification directed at confirming the information submitted by parents or guardians of enrolled children on the application for Program meals. If the State agency wishes to pursue this type of effort, it shall be required to conduct further verification in nonpricing programs in accordance with the verification procedures for pricing programs.

c. *Verification Procedures for Pricing Programs.* For pricing programs, the proposed rule required that, in addition to the verification procedures described for nonpricing operations, State agencies must also conduct verification of the income information provided by parents or guardians on the applications for free or reduced-price meals. At State agency discretion, verification may also include confirmation of household size. The rule required State agencies to perform verification on a representative sample of no less than 3 percent of the applications submitted by families of children enrolled in an institution which is a pricing program.

Seventeen comments were received on this requirement. While five commentors supported the requirement that State agencies perform this verification process, eleven commentors voiced concern over the burden that this would place on the State. Several commentors believed that the verification procedures would not prove to be cost effective in the CCFP since there are so few pricing programs currently operating in the Program.

The Department recognizes that this process constitutes a change in State agency responsibilities. However, it must be noted that participating CCFP institutions are, in most cases, small, nonpublic entities, with limited access to verification information. Moreover, the Department believes that, given the regulatory flexibility regarding the requirements to schedule and perform verification on a limited number of eligibility applications, and the level of participation of pricing programs in the CCFP, this requirement will not impose a significant burden on State agencies. This interim rule, therefore, retains the pricing program verification requirements as proposed. Operational guidance will be issued to administering agencies as an aid to implementation of these requirements.

d. *Notification Requirements § 226.23(h)(2).* The proposed rule required that prior to the conduct of verification, the parent should receive clearly worded notification that the household has been selected for review and must submit the requested verification to maintain eligibility for free or reduced-price meals. The notice to parents should clearly describe the types of verification documents that are acceptable to the State, e.g., wage stubs, award letters from social security, benefit statements for unemployment compensation, court orders specifying alimony or child support, etc. Further, the notice should give the name and telephone number of the official who can answer questions and assist the household in acquiring the necessary verification. Households must also be informed that if they are currently receiving food stamp benefits, they may submit proof of current eligibility for food stamp benefits in lieu of the requested income information. The notice must also advise the household that failure to cooperate with verification efforts will result in termination of benefits.

Five comments were received concerning this provision. Two of these commentors noted that although this paragraph *implied* that households would receive notification in writing, they believed that this should be clearly stated in the regulation. In response to those comments, § 226.23(h)(2) has been revised to state that households shall be informed in writing that they have been selected for verification.

Two commentors requested that the parents or guardians be given a timeframe for submission of verification information. In response to those comments, the Department has specified that households be informed that they must submit the requested verification information to confirm eligibility for free or reduced-price benefits within 20 days. State agencies must specify in the letter a date by which information must be submitted.

e. *Collateral Contacts.* Collateral contacts can be used in those situations where the household is unable to acquire written verification or the written verification does not confirm income eligibility for benefits. Collateral (third party) contact is verbal confirmation of a household's circumstances by a person outside of the household. The verifying official may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the verifying official. If the verifying official designates a collateral contact, the contact may not be made without providing prior written or oral notice to the household. At the time of this notice, the regulation requires that the household must be informed that it may consent to the contact or provide acceptable verification in another form. If the household refuses to choose one of these options, its eligibility must be terminated in accordance with the normal procedures for failing to cooperate with verification efforts.

One commenter indicated a concern with this method of verification as it relates to the acceptance of a collateral contact proposed by the State agency, and termination if the household: (1) Does not consent to the contact and (2) does not provide acceptable verification in another form. The commentor noted that this section implies that it is permissive rather than mandatory for the household to exercise its option to either accept the proposed collateral contact or provide alternative verification information. The commentor believed that the regulatory wording should be revised to reflect that the choice is up to the household, but that the household must make a choice in order to continue to participate in the program.

In response to this comment, the wording of § 226.23(h)(2) has been revised to indicate that at the time the State agency provides notice to the family that a collateral contact has been designated, it must inform the household that: (1) It may consent to the contact or provide acceptable verification in another form; and (2) that eligibility for free or reduced-price meals will be terminated if the household refuses to choose one of these options.

f. *Notification Requirements (§ 226.23(h)).* The administering agency must require institutions to terminate or reduce household benefits when: (a) The household refuses to cooperate with verification efforts, or (b) the verification effort indicates the household is ineligible to receive benefits or is eligible to receive fewer benefits. Institutions which operate pricing programs must immediately notify the household in writing of a termination of benefits and allow 10 days before such termination or reduction takes place. The notice must advise the household of the change, the reasons for the change, the right to appeal the action within the 10 day advance notice period, and provide instructions on how to appeal. The reasons for ineligibility or reduction of benefits must be properly documented and retained on file at the institution.

Two comments were received regarding this provision. One commentor wanted the regulation to specify that the 10-day period be considered 10 working days, while the other commentor recommended that the 10-day period be clarified by stating that the period comprised 10 days from receipt of notification.

The Department has specified in § 226.23(h)(2)(i) that the 10-day period shall begin the day the notice is transmitted to the family. In addition, the proposed regulation required that the household must be informed of the date by which an appeal must be requested in order to avoid a reduction or termination of benefits. The Department believes that the regulation currently provides the mechanism by which households will receive adequate notification of termination or reduction of benefits, and has retained the provision as proposed.

g. *Approval of Verification Methods.* As pointed out in the preamble to the proposed regulation, the manner in which each source of verification is implemented is subject to scrutiny in light of individual rights of privacy. The Department urges State agencies to obtain approval of verification methods by their legal counsel to ensure conformity with applicable Federal, State and local laws.

One commentor believed that this recommendation should be incorporated in the regulatory language to ensure that no discrimination takes place in the verification process. Section 226.6(e) of the regulations, however, does require that State agencies apply the verification efforts uniformly without regard to race, color, national origin, sex, or handicap.

h. *Administrative Action (§ 226.23(h)(3) and (4)).* The proposed rule required that when verification results indicate that: (a) An institution has inaccurately classified or reported the number of enrolled children eligible for free, reduced-price or paid meals and/or (b) a household has not reported accurate documentation on the application which would support continued eligibility for free or reduced-price benefits, the administering agency shall appropriately adjust institution rates of reimbursement. Administering agencies shall inform institution officials of the results of the verification effort and any action which will be taken in response to the verification findings. The proposal also specified that this notification shall be made in accordance with the procedures outlined in § 226.6(j) of current Program regulations.

Six (6) comments were received on this provision. One commenter pointed out that it would be more appropriate to refer to the notification procedures of § 226.14(a) of the current regulations, rather than § 226.6(j). The Department agrees, and has revised this reference in the regulation.

Five (5) commenters did not approve of this provision as proposed. Three commentors believed that a time period for adjustment of rates of reimbursement should be specified and suggested that institution rates be adjusted retroactive to the month in which the incorrect eligibility figures were reported to the State agency by the institution. One commentor requested information regarding the ability of an institution to assess claims against families who misreported income to the institution. Another commentor believed that the decision to adjust reimbursement rates should be made at the discretion of the State agency.

The Department agrees that while the proposed regulation clearly mandated the adjustment of institution rates of reimbursement based on verification findings, it did not provide an indication of when the adjustment was to be effective.

In order to provide clarification, § 226.23(h)(4) has been revised to specify that, in cases where verification results disclose that an institution has inaccurately classified or reported the number of enrolled children eligible for free, reduced-price or paid meals, the State agency shall adjust institution rates of reimbursement retroactive to the month in which the incorrect eligibility figures were reported by the institution to the State agency.

However, while this requirement is appropriate in those cases where the institution has been in the determinant position with regard to the eligibility status of its enrolled children, the Department feels that it would not be fair to impose this requirement on those institutions which received inaccurate information from parents or guardians of enrolled children. Therefore, a new subparagraph has been added to this regulation. Section 226.23(h)(5) specifies that if the verification results disclose that a household has not reported accurate documentation on the application which would support continued eligibility for free or reduced-price meals, the State agency shall immediately adjust institution rates of reimbursement. However, this rate adjustment will not become effective until the affected households have been notified in accordance with the procedures of § 226.23(h)(2)(i) and any ensuing appeals have been heard as specified in § 226.23(h)(2)(i).

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs—health, infants and children, Surplus agricultural commodities.

PART 226—CHILD CARE FOOD PROGRAM

Accordingly, Part 226 is amended as follows:

In § 226.2, the definition of "Adult" is inserted between that of "Administrative costs" and "Advanced payments"; the definition of "Current income" is inserted between that of "Claiming percentage" and "Day care home"; the definition of "Documentation" is inserted between that of "'Department" and "Enrolled child"; the definition of "Family" is inserted between that of "Enrolled child"; and "Fiscal year"; the definition of "Household" is inserted between that of "Free meal" and "Income standards"; the definition of "Nonpricing program" is inserted between that of "Nonexpendable personal property" and "Nonprofit food service"; the definition of "Pricing program"' is inserted between that of "Personal property" and "Program"; and the definition of "Verification" is added following that of "Title XX".

§ 226.2 Definitions.

* * * * *

"Adult" means, for the purposes of the collection of social security numbers as a condition of eligibility for free or reduced-price meals, any individual 21 years of age or older.

* * * * *

"Current income" means income received during the month prior to application for free or reduced-price meals and multiplied by 12. If such income does not accurately reflect the household's annual income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

* * * * *

"Documentation" means the completion of the following information on a free and reduced-price application: (a) Total current household income; (b) names of all household members; (c) social security numbers of all adult household members or an indication that a household member does not possess one; and (d) signature of an adult member of the household.

* * * * *

"Family"' means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one

economic unit, i.e. sharing living expenses.

* * * * *

"Household" means "family," as defined in § 226.2 ("Family").

* * * * *

"Nonpricing program" means an institution in which there is no separate charge made for meals served to enrolled children.

* * * * *

"Pricing program" means an institution in which a separate charge is made for meals served to enrolled children.

* * * * *

"Verification" means: (a) A review of the information reported by institutions to the State agency regarding the eligibility of enrolled children for free or reduced-price meals; and (b) in addition, for a pricing program, confirmation of eligibility for benefits under the Program. At a minimum, verification for a pricing program shall include confirmation of income eligibility and, at State discretion, verification may also include confirmation of household size.

2. In § 226.6, a new paragraph (e)(8) is added to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(e) *Annual requirements.* * * *

(8) Perform verification of the eligibility of enrolled children for free and reduced-price meals in participating institutions in accordance with the procedures outlined in § 226.23(h). State agencies verifying the information on free and reduced-price applications shall ensure that verification activities are applied without regard to race, color, national origin, sex, or handicap.

* * * * *

3. Section 226.23 is amended by revising paragraphs (e) and (f); and adding a new paragraph (h) to read as follows:

§ 226.23 Free and reduced-price meals.

* * * * *

(e)(1) Application for free and reduced-price meals. (i) For the purpose of determining eligibility for free and reduced-price meals, institutions other than sponsoring organizations of day care homes shall distribute applications for free and reduced-price meals to parents or guardians of children enrolled in the institution. Sponsoring organizations of day care homes shall distribute applications for free and reduced-price meals to day care home providers who wish to enroll their eligible children in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size income levels for reduced-price meal eligibility with an explanation that households with incomes less than or equal to these levels are eligible for free or reduced-price meals. Such forms and descriptive materials may *not* contain the income standards for free meals.

(ii) The application shall contain a request for the following information: (A) The names of all children for whom application is made; (B) the names of all other household members; (C) the social security number of all adult household members 21 years of age or older or an indication that a household member does not possess one; (D) the total current income of the household; (E) a statement to the effect that "In certain cases, foster children are eligible for free and reduced-price meals regardless of household income. If such children are living with you and you wish to apply for such meals, please contact us."; (F) a statement that "Sections 9 and 17 of the National School Lunch Act require that in order for your child to be eligible for free or reduced-price meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free or reduced-price meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits, and investigations, and may include contacting employers to determine income, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss or reduction of benefits, administrative claims, or legal action if incorrect information is reported." State agencies and institutions shall ensure that the notice complies with section 7 of Pub. L. 93-579. If a State or local agency plans to use the social security numbers for verification purposes in a manner not described by this notice, the notice shall be altered to include a description of those uses; and (G) the signature of an adult member of the household.

(iii) The application may also include a question as to whether the household is participating in the Food Stamp Program, *Provided* that applicants are informed that the provision of this information is not a condition of eligibility.

(2) *Letter to Parents.* Institutions shall distribute a letter to parents or guardians of enrolled children in order to inform them of the procedures regarding eligibility for free and reduced-price meals. The letter shall accompany the application required under § 226.23(e)(1) and shall contain:

(i) The income standards for reduced-price meals, with an explanation that households with incomes less than or equal to the reduced-price standards would be eligible for free or reduced-price meals (the income standards for free meals shall *not* be included in letters or notices to such applicants);

(ii) How a household may make application for free or reduced-price meals for its children;

(iii) An explanation that in order to be considered eligible for free or reduced-price meals, an application must contain complete documentation of eligibility information including the total current household income, names of all household members, social security numbers of all adult household members 21 years of age or older or an indication that a household member does not possess one, and the signature of an adult household member;

(iv) The statement: "In the operation of child feeding programs, no child will be discriminated against because of race, color, national origin, sex, or handicap;

(v) A statement to the effect that children having parents or guardians who become unemployed are eligible for free or reduced-price meals during the period of unemployment, provided that the loss of income causes the family income during the period of unemployment to be within the eligibility standards for those meals;

(vi) A statement to the effect that in certain cases foster children are eligible for free or reduced-price meals regardless of the income of the household with whom they reside and that households wishing to apply for such benefits for foster children should contact the institution; and

(vii) An explanation that recipients of free and reduced-price meals must notify appropriate institution officials during the year of any decreases in household size or increases in income which exceed $50 per month or $600 per year.

(3) In addition to the information listed in § 226.23(e)(2), pricing institutions must include in their letter to parents an explanation that indicates

that: (i) The information in the application may be verified at any time during the year; and (ii) how a family may appeal a decision of the institution to deny, reduce, or terminate benefits as described under the hearing procedure set forth in § 226.23(c)(4).

(4) *Determination of eligibility.* When a completed application furnished by a family indicates that the family meets the eligibility criteria for free or reduced-price meals, the children from that family shall be determined eligible for free or reduced-price meals. Institutions that are pricing programs shall provide written notice to each family informing them of the results of the eligibility determination. When the information furnished by the family is not complete or does not meet the eligibility criteria for free or reduced-price meals, institution officials must consider the children from that family as not eligible for free or reduced-price meals and must consider the children as eligible for "paid" meals. When information furnished by a family of children enrolled in a pricing program does not meet the eligibility criteria for free or reduced-price meals, pricing program officials shall provide written notice to each family denied free or reduced-price benefits. At a minimum, this notice shall include: (i) The reason for the denial of benefits, e.g. income in excess of allowable limits or incomplete application; (ii) notification of the right to appeal; (iii) instructions on how to appeal; and (iv) a statement reminding parents that they may reapply for free or reduced-price benefits at any time during the year. The reasons for ineligibility shall be properly documented and retained on file at the institution, as appropriate.

(5) *Appeals of denied benefits.* A family that wishes to appeal the denial of an application in a pricing program shall do so under the hearing procedures established under § 226.23(c)(4). However, prior to initiating the hearing procedures, the parent or guardian may request a conference to provide all affected parties the opportunity to discuss the situation, present information and obtain an explanation of the data submitted on the application or the decision rendered. The request for a conference shall not in any way prejudice or diminish the right to a fair hearing. The institution shall promptly schedule a fair hearing, if requested.

(f) Free, reduced-price and paid meal eligibility figures must be reported by institutions to State agencies at least once each year and shall be based on current family-size and income information of enrolled children.

* * * * *

(h) *Verification of eligibility.* State agencies shall conduct verification of eligibility for free and reduced-price meals on an annual basis, in accordance with the verification procedures outlined in § 226.23(h) (1) and (2). Verification may be conducted in accordance with Program assistance requirements of § 226.6(k), however, the performance of verification for individual institutions shall occur no less frequently than once every four years. If the verification process discloses any problems with the determination of eligibility and/or application procedures, State agencies shall conduct follow-up reviews for the purpose of determining that corrective action has been taken by the institution. These reviews shall be conducted within one year of the date upon which the verification process was completed. The verification effort shall be applied without regard to race, color, national origin, sex, or handicap. State agencies shall maintain on file for review a description of the annual verification to be accomplished in order to demonstrate compliance with § 226.23(h) (1) and (2).

(1) *Verification procedures for nonpricing programs.* State agency verification procedures for nonpricing programs shall consist of a review of the eligibility applications on file for each enrolled child so as to ensure that: (i) The application has been correctly and completely executed by parents or guardians; (ii) the institution has correctly determined and classified the eligibility of enrolled children for free or reduced-price meals, or has determined that enrolled children are not eligible for free or reduced-price meals, based on the information included on the application submitted by the parents or guardians; and (iii) the institution has accurately reported to the State agency the number of enrolled children meeting the criteria for free and reduced-price meal eligibility and the number of enrolled children that do not meet the eligibility criteria for those meals. In addition, the State agency may conduct further verification of the information provided by parents or guardians on the application for Program meal eligibility. If this effort is undertaken, the State agency shall conduct this further verification for nonpricing programs in accordance with the procedures described in § 226.23(h)(2).

(2) *Verification procedures for pricing programs.* For pricing programs, in addition to the verification procedures described in § 226.23(h)(1), State agencies shall also conduct verification of the income information provided by parents or guardians on the application for free or reduced-price meals and at State agency descretion, may also include confirmation of household size. State agencies shall perform verification on a representative sample of no less than 3 percent of the applications submitted by families of children enrolled in an institution which is a pricing program. Households shall be informed in writing that they have been selected for verification and that they are required to submit the requested verification information to confirm eligibility for free or reduced price benefits within 20 days and the date by which verification materials must be supplied. Those households shall be informed of the type or types of information and/or documents acceptable to the State agency and the name and phone number of an official who can answer questions and assist the household in the verification effort. Selected households shall also be informed that if they are currently participating in the food stamp program, they may submit proof of current eligibility for food stamp benefits in lieu of income information. All households selected for verification shall be advised that failure to cooperate with verification efforts will result in a termination of benefits. sources of verification may include written evidence, collateral contacts, institution conferences, and systems of records. *Written evidence* shall be used as the primary source of verification. Written evidence includes written confirmation of a household's circumstances, such as wage stubs, award letters, and letters from employers. Wherever written evidence is insufficient to confirm income information on the application or current eligibility, the State agency may require collateral contacts or institution conferences. *Collateral contact* is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made in person or by phone and shall be authorized by the household. The verifying official may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the verifying official. If the verifying official designates a collateral contact, the contact shall not be made without providing written or oral notice to the household. At the time of this notice, the household shall be informed that it may consent to the contact or provide acceptable verification in another form. The household shall be informed that its

eligibility for free or reduced-price meals shall be terminated if it refuses to choose one of these options. Termination shall be made in accordance with § 226.23(h)(2)(i). Collateral contacts could include employers, social service agencies, and migrant agencies. The adult member(s) of the household may be asked to *visit the institution* for a discussion of the information on the application. Households shall be provided sufficient opportunity to schedule the conference. *Systems of records* to which the State agency may have routine access are not considered collateral contacts. Information concerning income of family size maintained by other government agencies to which the State agency can legally gain access may be used to confirm a household's income and family size. One possible source could be wage and benefit information maintained by the State unemployment agency, if that information is available. The use of any information derived from other agencies must be used with the applicable safeguards concerning disclosure. Verification by State agencies for recipients of *food stamp benefits* that choose to provide evidence of food stamp participation in lieu of income information shall be limited to a review to determine that the period of eligibility for food stamp benefits is current. If the household chooses to provide income or the food stamp certification period is found to have expired, the household shall be subject to routine verification of eligibility. The State agency may work with the institution to acquire the information necessary to verify the documentation submitted by the household on the application; however, the responsibility to complete the verification process may not be delegated to the institution.

(i) If a household refuses to cooperate with efforts to verify, or the verification effort indicates that the household is ineligible to receive benefits or is eligible to receive reduced benefits, the State agency shall require the pricing program institution to terminate or adjust eligibility in accordance with the following procedures. Institution officials shall immediately notify families of the denial of benefits in accordance with § 226.23(e)(4) and § 226.23(e)(5). Advance notification shall be provided to families which receive a reduction or termination of benefits 10 calendar days prior to the actual reduction or termination. The 10-day period shall begin the day the notice is transmitted to the family. The notice shall advise the household of: (A) The change; (B) the reasons for the change; (C) notification of the right to appeal the action and the date by which the appeal must be requested in order to avoid a reduction or termination of benefits; (D) instructions on how to appeal and (E) the right to reapply at any time during the year. The reasons for ineligibility shall be properly documented and retained on file at the institution.

(ii) When a household disagrees with an adverse action which affects its benefits and requests a fair hearing, benefits shall be continued as follows while the household awaits the hearing:

(A) Households which have been approved for benefits and which are subject to a reduction or termination of benefits later in the same year shall receive continued benefits if they appeal the adverse action within the 10 day advance notice period; and

(B) Households which are denied benefits upon application shall not receive benefits.

(3) State agencies shall inform institution officials of the results of the verification effort and the action which will be taken in response to the verification findings. This notification shall be made in accordance with the procedures outlined in § 226.14(a).

(4) If the verification results disclose that an institution has inaccurately classified or reported the number of enrolled children eligible for free, reduced-price or paid meals, the State agency shall adjust institution rates of reimbursement retroactive to the month in which the incorrect eligibility figures were reported by the institution to the State agency.

(5) If the verification results disclose that a household has not reported accurate documentation on the application which would support continued eligibility for free or reduced-price meals, the State agency shall immediately adjust institution rates of reimbursement. However, this rate adjustment shall not become effective until the affected households have been notified in accordance with the procedures of § 226.23(h)(2)(i) and any ensuing appeals have been heard as specified in § 226.23(h)(2)(ii).

(Sec. 803, Pub. L. 97-35, 95 Stat. 5210535 (42 U.S.C. 1758))

Dated: August 3, 1983.

John H. Stokes III,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 83-21478 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-30-M

Agricultural Stabilization and Conservation Service

7 CFR Part 707

Payments Due Persons Who Have Died, Disappeared, or Have Been Declared Incompetent

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations found at 7 CFR Part 707 which govern the making of payments under commodity programs to persons who have died, disappeared, or have been declared incompetent. The purpose of this revision is to delete references to obsolete commodity programs and to make a more general statement of the applicability of the provisions of 7 CFR Part 707.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Alex King, 447-4542, Common Provisions and Compliance Section, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures, and Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "not major." It has been determined that this rule will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumer, individual industries, Federal, State or local governments, or geographical 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.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since Agricultural Stabilization and Conservation Service (ASCS) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of final rulemaking with respect to the subject matter of this rule. The current regulation found at 7 CFR Part 707 cross-reference a number of commodity programs which are no longer in existence. In order that Part 707 does not have to be continually updated to cross-reference the applicability of this part to various commodity programs, § 701.1 has been revised to provide that Part 707 will be applicable to all provisions found in Title 7 of the Code of Federal Regulations which are administered by

ASCS under which payments are made to eligible participants. In addition, Part 707 will be applicable to all other programs to which it is made applicable by individual program regulations.

Since this final rule makes no substantive changes in Part 707 but only deletes obsolete references and simplifies the applicability of the Part to various commodity programs, it has been determined that no further public rulemaking is required.

List of Subjects in 7 CFR Part 707

Agriculture, Grant programs—agriculture, Loan programs—agriculture, Price support programs.

PART 707—[AMENDED]

Accordingly, 7 CFR 707.1 is revised to read as follows:

§ 707.1 Applicability.

This part applies to all programs in Title 7 of the Code of Federal Regulations which are administered by the Agricultural Stabilization and Conservation Service under which payments are made to eligible program participants. This part also applies to all other programs to which this part is applicable by the individual program regulations.

(Sec. 375, 52 Stat. 66 as amended, sec. 124(i), 75 Stat. 300, sec. 307(h), 76 Stat. 617, sec. 318, 76 Stat. 622, sec. 324(2), 76 Stat. 630, sec. 704, 68 Stat. 911, secs. 4, 8(b), 49 Stat. 164, 1149, as amended, sec. 101(4), 76 Stat. 606, sec. 3, 77 Stat. 45, sec. 4, 62 Stat. 1070; (5 U.S.C. 301, 7 U.S.C. 1334 note, 1339, 1375, 1379j, 1385, 1783, 16 U.S.C. 590d, 590(e), 590(h), 15 U.S.C. 714 (b), (d), (j) and (k))

Signed at Washington, D.C. on July 28, 1983.

Everett Rank,

Administrator.

[FR Doc. 83-20943 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 720

General Policy and Interpretations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final regulation amends the regulations governing the policy of the Agricultural Stabilization and Conservation Service (ASCS) with respect to the expiration of time limitations to delete an example involving an obsolete program.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Alex King, 447–4542, Common Provisions and Compliance Section, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures, and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not 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 governments, or geographical 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.

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

This final rule deletes from 7 CFR 720.1 an example which references the wheat marketing program for 1958 and subsequent years. This program is no longer in effect. Since this final rule makes no substantive change in Part 720 but only deletes an example containing an obsolete reference, it has been determined that no further public rulemaking is required.

List of Subjects in 7 CFR Part 720

Acreage allotments, Marketing quotas.

Final Rule

PART 720—[AMENDED]

Accordingly, 7 CFR Part 720 is amended to read as follows:

§ 720.1 Expiration of time limitations.

Whenever the final date prescribed in any of the regulations in this chapter for the performance of any act falls on a Saturday, Sunday, national holiday, State holiday on which the office of the County or State Agricultural Stabilization and Conservation Committee having primary cognizance of the action required to be taken is closed, or any other day on which the cognizant office is not open for the transaction of business during normal working hours, the time for taking required action shall be extended to the close of business on the next working day, or in case the action required to be taken may be performed by mailing, the action shall be considered to be taken within the prescribed period if the mailing is postmarked by midnight of such next working day.

Where the action required to be taken is within a prescribed number of days after the mailing of notice, the day of mailing shall be excluded in computing such period of time.

(16 U.S.C. 590, 1311, 1506, 2103, 2205; 40 U.S.C. App. 401; 7 U.S.C. 450 1, 1375, 3507, 1421, 1441, 1444, 1444d and 1445b–1)

Signed at Washington, D.C., on July 28, 1983.

Everett Rank,

Administrator.

[FR Doc. 83-20945 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-05-M

7 CFR Part 796

Harvesting of Marihuana or Other Such Drug-Producing Plants for Illegal Use

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule revises the regulations found at 7 CFR Part 796 which provides for a prohibition against farm program payments being made to agricultural producers who harvest or knowingly permits to be harvested for illegal use marihuana or other such prohibited drug producing plants on any part of lands which are owned or controlled by such producer. The purpose of this rule is to delete certain obsolete references.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Alex King, Compliance and Common Provision Section, ASCS, Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013 (202) 447–4542.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures, and Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been classified "not major." It has been determined that this rule will not 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 governments, or geographical 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.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Department of Agriculture is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of

final rulemaking with respect to the subject matter of this rule.

The current regulations found at 7 CFR Part 796 make reference to the Naval Stores Conservation Program and to wheat marketing certificates. These references are deleted in this final rule since they are obsolete. Since this final rule makes no substantive changes in Part 796 but only deletes obsolete references, it has been determined that no further public rulemaking is required.

These changes are made to update the regulation, and to make a general statement of applicability, thereby avoiding the need for frequent amendment to this part

List of Subjects in 7 CFR Part 796

Agriculture, Marihuana.

Final Rule

PART 796—[AMENDED]

Accordingly, 7 CFR Part 796 is amended as follows:

§ 796.1 [Amended]

1. Section 796.1 is amended by deleting "and the Naval Stores Conservation Program (Part 706 of this chapter, as amended),".

§ 796.2 [Amended]

2. Section 796.2 is amended by deleting "or wheat marketing certificates."

(Sec. 605, 96 Stat. 1810 and annual agricultural appropriation acts)

Signed at Washington, D.C. on July 28, 1983.

Everett Rank,

Administrator.

[FR Doc. 83-20944 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-05-M

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 423]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market during the period August 7–13, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: August 7, 1983.

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

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

This final rule is issued under Marketing Order No. 910, as amended (7 CFR Part 910) regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon recommendations and information submitted by the Lemon Administrative Committee and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

PART 910—[AMENDED]

Section 910.723 is added as follows:

§ 910.723 Lemon regulation 423.

The quantity of lemons grown in California and Arizona which may be handled during the period August 7, 1983, through August 13, 1983, is established at 250,000 cartons.

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

Dated: August 4, 1983.

D. S. Kuryloski,

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

[FR Doc. 83-21586 Filed 8-4-83; 12:01 pm]

BILLING CODE 3410-02-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 71

Rule To Achieve Compatibility With the Transport Regulations of the International Atomic Energy Agency (IAEA)

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is revising its regulations for the transportation of radioactive material to make them compatible with those of the International Atomic Energy Agency (IAEA) and thus with those of most major nuclear nations of the world. Although several substantive changes are made to provide a more uniform degree of safety for various types of shipments, the Commission's basic standards for radioactive material packaging remain unchanged. Some deletions from the proposed rule have been made to account for changes expected in the 1984 revision of the IAEA regulations (begun since the NRC proposed rule was issued) which will bring those regulations closer to those of the United States. These regulations apply to all NRC specific licensees who place byproduct, source, or special nuclear material into transportation. The special restriction on the air transport of plutonium has been included in this revision in its final form.

EFFECTIVE DATE: September 6, 1983. In order to minimize negative impacts through the period before this rule becomes effective, during which there are some inconsistencies between the presently effective regulations of NRC and the Department of Transportation (DOT), the NRC staff has adopted a policy of flexibility. In practical terms, in those situations where compliance with a new DOT requirement would be in conflict with a current 10 CFR Part 71 requirement, NRC would in most cases accept compliance with the new DOT requirement. NRC would reserve judgement, however, to take

enforcement action in an appropriate case.

ADDRESSES: Single copies of the value/impact analysis for this rule change may be obtained on request from the contact identified below. Copies of the value/impact analysis and of the Commission's analysis of public comments may be examined and copied for a fee in the Commission's Public Document Room at 1717 H Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Donald R. Hopkins, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone 301–443–7825.

SUPPLEMENTARY INFORMATION:

Background

On August 17, 1979, the Nuclear Regulatory Commission published in the **Federal Register** (44 FR 48234) a proposed revision of 10 CFR Part 71 of its regulations pertaining to the transportation of radioactive material. Interested persons were invited to submit written comments and suggestions on the proposal and/or the supporting value/impact analysis by October 16, 1979. The public comment period was subsequently extended to December 17, 1979. Based on the public comments and other considerations, the Commission has adopted the proposed revision, with modifications as set forth below. The regulations apply to all NRC licensees who place byproduct, source, or special nuclear material into transportation.

The revision, as proposed, in combination with a corresponding amendment of Title 49 of the Code of Federal Regulations by the Department of Transportation (DOT), would bring the U.S. regulations into accord with relevant portions of the International Atomic Energy Agency (IAEA) design and performance requirements to the extent considered feasible, thereby making U.S. regulations compatible with the domestic regulations of most of the international community.

One important change proposed was a change in the system used to specify the quantities of radioactive materials permitted in packages (designated Type A packages) not required to survive severe transportation accidents. These quantities, derived from criteria limiting individual radiation exposure resulting from transportation accidents, have since 1966, been based on grouping all radionuclides in seven transport groups and limiting all radionuclides in the group according to the toxicity of the most hazardous member. There was, in addition, a "special from" category for radioactive materials which are not dispersible because of their inherent physical form or because of suitable encapsulation. This system is unnecessarily restrictive when applied to the less toxic group members, which in some cases are less than one-tenth as toxic as other group members. The proposed change would eliminate the transport groups and instead assign to each radionuclide two values, A_1 and A_2, which are the maximum quantity of that radionuclide permitted in Type A packages in special form and non-special from, respectively.

The other major proposed change was to create two classifications of packages (designated Type B packages) which are resistant to transportation accidents. The two classifications are the Type B(M) package which for international shipment requires approval of the package design by the competent authority of each country into or through which the package is transported (i.e., multilateral approval) and the Type B(U) package which requires package design approval only of the country of origin (i.e., unilateral approval). Requirements for the Type B(U) package approval would be more stringent to assure that all countries affected would be satisfied with the package design as approved by the country of origin.

Other changes were proposed dealing with definitions, requirements for transporting low specific activity materials, small quantities of fissile material, and standards for leak tightness. A large number of changes were proposed to bring U.S. domestic rules as close as possible to the international standards. However, the basic systems of control remain unchanged as do the basic standards which define the required level of safety.

Other Considerations

IAEA Activities

During September 1980 and March 1982, revision panels were assembled by IAEA to draft changes for the scheduled 1984 revision of its transportation regulations. Decisions made by these revision panels, consisting of representatives of most major countries involved in nuclear material transportation, would make IAEA regulations more compatible with present U.S. regulations. NRC, in consultation with DOT, has decided not to include in its final revision of 10 CFR Part 71 those requirements introduced in the IAEA regulations in 1973 which are expected to be removed from IAEA regulations in the 1984 revision. This results in elimination of the "additional requirements for Type B(U) packages" in proposed § 71.34. The design criteria of § 71.34 (f) and (g) are deleted. All other distinctions between B(U) and B(M) packages are eliminated except those related to internal pressure limitations and pressure relief devices for B(U) packages, which are now contained in the definition of a Type B package.

The IAEA, as part of its effort to maintain the continued adequacy of the regulations, has adopted a modified system for determining A_1 and A_2 values. This new system will be incorporated in the 1984 revision of the IAEA regulations which is being prepared. The system was adopted in principle by the IAEA at the March 1982, Advisory Group on the revision and it was subsequently refined by a special Work Group which met in August 1982. When the IAEA circulates the "3rd Draft" version of the regulations, DOT will be making it available and will seek public comment.

It has become apparent to NRC that the new system incorporates a radiological exposure pathway which has not been considered previously. This pathway involves consideration of the dose to the skin of a person contaminated with a radionuclide. For most radionuclides this is not a limiting pathway as other considerations in both the present and proposed systems are generally more limiting. Examples of the other more limiting considerations are radiation levels from unshielded material and internal pathways such as inhalation. For some betaemitting nuclides, however, the contaminated skin consideration is limiting. In some cases the Type A limits calculated under the newly adopted system are significantly lower than the previously accepted A_2 values and some are even lower than the earlier Transport Group values.

The NRC believes that it cannot ignore the contribution that the contaminated skin consideration makes toward a complete system for calculating Type A values. This is particularly true for radionuclides which have high A_2 values under the 1973 IAEA regulations and would have considerably lower A_2 values under the new IAEA system due to their potential for significant dose to contaminated skin. Of these radionuclides, some have values below the old transport group values (Case 1) and some have values between the old transport group and the 1973 IAEA values (Case 2).

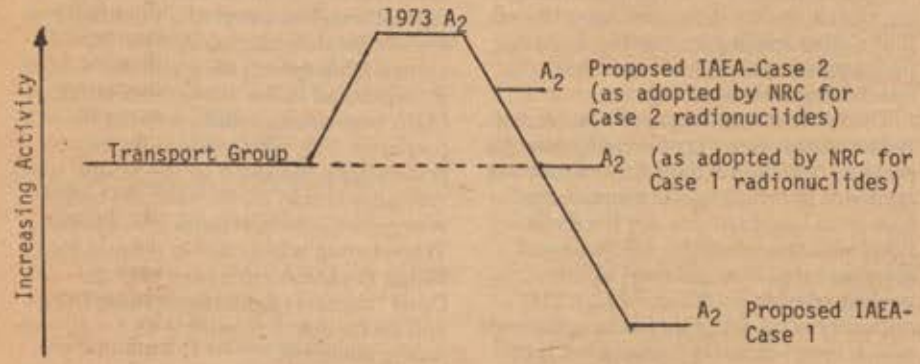
The NRC believes that it is prudent to both accept this new pathway as necessary to provide a complete system for setting Type A values and to

minimize unnecessary fluctuations in the Type A limits. While there is some uncertainty as to the exact values which will result from the final, accepted new IAEA system, the NRC is confident that the values now available are conservative and will most probably not be lowered. Therefore, for those nuclides which are limited by the skin exposure pathway, values have been selected as follows:

Case 1: The transport group values are adopted as the new A_2 values.

Case 2: The values now available are adopted in lieu of the 1973 IAEA values.

These two cases can be represented graphically as:



The radionuclides which are affected in Case 1 are:

Ag-111	Mo-99	Sc-47
As-77	Nd-147	Si-31
Au-198	Nd-149	Sm-153
Cd-115	Os-193	Te-127M
Ce-143	Pd-109	Te-127
Dy-165	Pm-149	Te-129
Er-171	Pr-143	W-187
Gd-159	Pt-197m	Zn-69m
In-115m	Pt-197	Zn-69
	Re-186	

The radionuclides which are affected in Case 2 are:

Au-199	Eu-155	Rh-105
Br-77	Hf-181	Ru-103
C-14	Hg-203	S-35
Ca-45	I-133	Sb-125
Ce-141	In-111	Sr-89
Cl-36	Ir-192	Tb-160
Cs-134m	K-43	Tc-99
Cs-135	Lu-177	Te-129m
Cs-137	N-13	Th-231
Cu-64	Np-239	Tl-204
Cu67	Os-191	Tm-170
Er-169	Pm-147	W-185
Eu-152	Rb-81	Yb-175

In both cases the values adopted herein are no lower than the previously existing transport group values and yet are lower than the previously proposed 1973 IAEA A_2 values. For the radionuclides listed under Case 1, the A_2 is set at the old limit of 20 curies as each nuclide was previously in transport group IV which had this limit. The nuclides listed in Case 2 have been assigned the currently available values under the new IAEA system. These values are between the old transport group and the 1973 IAEA values. When the new IAEA system is fully implemented by the IAEA, and the skin exposure pathway is taken into due account, then NRC expects to complete the alignment of A_2 values between the U.S. and the IAEA.

It is expected that there will be a complete revision of the IAEA criteria governing the definition and transportation of low specific activity material. In anticipation of the future IAEA changes, the proposed definitions of low-level solid radioactive material (LLS) and of low specific activity material (LSA) are withdrawn, and the definition of low specific activity material in the present rule is retained with some minor changes to make it consistent with the new A_1/A_2 system for defining Type A quantities of radioactive material. The proposed exemption from NRC regulation for LSA and LLS materials has been withdrawn pending resolution of this issue. A separate NRC rulemaking action to upgrade the LSA standards will be undertaken in the near future.

United States Activities

New guidelines have been issued by the Office of the Federal Register on the use of numbering systems for regulations, and on the use of appendices. These new guidelines, and others concerning the writing of regulations in "plain English," have resulted in large but nonsubstantive changes in the format of 10 CFR Part 71. Existing Appendices A, B, D, and E have all been incorporated as new sections in the body of the rule and large, complex sections have been divided for clarity.

Two recent NRC decisions have resulted in minor changes from the Transportation rules proposed in 1979. The definition of "radioactive material" has been deleted because it duplicated, in a less effective manner, the function of the long standing exemption in proposed § 71.8(a) (now § 71.10(a)) which avoids any regulatory requirements for radioactive material having a specific activity not greater than .002 microcuries per gram. Although this leaves NRC rules without a definition of radioactive material corresponding to those of DOT and IAEA, there is no substantive inconsistency because the exemption provisions are retained.

NRC has also decided to require reporting of package defects within 30 days of discovery to assist the staff in follow-on evaluations of approved package designs. Reporting of defects is already required by 10 CFR Part 21, "Reporting of Defects and Noncompliance," and is added to the proposed reporting requirement in § 71.61 (now § 71.95) for clarity and emphasis. The information to be reported has been moved from the 10 CFR Part 71 recordkeeping requirement of § 71.62 (now § 71.91) to the reporting requirement in § 71.95.

Other Rulemaking Actions Included

On November 2, 1979, the NRC published in the **Federal Register** (44 FR 63083) a final rule to require all shipments of radioactive material made by NRC specific licensees to be made in accordance with the regulations of DOT. The effect of the rule was to allow the NRC to inspect the activities of its licensees involved with shipment of radioactive materials against the requirements in DOT regulations. Licensees who violate the referenced DOT standards also violate NRC regulations. Those changes are incorporated in this revised rule.

On January 6, 1982, the NRC published in the **Federal Register** (47 FR 596) a final rule to require advance notification to the governor of any state prior to transport of certain types of nuclear waste, including spent fuel, to, through, or across the boundary of that state. That requirement has been repositioned in this revised rule for clarity, and is now codified as § 71.97 "Advance notification of shipment of nuclear waste." The associated definition of "nuclear waste" has been incorporated into § 71.97.

The preamble to the final rule imposing the advance notification requirement recognized that the term "large quantity," which establishes the

level of radioactivity at which the advance notification is required, was being eliminated from the regulations. The original purpose of the term, as a designator of the quantities of radioactive materials which generate sufficient decay heat to warrant consideration of heat dissipation in the package design and approval, is antiquated, as all Type B packages are now evaluated for heat dissipation under both normal and accident conditions. In addition, the elimination of the transport group system for classifying radionuclides in favor of the A_1/A_2 system has removed the basis on which the term "large quantity" was defined. This final rule retains the advance notification requirement with the same limits on reportable quantities. There have been some minor changes made to make the requirement consistent with the new A_1/A_2 system for defining Type A quantities of radioactive material.

On November 13, 1981 the NRC published in the **Federal Register** (46 FR 55992) a proposed rule to restrict the air transport of plutonium. Under the proposed rule, plutonium could be transported by air only in a package specifically certified by NRC as air-crash resistant unless the plutonium is in a medical device for individual human use or is shipped in quantites or concentrations small enough to present no significant hazard to the public health and safety even if the plutonium were released in an air crash. Only one public comment was received with respect to the proposed rule, and that was favorable. The final rule, as proposed, is therefore included in this overall revision of Part 71.

The original restriction on the air transport of plutonium was imposed by NRC order dated August 15, 1975. This order was imposed after the U.S. Congress, in Pub. L. 94–79, prohibited the NRC from licensing any shipments of plutonium by air until the NRC certified to the Congress that a safe container had been developed and tested which would not rupture under crash and blast-testing equivalent to the crash and explosion of a high-flying aircraft. A second order was issued on September 1, 1978, superseding the first order dated August 15, 1975, after the first air-crash resistant package, the Model PAT–1 package, had been certified by NRC to the Congress. The second order allowed the use of the PAT–1 package for the air transport of plutonium. With the finalization of this regulatory revision and the imposition of 10 CFR Part 71.88 to implement the restriction of Pub. L. 94–79, the NRC's second order dated September 1, 1978 is being revoked by the Provisions of § 71.88. However, in addition to the NRC orders, restrictive conditions were also placed in the licenses of persons authorized to possess plutonium, restricting its air shipment. Those license conditions will be automatically removed from the licenses when the licenses are processed by NRC for renewal or amendment. Any licensee who needs that license condition removed earlier should request that action. There will be no licensing fee for removal of the condition.

Public Comments and Detailed Considerations

There were 29 letters of comment received on the proposed revision from industry, government, and medical sources. The most common comment noted differences among NRC, DOT, and IAEA definitions and requirements where no reasons for differences were apparent. The present Memorandum of Understanding between DOT and NRC, published on July 2, 1979 (44 FR 38690), defines the types and quantities of radioactive materials to be regulated by each agency. There are some common definitions and requirements. It is important that the two sets of regulations be consistent. It is also intended that, to the extent feasible, and aside from administrative matters, both sets be substantively in accord with IAEA regulations, Safety Series No. 6. These inconsistencies have been corrected in the final rule where possible.

Detailed consideration of all public comments is contained in a document entitled "Consideration of Public Comments—Revision of 10 CFR Part 71 for Compatibility with IAEA Regulations (44 FR 48234)." This document may be examined in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. The following is a discussion of public comments of general interest on, and significant changes in, the proposed regulations, discussed in the order in which the requirements were proposed:

Section 71.4 Definitions

One commenter noted that certain isotopes of americium, curium, and californium are also fissile, but not included in the definition of "fissile material." Another commenter proposed deleting plutonium-238 from the list of fissile radionuclides because, as with fissile isotopes of americium, curium, and neptunium, it is capable only of fast fissioning. The present Part 71 classification, which is also that of the IAEA, is being retained because plutonium-238 is shipped in substantial quantities, whereas available quantities of americium, curium and neptunium are so small as to be of no concern with respect to criticality in transportation.

With respect to the definition of "Type B package", the question was asked, "Are there limits on the quantity of material that can be shipped in a single Type B package?" While there are no limits specified in the regulation there are quantity limits specified in the package design approval. These may be the limits proposed in the application for package design approval, if adequately justified, or may be lower if necessary due to heat, criticality, shielding, or other considerations. In addition, the definition of "Type B package" has been modified to more clearly specify the sole remaining technical distinctions between B(U) and B(M) packages, having to do with the internal pressure, and pressure relief devices. The definition remains different from that of IAEA which emphasizes the unilateral or multilateral approval system for international transportation. This is an administrative distinction which will be controlled through the regulations of DOT.

The proposed definition for special form would have required all encapsulations to be contained in a sealed capsule "which can be opened only by destructive means." This phrase was intended to clarify the IAEA requirement which states that an encapsulation must be "so constructed that it can be opened only by destroying the capsule." Comments received indicated that the IAEA wording was less subject to varying interpretations and so it has been incorporated in the definition of special form. Commenters pointed out some difficulties which would result from performing cutting and welding or brazing operations in the closed environment of a glove-box or hot cell, but these objections were not quantified to any degree and are routinely performed in certain industries. It was not established by the commenters that the proposed requirement could not be met or that it would be too costly to meet the requirement.

Section 71.5 Transportation of licensed material

In the interest of simplicity, the references to the regulations of the U.S. Postal Service (USPS) have been removed from § 71.5. The jurisdiction of the USPS has no limitations pertinent to safety as does the DOT jurisdiction which is limited to the "transportation of hazardous materials in commerce."

Anyone who uses the USPS transportation system for transportation of radiocative material is subject to the USPS regulations, the substance of which is contained in USPS Publication #6, "Radioactive Materials," dated December 1975. Single copies of that publication are available from USPS or from the contact identified in this notice. References to USPS regulations are deleted from § 71.5 but included in § 71.0(b) as a reminder that there are other agencies having jurisdiction over means of transport.

§ 71.5 has been revised for clarity to refer specifically to those revisions of DOT regulations which are imposed by reference. The list of provisions is not inclusive, however. A knowledge of all applicable DOT regulations is necessary.

Section 71.7 Exemption of Physicians (now § 71.9)

Two comments related to the exemption of physicians in proposed § 71.7, and particularly to the idea that large quantities of radioactive material could be carried by physicians without any regulatory control. When this physician exemption was introduced into Part 71, the Notice of Proposed Rulemaking (36 FR 6521, April 6, 1971) explained that the exemption was "in line with the position taken several years ago by the Interstate Commerce Commission and now assumed by the Department of Transportation, that the DOT regulations do not apply to physicians transporting in their own vehicles radioactive material used for treatment or diagnosis." The physician exemption was added to the regulations concurrently with § 71.5 which imposed DOT regulations, by NRC (AEC at that time) authority, on persons not otherwise subject to them. The physician exemption served to avoid having NRC impose DOT regulations on physicians when DOT chose not to impose them by its own authority. The changes to the physician exemption by this rule clarify that physicians are exempt only from § 71.5, and therefore from NRC imposition of DOT requirements, but are subject to requirements of Part 71 if they transport fissile material or Type B quantities of other radioactive material. Physicians who are exempt from § 71.5 under this provision must possess an NRC license under Part 35 of this chapter.

Section 71.8 Exemption for low level materials (now § 71.10)

The exemption for low specific activity material and low level solids has been removed from this section because NRC plans to retain control over Type B quantities of such material until questions regarding the adequacy of the standards have been resolved.

Section 71.9 Exemption for fissile material (now § 71.53)

For clarity, the provisions describing the types of fissile material that are exempt from fissile packaging standards now precede the general requirements for all fissile material packages. In addition, a new entry dealing with irradiated natural or depleted uranium has been added.

Section 71.11 General license for shipment of fissile material

The extensive provisions of § 71.11 have been divided, for clarity, into four new sections codified as §§ 71.18–71.24. The substance of the four new sections corresponds to the substance of paragraphs (a), (b), (c), and (e) of § 71.11 of the proposed rule. The substance of proposed § 71.11(d) was to provide system flexibility once an NRC fissile package approval has been issued. This type of provision is more appropriately placed in DOT regulations, and has been placed there.

Section 71.12 General license for shipment in approved packages (new §§ 71.12–71.16)

The extensive provisions of § 71.12 have been divided, for clarity, into three new sections codified as §§ 71.12, 71.14, and 71.16. The substance of the three new sections corresponds to the substance of paragraphs (b), (a) and (c), respectively, of § 71.12 of the proposed rule.

One commenter noted that this section fails to grant a license to transport Type A packages and packages containing low specific activity material, and that DOT regulations also do not grant that type of license. The requirement for a license to transport radioactive material is not pervasive throughout the regulatory system. The requirement for a general or specific license is imposed by §71.3 of NRC regulations, but that section specifically excludes from the licensing requirement persons who are "exempted in this part." Those exempted are identified in § 71.8 (now § 71.10) as including licensees who ship Type A packages. DOT regulations do not impose a licensing requirement, so no license is required by either Federal regulation for shipments exempt under § 71.8 (now § 71.10)

Another question asked concerning § 71.12 is as follows: "In the event a licensee who is not the owner of a package procures a package for another licensee to make a shipment, which licensee(s) must register as users of the package and have copies of the Certificates of Compliance and all referenced documents?" As provided in § 71.2 "Scope" (now § 710), the regulations in Part 71 apply " * * * if the licensee delivers such materials to a carrier for transport or transports such material outside the confines of his facility, plant or other authorized place of use." The requirements of Part 71, and thus of §71.12, apply to a licensee who ships or transports licensed radioactive material. A licensee who procures a package but does not use it to ship or transport licensed material is not subject to the regulations of Part 71.

§ 71.31 Demonstration of compliance (now § 71.41)

In response to public comments this section has been revised to clarify the intent that actual testing is not always required. The demonstration of compliance might, for example, include a combination of full-scale testing, scale model or mockup testing, calculation, and reference to other suitably documented tests. Compliance with thermal test requirements, for example, is often demonstrated by calculation or a combination of calculation and test. As another example, some packages such as those made of metal, would obviously suffer no ill effects from the water spray test, so that appropriate statements about the design might then suffice.

Section 71.32. Standards for all packages (now § 71.43–71.47)

Par. (h)—The appropriateness of the reference to "NRC approved test procedures" was questioned, because no reasonable procedures have yet been published by NRC. There are some acceptable leak testing procedures in Regulatory Guide 7.4, "Leakage Tests on Packages for Shipment of Radioactive Materials," which refers to the standards published in the American National Standards Institute Publication N14.5. However, the reference to "NRC approved test procedures" was primarily to procedures the NRC has been or will be approving with quality assurance plans submitted for package approval (as required under proposed § 71.24), or with quality assurance plans submitted for approval under proposed § 71.12 to qualify for the general license provisions. The phrase "NRC approved test procedure" has been deleted from the final rule as unnecessary.

Section 71.36. Special requirements for plutonium shipments (now § 71.63) An objection was received on the continuance of this special requirement which is not contained in IAEA regulations. The requirement was justified when imposed in 1974; the Commission considers that the need for this requirement still exists.

A comment suggests changes to the scope of this section to include other radionuclides of similar radiotoxicity such as californium-249, californium-252, and protactinium-231, and to exclude plutonium-241 because of its relatively low radiotoxicity. While this suggestion may have merit, it will be considered in a separate rule making action since it is beyond the scope of this particular action.

A question was asked whether PuO_2 would be considered as a solid for the purpose of this requirement. PuO_2 in a powder form or pressed into a pellet would be considered a solid for purposes of this requirement; PuO_2 suspended in a liquid would not.

Par. (b)—It was suggested that a specific exemption be included for solid waste which contains plutonium from the requirements for solid form and double containment, or alternatively that specific criteria be included to qualify for that exemption. The establishment of detailed criteria would require further experimental work and analysis. However, the general consideration that the plutonium must be in "nonrespirable" form is discussed in the Statement of Considerations accompanying the rulemaking action requiring solid form and double containment as published in the Federal Register on June 17, 1974 (39 FR 20960). Possible exemptions must, at present, be considered on a case-by-case basis, and undoubtedly some solid waste forms would not qualify as being sufficiently nonrespirable.

Section 71.37 Previously approved packages (now § 71.13)

It was suggested that an application for renewal of an existing certificate of compliance should be evaluated under the same criteria as the original application. The purpose of proposed § 71.37 was to allow the continued use of existing packages without regard to the relatively minor changes to the package standards effected by this rule. The purpose was not to prolong the existence of the old standards, not even for purposes of certificate renewal or minor design changes. Existing package approvals for the use of existing hardware will be renewed without regard to the change in package standards, although other factors, such as package experience or inspection history, may result in denial of an application for renewal of a Certificate of Compliance.

The provisions of proposed § 71.37 have been incorporated by reference into the new § 71.12 "General license: NRC approved package." The general license of § 71.12 continues to apply to previously approved packages if fabrication of the packages is completed by August 31, 1986. After August 31, 1986, previously approved packages cannot be used for international transport unless they have been reapproved under the new standards and assigned a B(U) or B(M) designation, or shipped under special arrangement approved by the DOT. Paragraph 71.31(b) has been added to clarify that only limited changes in packaging or contents will be approved for previously approved packages without a demonstration that the new package standards are satisfied.

Section 71.52 Assumptions as to unknown properties (now § 71.83)

A suggestion was made that "this section should be a part of § 71.35 since it does not address a transport operation, but deals with package evaluation." On the contrary, proposed § 71.52 (now § 71.83) is intended to assure that, during the preparation of a package for shipment, a conservative approach is taken with respect to any pertinent property of fissile material to be transported when the property is not positively known. For this purpose, the Commission judges that the "Operating Controls and Procedures" Subpart to Part 71 is the proper location for the requirement. The design, evaluation, and Certificate of Compliance may cover a range of properties and quantities. For a particular shipment, however, some property or quantity may not be accurately known; in that case the most adverse credible assumption must be made for assessment of compliance.

Section 71.53 Preliminary determinations (now § 71.85)

Par. (b)—Several commenters objected to the word "leak-tightness" as an acceptance standard for this overpressure test, on the grounds that it differs from the parallel IAEA requirement that imposes only a structural integrity acceptance criterion. A pressure test at some pressure higher than design pressure has been used, for example, in ASME Code practice, as a test for structural integrity but not for leak-tightness. The Commission considers that in the case of radioactive material packages, integrity of the containment (including closures, valves, and other possible routes of escape) should be demonstrated for each fabricated package before first use. Required tests for leak-tightness are presently related to the package design and are required as a condition of the package design approval.

Clarification of this requirement with respect to pressure relief devices was requested. Although a pressure relief device may need to be made inoperative to reach the test pressure of proposed § 71.53(b) (now § 71.85(b)), the device may normally be set below that test pressure for shipment, provided the criteria of Subparts E and F are satisfied.

Section 71.54 Routine Determinations (now § 71.87)

Par. (b)—It was suggested that external radiation level limits (as well as other provisions) be excluded from NRC regulations in deference to the same provisions in DOT regulations. The Commission's policy in this matter is that all Type B and fissile material package requirements are to be included in NRC regulations. External radiation level and temperature restrictions have been transferred to the "Package Standards" Subpart as design review requirements.

As suggested, the wording of the external radiation level limits has been made nearly identical to that of the DOT regulation. The limit at 2 meters from the surface also conforms to that of IAEA in that it does not apply to space above or below the vehicle. The 2-meter limit is for the purpose of controlling general public exposure for which there is little control needed above and below the vehicle. This is in contrast to the surface limits for control of exposure to persons working in and around the vehicle where the limits are applied to the upper and lower surfaces in addition to the vertical surfaces.

One commenter suggested that the external temperature limits be applied only to B(U) packages (as in IAEA regulations) but not to B(M) packages. It is the Commission's view that the higher temperature limit stated (82°C) would be applicable only to an exclusive use shipment where the carrier's handling procedures and the stowing of other cargo can be controlled by the shipper to avoid problems resulting from the higher surface temperature. All packages placed in normal transport must adhere to the lower temperature.

Par. (d)—As noted in the comments, there were no limits proposed on package coolant contamination. The Commission has adopted the IAEA

rationale that contaminated coolant is part of the package contents, and must either be restricted to very low levels or retained in the package under the hypothetical accident conditions.

The level of non-fixed radioactive contamination on external surfaces of packages was limited in the proposed rule by values in Table VI. However, it was not sufficiently clear that when the wiping method is used, the limit of the radioactive contamination collected by the wiping material is not to exceed 10% of the values specified in the Table. Since the wiping method is used almost exclusively for determining non-fixed contamination levels, it is simpler to specify directly in the Table the limits on radioactive contamination as determined by the wiping method. Therefore, the levels in the Table (now Table V) are reduced by a factor of ten and these levels are specified as the limits for radio-active contamination as determined by the wiping method. Other methods of assessment of equal or greater detection efficiency may be used. For these methods, limits on radioactive contamination on the external surfaces of packages are specified. This change clarifies the meaning of the paragraph but does not change any regulatory requirement.

A commenter asked who must perform the preliminary and routine determinations and keep records where the shipper (licensee) of a package is not the owner (also a licensee) of the package. Ownership of a package is not important in satisfying Part 71 requirements. The scope of the rule applies the requirements to a person who is already licensed under any other part of 10 CFR Chapter I, but only if that licensee delivers licensed materials to a carrier for transport or if the licensee transports licensed material. A person who merely owns a package is not subject to the requirements of Part 71. On the other hand, a user of the package would be subject to the Part 71 requirements for preliminary and routine determinations and record keeping requirements, even though the user may not own the package. The user of the package always has the regulatory responsibility for preliminary and routine determinations. However, the user can contract with some other person, perhaps the owner, to satisfy those requirements for the user, although the user's records must demonstrate that the requirements have been satisfied.

It was noted that the choice of materials for packaging is dependent upon the low temperature initial condition for the normal transportation tests with respect to brittle fracture. The same commenter requested explicitly stated criteria on materials of construction to eliminate the present degree of subjective judgment. With this rule change, the Commission believes that the performance criteria for materials of construction that relate to brittle fracture are reasonably clear with a combination of temperature and drop tests, puncture, and vibration mechanical tests. Design guidance for brittle fracture is being developed within NRC and will be contained in a future regulatory guide.

Appendix A—Normal Conditions of Transport (now § 71.71)

Heat—As discussed in the Notice of Proposed Rulemaking, the proposed ambient air temperature of 54° C (130° F), to which the effects of solar radiation must be added as an extreme condition of normal transport, differs from the IAEA figure of 38° C (100° F) to which the effects of solar radiation must be added. These final requirements of Part 71 have been modified to adopt the IAEA standard of 38° C plus specified solar radiation. This decision takes into account that Type B packages do not respond quickly to temperature changes, so a long-term average temperature test is more appropriate than a test which includes temperature extremes.

Cold—A commenter argued that the IAEA regulations are being misinterpreted when the NRC applies a temperature of −40° C as a normal transport temperature extreme. IAEA regulations state that "−40° C and 70° C shall be considered as satisfactory limits to be used in the selection of the materials." The Commission has chosen to use the lower temperature extreme as an ambient temperature not to be considered in combination with any impact. As such the lower temperature extreme provides protection against damage from differential thermal expansion and other static types of damage. Protection against dynamic types of damage is provided by the −29° C temperature, specified as an initial condition for the tests, in combination with mechanical impacts characteristic of rough handling in normal transport.

Appendix C—Determination of A_1 and A_2 (now Appendix A)

Commenters pointed out that the new, lower A_1 value for sealed sources (special form) of americium and plutonium used in neutron sources and in nuclear-powered heart pacemakers involves significant costs without any apparent benefits. For the uses in question, the present 20 curie limit for Type A packages satisfies the international standard of not exceeding a dose rate level of 1000 millirem per hour at 3 meters from the source if all radiation shielding were lost. The proposed reduction in Type A package limits comes from an additional, arbitrary IAEA limit of a factor of 1000 on the difference in allowed radioactive contents between special form and non-special form sources. Because of the high radiotoxicity of most plutonium and americium isotopes, which severely restrict the A_2 (non-special form) values, the A_1 (special form) values in IAEA regulations are reduced to 3 curies for plutonium-238, 2 curies for plutonium-239, and 8 curies for americium-241. Because of the economic impact for neutron sources (oil well-logging industry) and heart pacemakers (health industry), the reduced limits proposed have been reevaluated, with the conclusion that the criteria are sufficiently conservative without the arbitrary limit to warrant retaining the 20-curie limits for domestic shipment in these cases. An exception has thus been introduced into § 71.10, "Exemption for low-level materials," retaining the 20-curie limit for domestic transport of americium and plutonium in special form.

A commenter questioned the A_1 values in Table A–1 for the radionuclides cesium-137 and strontium-=90 as the values are related to those which would be obtained under the Appendix instructions. In each case, the radionuclides are part of a decay chain, and the commenter, in calculating A_1 values, has ignored the radiation emitted by the daughter radionuclides of the decay chain. When the radiation emitted by the daughter radionuclides is considered, there is no discrepancy. The instructions in Appendix A, Section II, "mixture of radionuclides, including radioactive decay chains," have been modified to clarify this matter.

Comparison With Current Regulations

Set forth below is a cross-index of sections contained in this final revision of Part 71, the previous effective regulation, and IAEA Safety Series No. 6, "Regulations for the Safe Transport of Radioactive Materials—1973 Revised Edition (As Amended)," dated 1979.

Administrative Requirements

The Commission has determined that neither the Council on Environmental Quality guidelines, 40 CFR Part 1500, nor the NRC regulations in 10 CFR Part 51, "Licensing and Regulatory Policy and Procedures for Environmental

Protection," require the NRC to prepare an environmental impact statement for this revision of 10 CFR Part 71. Concurrently with the publication of this notice of rulemaking, the Commission is making available in its Public Document Room at 1717 H Street, NW., Washington, DC, an "Environmental Impact Appraisal of Changes to Radioactive Material Transport Regulations," to support the negative declaration required by 10 CFR Part 51.

CROSS INDEX

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[5] App. D.
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Paperwork Reduction Act Statement

The application, reporting, and recordkeeping requirements contained in this regulation have been approved by the Office of Management and Budget; OMB Approval No. 3150-0008.

List of Subjects in 10 CFR Part 71

Hazardous materials—transportation, Nuclear materials, Packaging and containers, Penalty, Reporting and recordkeeping requirements.

Under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the following revision in its entirety of 10 CFR Part 71 is published as a document subject to codification.

10 CFR Part 71 is revised to read as follows:

PART 71—PACKAGING AND TRANSPORTATION OF RADIOACTIVE MATERIAL

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71.2 Interpretations.
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Appendix A—Determination of A_1 and A_2.

Authority: Secs. 53, 57, 62, 63, 81, 161, 182, 183, 68 Stat. 930, 932, 933, 935, 948, 953, 954, as amended (42 U.S.C. 2073, 2077, 2092, 2093, 2111, 2201, 2232, 2233). Secs. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846).

Section 71.97 also issued under sec. 301, Pub. L. 96-295, 94 Stat. 789-790.

For the purposes of sec. 223, 68 Stat. 958, as amended (42 U.S.C. 2273), §§ 71.3, 71.43, 71.45, 71.55, 71.63 (a) and (b), 71.83, 71.85, 71.87, 71.89, and 71.97 are issued under sec. 161b, 68 Stat. 948, as amended (42 U.S.C. 2201(b)); and §§ 71.5(b), 71.91, 71.93, 71.95, and 71.101(a) are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

Subpart A—General Provisions

§ 71.0 Purpose and scope.

(a) This part establishes: (1) Requirements for packaging, preparation for shipment, and transportation of licensed material; and (2) procedures and standards for NRC approval of packaging and shipping procedures for fissile material and for a quantity of other licensed material in excess of a Type A quantity.

(b) The packaging and transport of licensed material are also subject to other parts of this chapter (e.g., Parts 20, 21, 30, 40, 70, and 73) and to the regulations of other agencies (e.g., the U.S. Department of Transportation (DOT) and the U.S. Postal Service (USPS) [1]) having jurisdiction over means of transport. The requirements of this part are in addition to, and not in substitution for, other requirements.

(c) The regulations in this part apply to any licensee authorized by specific license issued by the Commission to receive, possess, use, or transfer licensed material if the licensee delivers that material to a carrier for transport or transports the material outside the confines of the licensee's facility, plant, or other authorized place of use. No provision of this part authorizes possession of licensed material.

(d) Exemptions from the requirement for license in § 71.3 are specified in § 71.10. General licenses for which no NRC package approval is required are issued in §§ 71.14–71.24. The general license in § 71.12 requires that an NRC certificate of compliance or other package approval be issued for the package to be used under the general license. Application for package approval must be completed in accordance with Subpart D of this part, demonstrating that the design of the package to be used satisfies the package approval standards contained in Subpart E of this part as related to the tests of Subpart F of this part. The transport of licensed material or delivery of licensed material to a carrier for transport is subject to the operating controls and procedures requirements of Subpart G of this part, to the quality assurance requirements of Subpart H of this part, and to the general provisions of Subpart A of this part, including DOT regulations referenced in § 71.5.

[1] Postal Service Manual (Domestic Mail Manual), section 124.3, which is incorporated by reference at 39 CFR 111.1 (1974).

§ 71.1 Communications.

All communications concerning the regulations in this part should be addressed to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, or may be delivered in person at the Commission offices at 1717 H Street, NW., Washington, DC, or its offices at 7915 Eastern Avenue, Silver Spring, Maryland.

§ 71.2 Interpretations.

Only written interpretations of the regulations in this part by the Commission's General Counsel are binding upon the Commission.

§ 71.3 Requirement for license.

A licensee subject to the regulations in this part may not (a) deliver any licensed material to a carrier for transport or (b) transport licensed material except as authorized in a general license or a specific license issued by the Commission, or as exempted in this part.

§ 71.4 Definitions.

The following terms are as defined here for the purpose of this part. Throughout this part, the standards are expressed in metric units; the approximate English equivalents presented in parentheses are for information only.

A_1 means the maximum activity of special form radioactive material permitted in a Type A package. A_2 means the maximum activity of radioactive material, other than special form radioactive material, permitted in a Type A package. These values are either listed in Appendix A of this part, Table A–1, or may be derived in accordance with the procedure prescribed in Appendix A of this part.

Carrier means a person engaged in the transportation of passengers or property by land or water as a common, contract, or private carrier, or by civil aircraft.

Close reflection by water means immediate contact by water of sufficient thickness for maximum reflection of neutrons.

Containment system means the components of the packaging intended to retain the radioactive material during transport.

Conveyance means any vehicle, aircraft, vessel, freight container, or hold, compartment, or defined deck area of an inland waterway craft or seagoing vessel.

Exclusive use (also referred to in other regulations as "sole use" or "full load") means the sole use of a conveyance by a single consignor and for which all initial, intermediate, and final loading and unloading are carried out in accordance with the direction of the consignor or consignee.

Fissile classification means the categorization of fissile material packages into one of the following three classes according to the controls needed to provide nuclear criticality safety during transportation:

(1) Fissile Class I: A package which may be transported in unlimited numbers and in any arrangement, and which requires no nuclear criticality safety controls during transportation. A transport index is not assigned for purposes of nuclear criticality safety but may be required because of external radiation levels.

(2) Fissile Class II: A package which may be transported together with other packages in any arrangement but, for criticality control, in numbers which do not exceed an aggregate transport index of 50. These shipments require no other nuclear criticality safety control during transportation. Individual packages may have a transport index not less than 0.1 and not more than 10.

(3) Fissile Class III: A shipment of packages which is controlled in transportation by specific arrangements between the shipper and the carrier to provide nuclear criticality safety.

Fissile material and *fissile radionuclides:* "Fissile material" means any material consisting of or containing one or more fissile radionuclides. Fissile radionuclides are plutonium-238, plutonium-239, plutonium-241, uranium-233, and uranium-235. Neither natural nor depleted uranium is fissile material. Fissile materials are classified in this section according to the controls needed to provide nuclear criticality safety during transportation. Certain exclusions are provided in § 71.53.

Low specific activity material means any of the following:

(1) Uranium or thorium ores and physical or chemical concentrates of those ores;

(2) Unirradiated natural or depleted uranium or unirradiated natural thorium;

(3) Tritium oxide in aqueous solutions provided the concentration does not exceed 5.0 millicuries per milliliter;

(4) Material in which the radioactivity is essentially uniformly distributed and in which the estimated average concentration per gram of contents does not exceed:

(i) 0.0001 millicurie of radionuclides for which the A_2 quantity in Appendix A of this part is not more than 0.05 curie;

(ii) 0.005 millicurie of radionuclides for which the A_2 quantity in Appendix A of this part is more than 0.05 curie, but not more than 1 curie; or

(iii) 0.3 millicurie of radionuclides for which the A_2 quantity in Appendix A of this part is more than 1 curie.

(5) Objects of nonradioactive material externally contaminated with radioactive material, provided that the radioactive material is not readily dispersible and the surface contamination, when averaged over an area of 1 square meter, does not exceed 0.0001 millicurie (220,000 disintergations per minute) per square centimeter of radionuclides for which the A_2 quantity in Appendix A of Part 71 is not more than 0.05 curie, or 0.001 millicurie (2,200,000 disintegrations per minute) per square centimeter for other radionuclides.

Maximum normal operating pressure means the maximum gauge pressure that would develop in the containment system in a period of one year under the heat test specified in § 71.71(c)(1), in the absence of venting, external cooling by an ancillary system, or operational controls during transport.

Natural thorium means thorium with the naturally occurring distribution of thorium isotopes (essentially 100 weight percent thorium-232).

Normal form radioactive material means radioactive material which has not been demonstrated to qualify as "special form radioactive material."

Optimum interspersed hydrogenous moderation means the presence of hydrogenous material between packages to such an extent that the maximum nuclear reactivity results.

Package means the packaging together with its radioactive contents as presented for transport.

(1) *Fissile material package* means a fissile material packaging together with its fissile contents.

(2) *Type B package* means a Type B package together with its radioactive contents. On approval, a Type B package design is designated by NRC as B(U) unless the package has a maximum normal operating pressure of more than 700 kilopascal (100 lb/in^2) gauge or a pressure relief device which would allow the release of radioactive material to the environment under the tests specified in § 71.73 (hypothetical accident conditions), in which case it will receive a designation B(M). B(U) refers to the need for unilateral approval of international shipments; B(M) refers to the need for multilateral approval. There is no distinction made in how packages with these designations may be used in domestic transportation. To determine their distinction for international transportation, see DOT regulations in 49 CFR Part 173. A Type B package approved prior to September 6, 1983, was designated only as Type B. Limitations on its use are specified in § 71.13.

Packaging means the assembly of components necessary to ensure compliance with the packaging requirements of this part. It may consist of one or more receptacles, absorbent materials, spacing structures, thermal insulation, radiation shielding, and devices for cooling or absorbing mechanical shocks. The vehicle, tie-down system, and auxiliary equipment may be designated as part of the packaging.

Special form radioactive material means radioactive material which satisfies the following conditions:

(1) It is either a single solid piece or is contained in a sealed capsule that can be opened only by destroying the capsule;

(2) The piece or capsule has at least one dimension not less than 5 millimeters (0.197 inch); and

(3) It satisfies the test requirements of § 71.75.

A special form encapsulation designed in accordance with the requirements of § 71.4(o) of this part in effect on June 30, 1983, and constructed prior to July 1, 1985 may continue to be used. A special form encapsulation either designed or constructed after June 30, 1985 must meet requirements of this paragraph applicable at the time of its design or construction.

Specific activity of a radionuclide means the radioactivity of the radionuclide per unit mass of that nuclide. The specific activity of a material in which the radionuclide is essentially uniformly distributed is the radioactivity per unit mass of the material.

State means the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.

Transport index means the dimensionless number (rounded up to the first decimal place) placed on the label of a package to designate the degree of control to be exercised by the carrier during transportation. The transport index is determined as follows:

(1) The number expressing the maximum radiation level in millirem per hour at 1 meter from the external surface of the package; or

(2) For Fissile Class II packages, the number expressing the maximum radiation level in millirem per hour at 1 meter from the external surface of the package, or the number obtained by dividing 50 by the allowable number of the packages which may be transported together as determined under § 71.59, whichever number is larger.

Type A quantity means a quantity of radioactive material, the aggregate radioactivity of which does not exceed A_1 for special form radioactive material or A_2 for normal form radioactive material, where A_1 and A_2 are given in Appendix A of this part or may be determined by procedures described in Appendix A of this part.

Type B quantity means a quantity of radioactive material greater than a Type A quantity.

Uranium—natural depleted enriched

(1) *Natural uranium* means uranium with the naturally occurring distribution of uranium isotopes (approximately 0.711 weight percent uranium-235, and the remainder essentially uranium-238).

(2) *Depleted uranium* means uranium containing less uranium-235 than the naturally occurring distribution of uranium isotopes.

(3) *Enriched uranium* means uranium containing more uranium-235 than the naturally occurring distribution of uranium isotopes.

§ 71.5 Transportation of licensed material.

(a) Each licensee who transports licensed material outside of the confines of its plant or other place of use, or who delivers licensed material to a carrier for transport, shall comply with the applicable requirements of the regulations appropriate to the mode of transport of DOT in 49 CFR Parts 170 through 189.

(1) The licensee shall particularly note DOT regulations in the following areas:

(i) Packaging—49 CFR Part 173, Subparts A and B and §§ 173.401–173.478.

(ii) Marking and labeling—49 CFR Part 172, Subpart D and §§ 172.400–172.407; 172.436–172.440.

(iii) Placarding—49 CFR Part 172.500–172.519,172.556 and Appendices B and C.

(iv) Monitoring—49 CFR Part 172, Subpart C.

(v) Accident reporting—49 CFR Part 171.15 and 171.16.

(vi) Shipping papers—49 CFR Part 172, Subpart C.

(2) The licensee shall also note DOT regulations pertaining to the following modes of transportation:

(i) Rail—49 CFR Part 174, Subparts A–D and K.

(ii) Air—49 CFR Part 176, Subparts A–D and M.

(iii) Vessel—49 CFR Part 176, Subparts A–D and M.

(iv) Public Highway—49 CFR Part 177.

(b) If DOT regulations are not applicable to a shipment of licensed material by rail, highway, or water because the shipment or the transportation of the shipment is not in interstate or foreign commerce, or to a shipment of licensed material by air because the shipment is not transported in civil aircraft, the licensee shall conform to the standards and requirements of the DOT specified in paragraph (a) of this section to the same extent as if the shipment or transportation were in interstate or foreign commerce or in civil aircraft. A request for modification, waiver, or exemption from those requirements, and any notification referred to in those requirements, must be filed with or made to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Subpart B—Exemptions

§ 71.6 [Reserved]

§ 71.7 Specific exemptions.

On application of any interested person or on its own initiative, the Commission may grant any exemption from the requirements of the regulations in this part that it determines is authorized by law and will not endanger life or property or the common defense and security.

§ 71.8 [Reserved]

§ 71.9 Exemption of physicians.

Any physician licensed by a State of the United States to dispense drugs in the practice of medicine is exempt from § 71.5 with respect to transport by the physician of licensed material for use in the practice of medicine. However, any physician operating under this exemption must be licensed under 10 CFR Part 35.

§ 71.10 Exemption for low level materials.

(a) A licensee is exempt from all requirements of this part with respect to shipment or carriage of a package containing radioactive material having a specific activity not greater than 0.002 microcurie/gram.

(b) A licensee is exempt from all requirements of this part, other than § 71.5 and § 71.88, with respect to shipment or carriage of the following packages:

(1) A package containing no more than a Type A quantity of radioactive material if the package contains no fissile material or if the fissile material exemption standards of § 71.53 are satisfied; or

(2) A package transported between locations within the United States which contains only americium or plutonium in special form with an aggregate radioactivity not to exceed 20 curies, if the package contains no fissile material or if the fissile material exemption standards of § 71.53 are satisfied.

§ 71.11 [Reserved]

Subpart C—General Licenses

§ 71.12 General license: NRC approved package.

(a) A general license is hereby issued to any licensee of the Commission to transport, or to deliver to a carrier for transport, licensed material in a package for which a license, certificate of compliance, or other approval has been issued by the NRC.

(b) This general license applies only to a licensee who has a quality assurance program approved by the Commission as satisfying the provisions of Subpart H of this part.

(c) This general license applies only to a licensee who:

(1) Has a copy of the specific license, certificate of compliance, or other approval of the package and has the drawings and other documents referenced in the approval relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment;

(2) Complies with the terms and conditions of the license, certificate, or other approval, as applicable, and the applicable requirements of Subparts A, G, and H of this part; and

(3) Submits in writing to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, prior to the licensee's first use of the package, the licensee's name and license number and the package identification number specified in the package approval.

(d) This general license applies only when the package approval authorizes use of the package under this general license.

(e) For previously approved Type B packages which are not designated as either B(U) or B(M) in the NRC Certificate of Compliance, this general license is subject to the additional restrictions of § 71.13

§ 71.13 Previously approved Type B package.

(a) A Type B package previously approved by the NRC, but not designated as B(U) or B(M) in the NRC Certificate of Compliance, may be used under the general license of § 71.12 with the following additional limitations:

(1) Fabrication of the packaging was satisfactorily completed before August 31, 1986, as demonstrated by application of its model number in accordance with § 71.85(c); and

(2) The package may not be used for a shipment to a location outside the United States after August 31, 1986, except under special arrangement approved by DOT in accordance with 49 CFR 173.471.

(b) The NRC will approve modifications to the design and authorized contents of a Type B package previously approved by the NRC, but not designated as B(U) or B(M) in the NRC Certificate of Compliance, provided:

(1) The modifications are not significant with respect to the design, operating characteristics, or safe performance of the containment system when the package is subjected to the tests specified in §§ 71.71 and 71.73; and

(2) The modification to the package satisfies the requirements of this part.

(c) The NRC will revise the package identification number to designate previously approved Type B package designs as B(U) or B(M) after receipt of an application demonstrating that the design meets the requirements of this part.

§ 71.14 General license: DOT specification container.

(a) A general license is issued to any licensee of the Commission to transport or to deliver to a carrier for transport licensed material in a specification container for fissile material or for a Type B quantity of radioactive material as specified in the regulations of DOT in 49 CFR Parts 173 and 178.

(b) This general license applies only to a licensee who has a quality assurance program approved by the Commission as satisfying the provisions of Subpart H of this part.

(c) This general license applies only to a licensee who:

(1) Has a copy of the specification; and

(2) Complies with the terms and conditions of the specification and the applicable requirements of Subparts A, G, and H of this part.

(d) This general license is subject to the limitation that the specification container may not be used for a shipment to a location outside the United States after August 31, 1986, except under special arrangements approved by DOT in accordance with 49 CFR 173.472.

§ 71.16 General License: Use of foreign approved package.

(a) A general license is issued to any licensee of the Commission to transport or to deliver to a carrier for transport licensed material in a package the design of which has been approved in a foreign national competent authority certificate which has been revalidated by DOT as meeting the applicable requirements of 49 CFR 171.12.

(b) This general license applies only to shipments made to or from locations outside the United States.

(c) This general license applies only to a licensee who:

(1) Has a copy of the applicable certificate, the revalidation, and the drawings and other documents referenced in the certificate relating to the use and maintenance of the packaging and to the actions to be taken prior to shipment; and

(2) Complies with the terms and conditions of the certificate and revalidation and with the applicable requirements of Subparts A, G, and H of this part. With respect to the quality assurance provisions of Subpart H of this part, the license is exempt from design, construction, and fabrication considerations.

§ 71.18 General license: Type A, Fissile Class II package.

(a) A general license is issued to any licensee of the Commission to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of this part if the material is shipped as a Fissile Class II package.

(b) This general license applies only when a package contains no more than a Type A quantity of radioactive material, including only one of the following:

(1) Up to 40 grams of uranium-235; or

(2) Up to 30 grams of uranium-233; or

(3) Up to 25 grams of the fissile radionuclides of plutonium, except that for encapsulated plutonium-beryllium neutron sources in special form, an A_1 quantity of plutonium may be present; or

(4) A combination of fissile radionuclides in which the sum of the ratios of the amount of each radionuclide to the corresponding maximum amounts in paragraphs (b) (1), (2), and (3) of this section does not exceed unity.

(c) This general license applies only when, except as specified below for encapsulated plutonium-beryllium sources, a package containing more than the 15 grams of fissile radionuclides is labeled with a transport index not less than the number given by the following equation, where the package contains x grams of uranium-235, y grams of uranium-233 and z grams of the fissile radionuclides of plutonium:

$$\text{Minimum Transport Index} = (0.40x + 0.67y + z)\left(\frac{15}{x+y+z}\right).$$

For a package in which the only fissile material is in the form of encapsulated plutonium-beryllium neutron sources in special form, the transport index based on criticality considerations may be taken as 0.026 times the number of grams of the fissile radionuclides of plutonium in excess of 15 grams. In all cases, the transport index must be rounded up to one decimal place, and may not exceed 10.0.

§ 71.20 General license: Restricted, Fissile Class II package.

(a) A general license is issued to any licensee of the Commission to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of this part if the material is shipped as a Fissile Class II package.

(b) This general license applies only when:

(1) The package contains no more than a Type A quantity of radioactive material; and

(2) Neither beryllium nor hydrogenous material enriched in deuterium is present; and

(3) The total mass of graphite present does not exceed 150 times the total mass of uranium-235 plus plutonium; and

(4) Substances having a higher hydrogen density than water, e.g., certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping; and

(5) Uranium-233 is not present, and the amount of plutonium does not

exceed 1% of the amount of uranium-235; and

(6) The amount of uranium-235 is limited as follows:

(i) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per package may not exceed the value given in Table I of this part; or

(ii) If the fissile radionuclides are distributed uniformly (i.e., cannot form a lattice arrangement within the packaging) the maximum amount of uranium-235 per package may not exceed the value given in Table II of this part; and

(7) The transport index of each package based on criticality considerations is taken as 10 times the number of grams of uranium-235 in the package divided by the maximum allowable number of grams per package in accordance with Table I or Table II of this part as applicable.

§ 71.22 General license: Type A package, Fissile Class III shipment.

(a) A general license is issued to any licensee of the Commission to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of this part if limited material is shipped as a Fissile Class III shipment.

(b) This general license applies only when a package contains no more than a Type A quantity of radioactive material and no more than 400 grams total of the fissile radionuclides of plutonium encapsulated as plutonium-beryllium neutron sources in special form.

(c) This general license applies only when the fissile radionuclides in the Fissile Class III shipment exceeds none of the following:

TABLE I.—PERMISSIBLE MASS OF URANIUM-235 PER FISSILE CLASS II PACKAGE APPLICABLE TO § 71.20(b)(6)(i)

[Non-uniform distribution]

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
24	40
20	42
15	45
11	48
10	51
9.5	52
9	54
8.5	55
8	57
7.5	59
7	60
6.5	62
6	65
5.5	68
5	72
4.5	76
4	80
3.5	88

TABLE I.—PERMISSIBLE MASS OF URANIUM-235 PER FISSILE CLASS II PACKAGE APPLICABLE TO § 71.20(b)(6)(i)—Continued

[Non-uniform distribution]

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
3	100
2.5	120
2	164
1.5	272
1.35	320
1	680
0.92	1,200

TABLE II.—PERMISSIBLE MASS OF URANIUM-235 PER FISSILE CLASS II PACKAGE APPLICABLE TO § 71.20(b)(6)(ii)

[Uniform distribution]

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per package
4	84
3.5	92
3	112
2.5	148
2	240
1.5	560
1.35	800

(1) 500 grams of uranium-235; or

(2) 300 grams total of uranium-233, and the fissile radionuclides of plutonium; or

(3) A total quantity of uranium-233, uranium-235, and the fissile radionuclides of plutonium such that the sum of the ratios of the quantity of each radionuclide to the quantity specified in paragraphs (c)(1) and (c)(2) of this section exceeds unity; or

(4) 2500 grams total of the fissile radionuclides of plutonium encapsulated as plutonium-beryllium neutron sources in special form.

(d) This general license applies only when shipment of these packages is made under procedures specifically authorized by DOT in accordance with 49 CFR Part 173 of its regulations to prevent loading, transport or storage of these packages with other Fissile Class II packages or Fissile Class III shipments.

§ 71.24 General license: Restricted, Fissile Class III shipment.

(a) A general license is issued to any licensee of the Commission to transport fissile material, or to deliver fissile material to a carrier for transport, without complying with the package standards of Subparts E and F of this part if limited material is shipped as a Fissile Class III shipment.

(b) This general license applies only when:

(1) No package contains more than a Type A quantity of radioactive material; and

(2) The packaging does not incorporate lead shielding exceeding 5 cm in thickness, tungsten shielding, or uranium shielding; and

(3) Neither beryllium nor hydrogenous material enriched in deuterium is present; and

(4) The total mass of graphite present does not exceed 150 times the total mass of uranium-235 and plutonium; and

(5) Substances having a higher hydrogen density than water, e.g., certain hydrocarbon oils, are not present, except that polyethylene may be used for packing or wrapping; and

(6) For fissile contents containing no uranium-233 and less than 1% total plutonium:

(i) If the fissile radionuclides are not uniformly distributed, the maximum amount of uranium-235 per consignment does not exceed the value given in Table III of this part; or

(ii) If the fissile radionuclides are distributed uniformly and cannot form a lattice arrangement within the packaging, the maximum amount of uranium-235 per shipment does not exceed the value given in Table IV of this part; and

(7) For fissile contents containing uranium-233 or more than 1% plutonium, the total mass of fissile material per shipment is limited so that the sum of the number of grams of uranium-235 divided by 400, the number of grams of plutonium divided by 225, and the number of grams of uranium-233 divided by 250 does not exceed unity as expressed in the formula

$$\frac{\text{grams uranium}\ \ 235}{400\ \text{grams}} + \frac{\text{grams plutonium}}{225\ \text{grams}} + \frac{\text{grams uranium}\ \ 233}{250\ \text{grams}} \leq 1; \text{ and}$$

(8) The transport must be direct to the consignee without any intermediate transit storage; and

(9) Shipment of these packages is made under procedures specifically authorized by DOT in accordance with 49 CFR Part 173 of its regulations to prevent loading, transport or storage of these packages with other Fissile Class II packages or Fissile Class III shipments.

Subpart D—Application for Package Approval

§ 71.31 Contents of application.

(a) An application for an approval under this part must include, for each

proposed packaging design, the following information:

(1) A package description as required by § 71.33;

(2) A package evaluation as required by § 71.35;

(3) A quality assurance program descriptions as required by § 71.37;

(4) In the case of fissile material, an identification of the proposed fissile class.

(b) Except as provided in § 71.13, an application for modification of a package design, whether for modification of the packaging or authorized contents, must include sufficient information to demonstrate that the proposed design satisfies the package standards in effect at the time the application is filed.

TABLE III.—PERMISSIBLE MASS OF URANIUM-235 PER FISSILE CLASS III SHIPMENT APPLICABLE TO § 71.24(b)(6)(i)

[Nonuniform distribution]

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per consignment
20	520
15	560
11	600
10	640
9.5	655
9	675
8.5	690
8	710
7.5	730
7	750
6.5	780
6	810
5.5	850
5	900
4.5	950
4	1,000
3.5	1,100
3	1,250
2.5	1,500
2	2,050
1.5	3,400
1.35	4,000
1	8,500
0.92	1,5000

TABLE IV.—PERMISSIBLE MASS OF URANIUM-235 PER FISSILE CLASS III SHIPMENT APPLICABLE TO § 71.24(b)(6)(ii)

[Uniform distribution]

Uranium enrichment in weight percent of uranium-235 not exceeding	Permissible maximum grams of uranium-235 per consignment
4	1,050
3.5	1,150
3	1,400
2.5	1,800
2	3,000
1.5	7,000
1.35	10,000

§ 71.33 Package description.

The application must include a description of the proposed package in sufficient detail to identify the package accurately and provide a sufficient basis for evaluation of the package. The description must include:

(a) With respect to the packaging:

(1) Classification as Type B(U), Type B(M), or fissile material packaging;

(2) Gross weight;

(3) Model number;

(4) Identification of the containment system;

(5) Specific materials of construction, weights, dimensions, and fabrication methods of:

(i) Receptacles;

(ii) Materials specifically used as nonfissile neutron absorbers or moderators;

(iii) Internal and external structures supporting or protecting receptacles:

(iv) Valves, sampling ports, lifting devices, and tie-down devices;

(v) Structural and mechanical means for the transfer and dissipation of heat; and

(6) Identification and volumes of any receptacles containing collant.

(b) With respect to the contents of the package:

(1) Identification and maximum radioactivity of radioactive constituents;

(2) Identification and maximum quantities of fissile constituents;

(3) Chemical and physical form;

(4) Extent of reflection, the amount and identity of nonfissile materials used as neutron absorbers or moderators, and the atomic ratio of moderator to fissile constituents;

(5) Maximum normal operating pressure;

(6) Maximum weight;

(7) Maximum amount of decay heat; and

(8) Identification and volumes of any coolants.

§ 71.35 Package evaluation.

The application must include:

(a) A demonstration that the package satisfies the standards specified in Subparts E and F of this part;

(b) For a Fissile Class II package, the allowable number of packages which may be transported in the same vehicle in accordance with § 71.59; and

(c) For a Fissile Class III shipment, any proposed special controls and precautions for transport, loading, unloading, and handling, and any proposed special controls in the event of accident or delay.

§ 71.37 Quality assurance.

(a) The applicant shall describe the quality assurance program (see Subpart H of this part) for the design, fabrication, assembly, testing, maintenance, repair, modification, and use of the proposed package.

(b) The applicant shall identify any established codes and standards proposed for use in package design, fabrication, assembly, testing, maintenance, and use. In the absence of any codes and standards, the applicant shall describe the basis and rationale used to formulate the package quality assurance program.

(c) The applicant shall identify any specific provisions of the quality assurance program which are applicable to the particular package design under consideration, including a description of the leak testing procedures.

§ 71.39 Requirement for additional information.

The Commission may at any time require additional information in order to enable it to determine whether a license, certificate of compliance, or other approval should be granted, denied, modified, suspended, or revoked.

Subpart E—Package Approval Standards

§ 71.41 Demonstration of compliance.

(a) The effects on a package of the tests specified in § 71.71 (Normal Conditions of Transport) and the tests specified in § 71.73 (Hypothetical Accident Conditions) must be evaluated by subjecting a sample package or scale model to test, or by other method of demonstration acceptable to the Commission, as appropriate for the particular feature being considered.

(b) Taking into account the type of vehicle, the method of securing or attaching the package, and the controls to be exercised by the shipper, the Commission may permit the shipment to be evaluated together with the transporting vehicle.

(c) Environmental and test conditions different from those specified in § 71.71 and § 71.73 may be approved by the Commission if the controls proposed to be exercised by the shipper are demonstrated to be adequate to assure the safety of the shipment.

§ 71.43 General standards for all packages.

(a) The smallest overall dimension of a package must not be less than 10 cm (four in.).

(b) The outside of a package must incorporate a feature, such as a seal, which is not readily breakable, and which, while intact, would be evidence that the package has not been opened by unauthorized persons.

(c) Each package must include a containment system securely closed by a positive fastening device which cannot be opened unintentionally.

(d) A package must be of materials and construction which assure that

there will be no significant chemical, galvanic, or other reaction among the packaging components or between the packaging components and the package contents, including possible reaction resulting from inleakage of water to the maximum credible extent.

(e) A package valve or other device, the failure of which would allow radioactive contents to escape, must be protected against unauthorized operation and, except for a pressure relief device, must be provided with an enclosure to retain any leakage.

(f) A package must be designed, constructed, and prepared for shipment so that under the tests specified in § 71.71 (Normal Conditions of Transport) there would be no loss or dispersal of radioactive contents, no significant increase in external radiation levels, and no substantial reduction in the effectiveness of the packaging.

(g) A package must be designed, constructed, and prepared for transport so that in still air at 38°C (100°F) and in the shade, no accessible surface of a package would have a temperature exceeding 50°C (122°F) in a non-exclusive use shipment or 82°C (180°F) in an exclusive use shipment.

(h) A package must not incorporate a feature which is intended to allow continuous venting during transport.

§ 71.45 Lifting and tie-down standards for all packages.

(a) Any lifting attachment that is a structural part of a package must be designed with a minimum safety factor of three against yielding when used to lift the package in the intended manner, and must be designed so that failure of any lifting device under excessive load would not impair the ability of the package to meet other requirements of this subpart. Any other structural part of the package which could be used to lift the package must be capable of being rendered inoperable for lifting the package during transport or must be designed with strength equivalent to that required for lifting attachments.

(b) Tie-down devices:

(1) If there is a system of tie-down devices which is a structrual part of the package, the system must be capable of withstanding, without generating stress in any material of the package in excess of its yield strength, a static force applied to the center of gravity of the package having a vertical component of two times the weight of the package with its contents, a horizontal component along the direction in which the vehicle travels of 10 times the weight of the package with its contents, and a horizontal component in the transverse direction of five times the weight of the package with its contents.

(2) Any other structural part of the package which could be used to tie-down the package must be capable of being rendered inoperable for tying down the package during transport, or must be designed with strength equivalent to that required for tie-down devices.

(3) Each tie-down device which is a structural part of a package must be designed so that failure of the device under excessive load would not impair the ability of the package to meet other requirements of this part.

§ 71.47 External radiation standards for all packages.

A package must be designed and prepared for shipment so that the radiation level does not exceed 200 millirem per hour at any point on the external surface of the package and the transport index does not exceed 10 (See § 71.4 "Definitions"). For a package transported as exclusive use by rail, highway, or water, radiation levels external to the package may exceed those limits, but must not exceed any of the following:

(a) 200 millirem/hour on the accessible external surface of the package unless the following conditions are met, in which case the limit is 1000 millirem per hour:

(1) The shipment is made in a closed transport vehicle;

(2) Provisions are made to secure the package so that its position within the vehicle remains fixed during transportation; and

(3) There are no loading or unloading operations between the beginning and end of the transportation;

(b) 200 millirem/hour at any point on the outer surface of the vehicle, including the upper and lower surfaces, or, in the case of an open vehicle, at any point on the vertical planes projected from the outer edges of the vehicle, on the upper surface of the load, and on the lower external surface of the vehicle;

(c) 10 millirem/hour at any point two meters from the vertical planes represented by the outer lateral surfaces of the vehicle, or, in the case of an open vehicle, at any point two meters from the vertical planes projected from the outer edges of the conveyance; and

(d) Two millirem/hour in any normally occupied positions of the vehicle, except that this provision does not apply to private motor carriers when persons occupying these positions are provided with special health supervision, personnel radiation exposure monitoring devices, and training in accordance with § 19.12 of this chapter.

§ 71.51 Additional requirements for Type B packages.

(a) A Type B package, in addition to satisfying the requirements of §§ 71.41–71.47 must be designed, constructed, and prepared for shipment so that under the tests specified in:

(1) Section 71.71 (Normal Conditions of Transport), there would be no loss or dispersal of radioactive contents, as demonstrated to a sensitivity of 10^{-6} A_2 per hour, no significant increase in external radiation levels, and no substantial reduction in the effectiveness of the packaging; and

(2) Section 71.73 (Hypothetical Accident Conditions), there would be no escape of kryption–85 exceeding 10,000 curies in one week, no escape of other radioactive material exceeding a total amount A_2 in one week, and no external radiation dose rate exceeding one rem per hour at one meter from the external surface of the package.

(b) Compliance with the permitted activity release limits of paragraph (a) of this section must not depend upon filters or upon a mechanical cooling system.

§ 71.52 Exemption for low specific activity (LSA) packages.

A package need not satisfy the requirements of § 71.51 if it contains only low specific activity material and is transported as exclusive use, but is subject to §§ 71.41–71.47 of this part, including § 71.43(f).

§ 71.53 Fissile material exemptions.

The following packages are exempt from fissile material classification and from the fissile material standards of §§ 71.55–71.61, but are subject to all other requirements of this part:

(a) A package containing not more than 15 grams of fissile radionuclides. If material is transported in bulk, the quantity limitation applies to the conveyance; or

(b) A package containing irradiated natural or depleted uranium including the products of irradiation if the irradiation has taken place only in a thermal reactor; or

(c) A package containing homogenous hydrogenous solutions or mixtures where:

(1) The minimum ratio of the number of hydrogen atoms to the number of atoms of fissile radionuclides(H/X) is 5200;

(2) The maximum concentration of fissile radionuclides is five grams/liter; and

(3) The maximum mass of fissile radionuclides in the package is 800

grams, except for a mixture where the total mass of plutonium and uranium-233 exceeds one percent of the mass of uranium-235 the limit is 500 grams. If the material is transported in bulk, the quantity limitations apply to the vehicle, to a hold or compartment of an inland waterway craft, or to a hold, compartment, or defined deck area of a seagoing vessel; or

(d) A package containing uranium enriched in uranium-235 to a maximum of one percent by weight, and with a total plutonium and uranium-233 content of up to one percent of the mass of uranium-235, if the fissile radionuclides are distributed homogeneously throughout the package contents, and do not form a lattice arrangement within the package; or

(e) A package containing any fissile material if it does not contain more than five grams of fissile radionuclides in any 10-liter volume, and if the material is packaged so as to maintain this limit of fissile radionuclide concentration during normal transport; or

(f) A package containing not more than one kilogram of plutonium of which not more than 20% by mass may consist of plutonium-239, plutonium-241, or any combination of those radionuclides; or

(g) A package containing liquid solutions of uranyl nitrate enriched in uranium-235 to a maximum of two percent by weight, with total plutonium and uranium-233 not more than one-tenth percent of the mass of uranium-235.

§ 71.55 General requirements for all fissile material packages.

(a) A package used for the shipment of fissile material must be designed and constructed in accordance with §§ 71.41–71.47. When required by the total amount of radioactive material, a package used for the shipment of fissile material must also be designed and constructed in accordance with § 71.51.

(b) Except as provided in paragraph (c) of this section, a package used for the shipment of fissile material must be so designed and constructed and its contents so limited that it would be subcritical if water were to leak into the containment system or liquid contents were to leak out of the containment system so that, under the following conditions, maximum reactivity of the fissile material would be attained:

(1) The most reactive credible configuration consistent with the chemical and physical form of the material;

(2) Moderation by water to the most reactive credible extent; and

(3) Close reflection by water on all sides.

(c) The Commission may approve exceptions to the requirements of paragraph (b) of this section if the package incorporates special design features that ensure that no single packaging error would permit leakage, and if appropriate measures are taken before each shipment to ensure the containment system does not leak.

(d) A package used for the shipment of fissile material must be so designed and constructed and its contents so limited that under the tests specified in § 71.71 (Normal Conditions of Transport):

(1) The contents would be subcritical;

(2) The geometric form of the package contents would not be substantially altered;

(3) There would be no leakage of water into the containment system unless, in the evaluation of undamaged packages under §§ 71.57(a), 71.59(b)(1), and 71.61(a), it has been assumed that moderation is present to such an extent as to cause maximum reactivity consistent with the chemical and physical form of the material; and

(4) There will be no substantial reduction in the effectiveness of the packaging, including:

(i) No more than five percent reduction in the total effective volume of the packaging on which nuclear safety is assessed;

(ii) No more than five percent reduction in the effective spacing between the fissile contents and the outer surface of the packaging; and

(iii) No occurrence of an aperture in the outer surface of the packaging large enough to permit the entry of a 10 cm (four in.) cube.

(e) A package used for the shipment of fissile material must be so designed and constructed and its contents so limited that under the tests specified in § 71.73 (Hypothetical Accident Conditions), the package would be subcritical. For this determination, it must be assumed that:

(1) The fissile material is in the most reactive credible configuration consistent with the damaged condition of the package and the chemical and physical form of the contents;

(2) Water moderation occurs to the most reactive credible extent consistent with the damaged condition of the package and the chemical and physical form of the contents; and

(3) There is reflection by water on all sides, as close as is consistent with the damaged condition of the package.

§ 71.57 Specific standards for a Fissile Class I package.

A Fissile Class I package must be so designed and constructed and its contents so limited that:

(a) Any number of undamaged packages would be subcritical in any arrangement and with optimum interspersed hydrogenous moderation unless there is a greater amount of interspersed moderation in the packaging, in which case the greater amount may be assumed for this determination; and

(b) Two hundred fifty (250) packages, if each package were subjected to the tests specified in § 71.73 (Hypothetical Accident Conditions), would be subcritical if stacked together in any arrangement, closely reflected on all sides of the stack by water, and with optimum interspersed hydrogenous moderation.

§ 71.59 Specific standards for a Fissile Class II package.

(a) A Fissile Class II package must be controlled by the carrier during transport. To provide this control, the designer of a Fissile Class II package must determine the allowable number of packages of that design which can be safely transported in a vehicle under the conditions specified in this section. This allowable number of packages determines the minimum transport index which the shipper of the package marks on the package label when the package is shipped. By limiting to 50 the total number of transport indexes in a vehicle or storage area, the carrier provides adequate criticality control.

(b) A Fissile Class II package must be designed and constructed and its contents so limited, and the allowable number of these packages in a Fissile Class II shipment so determined, that:

(1) Five times the allowable number of undamaged packages would be subcritical if stacked together in any arrangement and closely reflected on all sides of the stack by water; and

(2) Twice the allowable number of packages, if each package were subjected to the tests specified in § 71.73 (Hypothetical Accident Conditions), would be subcritical if stacked together in any arrangement, closely reflected on all sides of the stack by water, and with optimum interspersed hydrogenous moderation.

(c) The transport index with respect to criticality control for each Fissile Class II package must be calculated by dividing the number 50 by the allowable number of Fissile Class II packages which may be transported together as determined under the limitations of paragraph (b) of this section. The transport index so determined must not exceed 10 and must be rounded up to the first decimal place.

§ 71.61 Specific standards for a Fissile Class III shipment.

A package for Fissile Class III shipment must be so designed and constructed and its contents so limited, and the number of packages in a Fissile Class III shipment must be so limited, that:

(a) Twice this number of undamaged packages would be subcritical if stacked together in any arrangement, assuming close reflection on all sides of the stack by water; and

(b) This number of packages would be subcritical if stacked together in any arrangement, closely reflected on all sides of the stack by water, and with optimum interspersed hydrogenous moderation. Except as permitted under § 71.41, each package must be considered to have been subjected to the tests specified in § 71.73 (Hypothetical Accident Conditions).

§ 71.63 Special requirements for plutonium shipments.

(a) Plutonium in excess of 20 curies per package must be shipped as a solid.

(b) Plutonium in excess of 20 curies per package must be packaged in a separate inner container placed within outer packaging that meets the requirements of Subparts E and F for packaging of material in normal form. If the entire package is subjected to the tests specified in § 71.71 (Normal Conditions of Transport), the separate inner container must not release plutonium, as demonstrated to a sensitivity of 10^{-6} A_2 per hour. If the entire package is subjected to the tests specified in § 71.73 (Hypothetical Accident Conditions), the separate inner container must restrict the loss of plutonium to not more than A_2 in one week. Solid plutonium in the following forms is exempt from the requirements of this paragraph:

(1) Reactor fuel elements;

(2) Metal or metal alloy; and

(3) Other plutonium bearing solids that the Commission determines should be exempt from the requirements of this section.

§ 71.65 Additional requirements.

The Commission may, by rule, regulation, or order, impose requirements upon any licensee in addition to those established in this part as it deems necessary or appropriate to protect health or to minimize danger to life or property.

Subpart F—Package and Special Form Tests [1]

§ 71.71 Normal conditions of transport.

(a) *Evaluation.* Evaluation of each package design under normal conditions of transport must include a determination of the effect on that design of the conditions and tests specified in this section. Separate specimens may be used for the free drop test, the compression test, and the penetration test if each specimen is subjected to the water spray test before being subjected to any of the other tests.

(b) *Initial conditions.* With respect to the initial conditions for the tests in this section, the demonstration of compliance with the requirements of this Part must be based on the ambient temperature preceding and following the tests remaining constant at that value between −29°C (−20°F) and +38°C (100°F) which is most unfavorable for the feature under consideration. The initial internal pressure within the containment system must be considered to be the maximum normal operating pressure, unless a lower internal pressure consistent with the ambient temperature considered to precede and follow the tests is more unfavorable.

(c) *Conditions and tests.* (1) *Heat.* An ambient temperature of 38°C (100°F) in still air, and insolation according to the following table:

INSOLATION DATA

Form and location of surface	Total insolation for a 12-hour period (g cal/cm²)
Flat surfaces transported horizontally:	
—Base	None.
—Other surfaces	800.
Flat surfaces not transported horizontally	200.
Curved surfaces	400.

(2) *Cold.* An ambient temperature of −40°C (−40°F) in still air and shade.

(3) *Reduced external pressure.* An external pressure of 24.5 kilopascal (3.5 psi) absolute.

(4) *Increased external pressure.* An external pressure of 140 kilopascal (20 psi) absolute.

(5) *Vibration.* Vibration normally incident to transport.

(6) *Water spray.* A water spray that simulates exposure to rainfall of approximately five cm (two in.) per hour for at least one hour.

(7) *Free drop.* Between 1½ and 2½ hours after the conclusion of the water spray test, a free drop through the distance specified below onto a flat, essentially unyielding, horizontal surface, striking the surface in a position for which maximum damage is expected. For Fissile Class II packages, this free drop must be preceded by a free drop from a height of 0.3 m (one ft.) on each corner or, in the case of a cylindrical Fissile Class II package, onto each of the quarters of each rim.

CRITERIA FOR FREE DROP TEST (WEIGHT/DISTANCE)

Package weight		Free drop distance	
Kilograms	Pounds	Meters	Feet
5,000 or less	(11,000)	1.2	(4)
5,000 to 10,000	(11,000 to 22,000)	0.9	(3)
10,000 to 15,000	(22,000 to 33,000)	0.6	(2)
More than 15,000	(More than 33,000)	0.3	(1)

(8) *Corner drop.* A free drop onto each corner of the package in succession, or in the case of a cylindrical package onto each quarter of each rim, from a height of 0.3 m (one ft.) onto a flat, essentially unyielding, horizontal surface. This test applies only to fiberboard or wood rectangular packages not exceeding 50 kg (110 pounds) and fiberboard or wood cylindrical packages not exceeding 100 kg (220 pounds).

(9) *Compression.* For packages weighing up to 5000 kg, the package must be subjected, for a period of 24 hours, to a compressive load applied uniformly to the top and bottom of the package in the position in which the package would normally be transported. The compressive load must be the greater of the following:

(i) The equivalent of five times the weight of the package; or

(ii) The equivalent of 12.75 kilopascal (1.85 lb/in²) multiplied by the vertically projected area of the package.

(10) *Penetration.* Impact of the hemispherical end of a vertical steel cylinder of 3.2 cm (1¼ in) diameter and six kg (13 lb) mass, dropped from a height of one m (40 in) onto the exposed surface of the package which is expected to be most vulnerable to puncture. The long axis of the cylinder must be perpendicular to the package surface.

§ 71.73 Hypothetical accident conditions.

(a) *Test procedures.* Evaluation for hypothetical accident conditions is to be based on sequential application of the tests specified in this section, in the order indicated, to determine their cumulative effect on a package or array of packages. An undamaged specimen must be used for the water immersion test specified in paragraph (c)(5) of this section.

(b) *Test conditions.* With respect to the initial conditions for the tests,

[1] The package standards related to the tests in this subpart are contained in Subpart E.

except for the water immersion tests, to demonstrate compliance with the requirements of this part during testing, the ambient air temperature before and after the tests must remain constant at that value between −29°C (−20°F) and +38°C (100°F) which is most unfavorable for the feature under consideration. The initial internal pressure within the containment system must be the maximum normal operating pressure unless a lower internal pressure consistent with the ambient temperature assumed to precede and follow the tests is more unfavorable.

(c) *Tests.* Tests for hypothetical accident conditions must be conducted as follows:

(1) *Free Drop.* A free drop of the specimen through a distance of nine m (30 ft) onto a flat, essentially unyielding, horizontal surface, striking the surface in a position for which maximum damage is expected.

(2) *Puncture.* A free drop of the specimen through a distance of one m (40 in) in a position for which maximum damage is expected, onto the upper end of a solid, vertical, cylindrical, mild steel bar mounted on an essentially unyielding, horizontal surface. The bar must be 15 cm (six in) in diameter, with the top horizontal and its edge rounded to a radius of not more than six mm (¼ in) and of a length as to cause maximum damage to the package, but not less than 20 cm (eight in) long. The long axis of the bar must be vertical.

(3) *Thermal.* Exposure of the whole specimen for not less than 30 minutes to a heat flux not less than that of a radiation environment of 800°C (1475°F) with an emissivity coefficient of at least 0.9. For purposes of calculation, the surface absorptivity must be either that value which the package may be expected to possess if exposed to a fire or 0.8, whichever is greater. In addition, when significant, convective heat input must be included on the basis of still, ambient air at 800°C (1475°F). Artificial cooling must not be applied after cessation of external heat input and any combustion of materials of construction must be allowed to proceed until it terminates naturally. The effects of solar radiation may be neglected prior to, during, and following the test.

(4) *Immersion—fissile material.* For fissile material, in those cases where water inleakage has not been assumed for criticality analysis, the specimen must be immersed under a head of water of at least 0.9 m (three ft) for a period of not less than eight hours and in the attitude for which maximum leakage is expected.

(5) *Immersion—all packages.* A separate, undamaged specimen must be subjected to water pressure equivalent to immersion under a head of water of at least 15 m (50 ft) for a period of not less than eight hours. For test purposes, an external pressure of water of 147 kilopascal (21 psi) gauge is considered to meet these conditions.

§ 71.75 Qualification of special form radioactive material.

(a) Evaluation of the contents of a single package for qualification as special form must include a determination of the effect on a specimen of those contents of the tests specified in § 71.77.

(1) Specimens (solid radioactive material or capsules) to be tested must be as normally prepared for loading in a single package, with the radioactive material duplicated as closely as practicable.

(2) A different specimen may be used for each of the tests.

(b) The specimen must not break or shatter when subjected to the impact, percussion, or beding tests.

(c) The specimen must not melt or disperse when subjected to the heat test.

(d) After each test, leak-tightness or indispersibility of the specimen must be determined by a method no less sensitive than the following leaching assessment procedure. For a capsule resistant to corrosion by water, and which has an internal void volume grater than 0.1 milliliters, an alternative to the leaching assessment is a demonstration of leak-tightness of 10^{-4} torr-l/s (1.3×10^{-3} atm cm^3/s) (based on air at 25°C and one atmosphere differential pressure) for solid radioactive content, or 10^{-6} torr-l/s (1.3×10^{-6} atm cm^3/s) for liquid or gaseous radioactive content.

(1) The specimen must be immersed for seven days in water at ambient temperature. The water must have a pH of 6–8 and a maximum conductivity of 10 μmho/cm at 20°C (68°F). Encapsulated material is not subject to the seven-day requirement.

(2) The water with specimen must then be heated to a temperature of 50°±5°C (122°±9°F) and maintained at this temperature for four hours.

(3) The activity of the water must be determined at that time.

(4) The specimen must then be stored for at least seven days in still air of humidity not less than 90% and a temperature not less than 30°C (86°F).

(5) The specimen must then be immersed in water having a pH of 6–8 and a maximum conductivity of 10 μmho/cm at 20°C, and the water with specimen heated to 50°±5°C (122°±9°F) and maintained at this temperature for four hours.

(6) The activity of the water must be determined at that time.

(7) The activities determined in paragraphs (c)(3) and (c)(6) of this section must not exceed 0.05 μCi.

§ 71.77 Tests for special form radioactive material.

(a) *Impact test.* The specimen must fall onto a flat, horizontal, essentially unyielding surface from a height of not less than nine m (30 ft).

(b) *Percussion test.* The specimen must be placed on a sheet of lead which is supported by a smooth solid surface and struck by the flat face of a steel billet so as to produce an impact equivalent to that resulting from a free fall of 1.4 kg (three lb.) through one m (40 in.). The flat face of the billet must be 25 mm (one in.) in diameter with the edges rounded to a radius of three mm (0.12 in.)±0.3 mm (0.012 in.). The lead, of hardness number 3.5 to 4.5 on the Vickers scale and not more than 25 mm (one in.) thick, must cover an area greater than that covered by the specimen. A fresh surface of lead must be used for each impact. The billet must strike the specimen so as to cause maximum damage.

(c) *Bending test.* The test is applicable only to long, slender sources with both a minimum length of 10 cm (four in.) and a length to minimum width ratio not less than 10. The specimen must be rigidly clamped in a horizontal position so that one-half of its length protrudes from the face of the clamp. The orientation of the specimen must be such that the specimen will suffer maximum damage when its free end is struck by the flat force of a steel billet. The billet must strike the specimen so as to produce an impact equivalent to that resulting from a free vertical fall of 1.4 kg (three lb.) through one m (40 in.). The flat face of the billet must be 25 mm (one in.) in diameter with the edges rounded off to a radius of three mm (0.12 in.)±0.3 mm (0.012 in.).

(d) *Heat test.* The specimen must be heated to a temperature of not less than 800°C (1475°F) in an atmosphere which is essentially air, and held at that temperature for a period of 10 minutes and must then be allowed to cool.

Subpart G—Operating Controls and Procedures

§ 71.81 Applicability of operating controls and procedures.

A licensee subject to this part, who under a general or specific license transports licensed material or delivers licensed material to a carrier for transport, shall comply with the requirements of this Subpart G, with the

quality assurance requirements of Subpart H of this part, and with the general provisions of Subpart A of this part.

§ 71.83 Assumptions as to unknown properties.

When the isotopic abundance, mass, concentration, degree of irradiation, degree of moderation, or other pertinent property of fissile material in any package is not known, the licensee shall package the fissile material as if the unknown properties have credible values that will cause the maximum nuclear reactivity.

§ 71.85 Preliminary determinations.

Prior to the first use of any packaging for the shipment of licensed material:

(a) The licensee shall ascertain that there are no cracks, pinholes, uncontrolled voids, or other defects which could significantly reduce the effectiveness of the packaging;

(b) Where the maximum normal operating pressure will exceed 34.3 kilopascal (5 psi) gauge, the licensee shall test the containment system at an internal pressure at least 50% higher than the maximum normal operating pressure to verify the capability of that system to maintain its structural integrity at that pressure.

(c) The licensee shall conspicuously and durably mark the packaging with its model number, gross weight, and a package identification number assigned by the Nuclear Regulatory Commission. Prior to applying the model number, the licensee shall determine that the packaging has been fabricated in accordance with the design approved by the Commission.

§ 71.87 Routine determinations.

Prior to each shipment of licensed material, the licensee shall ensure that the package with its contents satisfies the applicable requirements of this part and of the license. The licensee shall determine that:

(a) The package is proper for the contents to be shipped;

(b) The package is in unimpaired physical condition except for superficial defects such as marks or dents;

(c) Each closure device of the packaging, including any required gasket, is properly installed and secured and free of defects;

(d) Any system for containing liquid is adequately sealed and has adequate space or other specified provision for expansion of the liquid;

(e) Any pressure relief device is operable and set in accordance with written procedures;

(f) The package has been loaded and closed in accordance with written procedures;

(g) For fissile material, any moderator or neutron absorber, if required, is present and in proper condition;

(h) Any structural part of the package which could be used to lift or tie down the package during transport is rendered inoperable for that purpose unless it satisfies the design requirements of § 71.45;

(i)(1) The level of non-fixed (removable) radioactive contamination on the external surfaces of each package offered for shipment is as low as reasonably achievable. The level of non-fixed radioactive contamination may be determined by wiping an area of 300 square centimeters of the surface concerned with an absorbent material, using moderate pressure, and measuring the activity and the wiping material. Sufficient measurements must be taken in the most appropriate locations to yield a representative assessment of the non-fixed contamination levels. Except as provided under paragraph (i)(2) of this section, the amount of radioactivity measured on any single wiping material when averaged over the surface wiped, must not exceed the limits given in Table V of this part at any time during transport. Other methods of assessment of equal or greater efficiency may be used. When other methods are used, the detection efficiency of the method used must be taken into account and in no case may the non-fixed contamination on the external surfaces of the package exceed ten times the limits listed in Table V.

TABLE V.—REMOVABLE EXTERNAL RADIOACTIVE CONTAMINATION WIPE LIMITS

Contaminent	Maximum permissible limits	
	μCi/cm²	dpm/cm²
Beta-gamma emitting radionuclides; all radionuclides with half-lives less than ten days; natural uranium; natural thorium; uranium-235; uranium-238; thorium-232; thorium-228 and thorium-230 when contained in ores or physical concentrates	10^{-4}	22
All other alpha emitting radionuclides	10^{-5}	2.2

(2) In the case of packages transported as exclusive use shipments by rail or highway only, the non-fixed radioactive contamination at any time during transport must not exceed ten times the levels prescribed in paragraph (i)(1) of this section. The levels at the beginning of transport must not exceed the levels prescribed in paragraph (i)(1) of this section;

(j) External radiation levels around the package and around the vehicle, if applicable, will not exceed the limits specified in § 71.47 at any time during transportation; and

(k) Accessible package surface temperatures will not exceed the limits specified in § 71.43(g) at any time during transportation.

§ 71.88 Air transport of plutonium.

(a) Notwithstanding the provisions of any general licenses and notwithstanding any exemptions stated directly in this part or included indirectly by citation of 49 CFR Chapter 1, as may be applicable, the licensee shall assure that plutonium in any form, whether for import, export, or domestic shipment, is not transported by air or delivered to a carrier for air transport unless:

(1) The plutonium is contained in a medical device designed for individual human application; or

(2) The plutonium is contained in a material in which the specific activity is not greater than 0.002 microcuries per gram of material and in which the radioactivity is essentially uniformly distributed; or

(3) The plutonium is shipped in a single package containing no more than an A_2 quantity of plutonium in any isotope or form and is shipped in accordance with § 71.5 of this part; or

(4) The plutonium is shipped in a package specifically authorized for the shipment of plutonium by air in the Certificate of Compliance for that package issued by the Commission.

(b) Nothing in paragraph (a) of this section is to be interpreted as removing or diminishing the requirements of § 73.24 of this chapter.

(c) There have been two orders issued by the NRC restricting the air shipment of plutonium in accordance with Pub. L. 94–79. The first order, issued on August 15, 1975 was superseded by the second order dated September 1, 1978, which has remained in effect since that time. As of the effective date of this rule, the outstanding order dated September 1, 1978 is revoked.

§ 71.89 Opening instructions.

Prior to delivery of a package to a carrier for transport, the licensee shall ensure that any special instructions needed to safely open the package have been sent to or otherwise made available to the consignee for the consignee's use in accordance with § 20.205 of this chapter.

§ 71.91 Records.

(a) Each licensee shall maintain for a period of two years after shipment a record of each shipment of licensed

material not exempt under § 71.10, showing, where applicable:

(1) Identification of the packaging by model number;

(2) Verification that there are no significant defects in the packaging, as shipped;

(3) Volume and identification of coolant;

(4) Type and quantity of licensed material in each package, and the total quantity of each shipment;

(5) For each item of irradiated fissile material:

(i) Identification by model number and/or serial number;

(ii) Irradiation and decay history to the extent appropriate to demonstrate that its nuclear and thermal characteristics comply with license conditions; and

(iii) Any abnormal or unusual condition relevant to radiation safety.

(6) Date of the shipment;

(7) For Fissile Class III and for Type B packages, any special controls exercised;

(8) Name and address of the transferee;

(9) Address to which the shipment was made; and

(10) Results of the determinations required by § 71.87.

(b) The licensee shall make available to the Commission for inspection, upon reasonable notice, all records required by this part.

(c) The licensee shall maintain, during the life of the packaging to which they pertain, sufficient quality assurance records to furnish documentary evidence of the quality of packaging components which have safety significance and of services affecting quality. The records to be maintained include results of the determinations required by § 71.85, of monitoring, inspection, and auditing of work performance during the design, fabrication, assembly, testing, modification, maintenance, and repair of the packaging.

§ 71.93 Inspection and tests.

(a) The licensee shall permit the Commission at all reasonable times to inspect the licensed material, packaging, premises, and facilities in which the licensed material or packaging is used, produced, tested, stored, or shipped.

(b) The licensee shall perform, and permit the Commission to perform, tests as the Commission deems necessary or appropriate for the administration of the regulations in this chapter.

(c) The licensee shall notify the Director of the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix A of Part 73 of this chapter at least 45 days prior to fabrication of a package to be used for the shipment of licensed material having a decay heat load in excess of five kilowatts or with a maximum normal operating pressure in excess of 103 kilopascal (15psi) gauge.

§ 71.95 Reports.

The licensee shall report to the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, within 30 days:

(a) Any instance in which there is significant reduction in the effectiveness of any authorized packaging during use; and

(b) Details of any defects with safety significance in the packaging after first use, with the means employed to repair the defects and prevent their recurrence.

§ 71.97 Advance notification of shipment of nuclear waste.

(a) Except as specified in paragraph (b) of this section, prior to the transport or delivery to a carrier for transport of licensed material outside the confines of the licensee's plant or other place of use or storage, each licensee shall provide advance notification to the governor of a state, or the governor's designee, of the shipment to, through, or across the boundry of the state.

(b) Advance notification is required only when—

(1) The licensed material is required by this part to be in Type B packaging for transportation;

(2) The licensed material other than irradiated fuel is being transported to, through, or across state boundaries to a disposal site or to a collection point for transport to a disposal site;

(3) The quantity of licensed material in a single package exceeds:

(i) 5,000 curies of special form radionuclides;

(ii) 5,000 curies of uncompressed gases of Argon–41, Krypton–85m, Krypton–87, Xenon–131m, or Xenon–135;

(iii) 50,000 curies of Argon–37, or of uncompressed gases of Krypton–85 or Xenon–133, or of Hydrogen–3 as a gas, as luminous paint, or adsorbed on solid material;

(iv) 20 curies of other non-special form radionuclides for which A_2 is less than or equal to four curies; or

(v) 200 curies of other non-special form radionuclides for which A_2 is greater than four curies; and

(4) The quantity of irradiated fuel is less than that subject to advance notification requirements of 10 CFR Part 73.

(c) *Procedures for submitting advance notification.* (1) The notification must be made in writing to the office of each appropriate governor or governor's designee and to the Director of the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix A of Part 73 of this chapter.

(2) A notification delivered by mail must be postmarked at least seven days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

(3) A notification delivered by messenger must reach the office of the governor or of the governor's designee at least four days before the beginning of the seven-day period during which departure of the shipment is estimated to occur.

(i) A list of the names and mailing addresses of the governors' designees receiving advance notification of transportation of nuclear waste was published in the **Federal Register** on June 30, 1983 (48 FR 30221).

(ii) The list will be published annually in the **Federal Register** on or about June 30 to reflect any changes in information.

(iii) A list of the names and mailing addresses of the governors' designees is available upon request from the Director, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(4) The licensee shall retain a copy of the notification as a record for one year.

(d) *Information to be furnished in advance notification of shipment.* Each advance notification of shipment of nuclear waste must contain the following information:

(1) The name, address, and telephone number of the shipper, carrier, and receiver of the nuclear waste shipment;

(2) A description of the nuclear waste contained in the shipment, as required by the regulations of DOT in 49 CFR 172.202 and 172.203(d);

(3) The point of origin of the shipment and the seven-day period during which departure of the shipment is estimated to occur;

(4) The seven-day period during which arrival of the shipment at state boundaries is estimated to occur;

(5) The destination of the shipment, and the seven-day period during which arrival of the shipment is estimated to occur; and

(6) A point of contact with a telephone number for current shipment information.

(e) *Revision notice.* A licensee who finds that schedule information previously furnished to a governor or governor's designee in accordance with this section will not be met, shall telephone a responsible individual in the office of the governor of the state or of

the governor's designee and inform that individual of the extent of the delay beyond the schedule originally reported. The licensee shall maintain a record of the name of the individual contacted for one year.

(f) *Cancellation notice.* (1) Each licensee who cancels a nuclear waste shipment for which advance notification has been sent, shall send a cancellation notice to the governor of each state or the governor's designee previously notified and to the Director of the appropriate Nuclear Regulatory Commission Regional Office listed in Appendix A of Part 73 of this chapter.

(2) The licensee shall state in the notice that it is a cancellation and shall identify the advance notification which is being cancelled. The licensee shall retain a copy of the notice as a record for one year.

§71.99 Violations.

An injunction or other court order may be obtained prohibiting any violation of any provision of the Atomic Energy Act of 1954, as amended, (the Act) or Title II of the Energy Reorganization Act of 1974, as amended, or any regulation or order issued under the Acts. A court order may be obtained for the payment of a civil penalty imposed under section 234 of the Act for violation of sections 53, 57, 62, 63, 81, 82, 101, 103, 104, 107, or 109 of the Act, or section 206 of the Energy Reorganization Act of 1974, as amended; or any rule, regulation, or order issued under the Acts, or any term, condition, or limitation of any license issued under the Acts, or for any violation for which a license may be revoked under section 186 of the Act. Any person who willfully violates any provision of the Act or any regulation or order issued under the Acts may be guilty of a crime and, upon conviction, may be punished by fine or imprisonment or both, as provided by law.

Subpart H—Quality Assurance

§ 71.101 Quality assurance requirements.

(a) *Purpose.* This subpart describes quality assurance requirements applying to design, purchase, fabrication, handling, shipping, storing, cleaning, assembly, inspection, testing, operation, maintenance, repair, and modification of components of packaging which are important to safety. As used in this subpart, "quality assurance" comprises all those planned and systematic actions necessary to provide adequate confidence that a system or component will perform satisfactorily in service. Quality assurance includes quality control, which comprises those quality assurance actions related to control of the physical characteristics and quality of the material or component to predetermined requirements.

(b) *Establishment of program.* Each licensee shall establish, maintain, and execute a quality assurance program satisfying each of the applicable criteria of this subpart, and satisfying any specific provisions which are applicable to the licensee's activities including procurement of packaging. The licensee shall apply the applicable criteria in a graded approach, and to an extent that is consistent with their importance to safety.

(c) *Approval of program.* Prior to the use of any package for the shipment of licensed material subject to this subpart, each licensee shall obtain Commission approval of its quality assurance program. Each licensee shall file a description of its quality assurance program, including a discussion of which requirements of this subpart are applicable and how they will be satisfied, with the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

(d) *Existing package designs.* The provisions of this paragraph deal with packages which have been approved for use in accordance with this part prior to January 1, 1979, and which have been designed in accordance with the provisions of this part in effect at the time of application for package approval. Those packages will be accepted as having been designed in accordance with a quality assurance program which satisfies the provisions of paragraph (b) of this section.

(e) *Existing packages.* The provisions of this paragraph deal with packages which have been approved for use in accordance with this part prior to January 1, 1979, have been at least partially fabricated prior to that date, and for which the fabrication is in accordance with the provisions of this part in effect at the time of application for approval of package design. These packages will be accepted as having been fabricated and assembled in accordance with a quality assurance program which satisfies the provisions of paragraph (b) of this section.

(f) *Previously approved programs.* A Commission-approved quality assurance program which satisfies the applicable criteria of Appendix B of Part 50 of this chapter and which is established, maintained, and executed with regard to transport packages will be accepted as satisfying the requirements of paragraph (b) of this section. Prior to first use, the licensee shall notify the Director, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commisson, Washington, DC 20555, of its intent to apply its previously approved Appendix B program to transportation activities. The licensee shall identify the program by date of submittal to the Commission, Docket Number, and date of Commission approval.

§ 71.103 Quality assurance organization.

The licensee[3] shall be responsible for the establishment and execution of the quality assurance program. The licensee may delegate to others, such as contractors, agents, or consultants, the work of establishing and executing the quality assurance program, or any part of the quality assurance program, but shall retain responsibility for the program. The licensee shall clearly establish and delineate in writing the authority and duties of persons and organizations performing activities affecting the safety-related functions of structures, systems and components. These activities include performing the functions associated with attaining quality objectives and the quality assurance functions. The quality assurance functions are (a) assuring that an appropriate quality assurance program is established and effectively executed and (b) verifying, by procedures such as checking, auditing, and inspection, that activities affecting the safety-related functions have been correctly performed. The persons and organizations performing quality assurance functions must have sufficient authority and organizational freedom to identify quality problems; to initiate, recommend, or provide solutions; and to verify implementation of solutions. The persons and organizations performing quality assurance functions shall report to a management level which assures that the required authority and organizational freedom, including sufficient independence from cost and schedule when opposed to safety considerations, are provided. Because of the many variables involved, such as the number of personnel, the type of activity being performed, and the location or locations where activities are performed, the organizational structure for executing the quality assurance program may take various forms provided that the persons and organizations assigned the quality assurance functions have the required

[3] While the term "licensee" is used in these criteria, the requirements are applicable to whatever design, fabrication, assembly, and testing of the package is accomplished with respect to a package prior to the time a package approval is issued.

authority and organizational freedom. Irrespective of the organizational structure, the individual(s) assigned the responsibility for assuring effective execution of any portion of the quality assurance program at any location where activities subject to this section are being performed must have direct access to the levels of management necessary to perform this function.

§ 71.105 Quality assurance program.

(a) The licensee shall establish, at the earliest practicable time consistent with the schedule for accomplishing the activities, a quality assurance program which complies with the requirements of this section. The licensee shall document the quality assurance program by written procedures or instructions and shall carry out the program in accordance with those procedures throughout the period during which packaging is used. The licensee shall identify the material and components to be covered by the quality assurance program, the major organizations participating in the program, and the designated functions of these organizations.

(b) The licensee, through its quality assurance program, shall provide control over activities affecting the quality of the identified materials and components to an extent consistent with their importance to safety, and as necessary to assure conformance to the approved design of each individual package used for the shipment of radioactive material. The licensee shall assure that activities affecting quality are accomplished under suitably controlled conditions. Controlled conditions include the use of appropriate equipment; suitable environmental conditions for accomplishing the activity, such as adequate cleanliness; and assurance that all prerequisites for the given activity have been satisfied. The licensee shall take into account the need for special controls, processes, test equipment, tools and skills to attain the required quality, and the need for verification of quality by inspection and test.

(c) The licensee shall base the requirements and procedures of its quality assurance program on the following considerations concerning the complexity and proposed use of the package and its components:

(1) The impact of malfunction or failure of the item to safety;

(2) The design and fabrication complexity or uniqueness of the item;

(3) The need for special controls and surveillance over processes and equipment;

(4) The degree to which functional compliance can be demonstrated by inspection or test; and

(5) The quality history and degree of standardization of the item.

(d) The licensee shall provide for indoctrination and training of personnel performing activites affecting quality as necessary to assure that suitable proficiency is achieved and maintained. The licensee shall review the status and adequacy of the quality assurance program at established intervals. Management of other organizations participating in the quality assurance program shall regularly review the status and adequacy of that part of the quality assurance program which they are executing.

§ 71.107 Package design control.

(a) The licensee shall establish measures to assure that applicable regulatory requirements and the package design, as specified in the license for those materials and components to which this section applies, are correctly translated into specifications, drawings, procedures, and instructions. These measures must include provisions to assure that appropriate quality standards are specified and included in design documents and that deviations from standards are controlled. Measures must be established for the selection and review for suitability of application of materials, parts, equipment, and processes that are essential to the safety-related functions of the materials, parts, and components of the packaging.

(b) The licensee shall establish measures for the indentification and control of design interfaces and for coordination among participating design organizations. These measures must include the establishment of written procedures among participating design organizations for the review, approval, release, distribution, and revision of documents involving design interfaces. The design control measures must provide for verifying or checking the adequacy of design, by methods such as design reviews, alternate or simplified calculational methods, or by a suitable testing program. For the verifying or checking process, the licensee shall designate individuals or groups other than those who were responsible for the original design, but who may be from the same organization. Where a test program is used to verify the adequacy of a specific design feature in lieu of other verifying or checking processes, the licensee shall include suitable qualification testing of a prototype or sample unit under the most adverse design conditions. The licensee shall apply design control measures to items such as the following: criticality physics, radiation shielding, stress, thermal, hydraulic, and accident analyses; compatibility of materials; accessibility for inservice inspection, maintenance, and repair; features to facilitate decontamination; and delineation of acceptance criteria for inspections tests.

(c) The licensee shall subject design changes, including field changes, to design control measures commensurate with those applied to the original design. Changes in the conditions specified in the package approval require NRC approval.

§ 71.109 Procurement document control.

The licensee shall establish measures to assure adequate quality is required in the documents for procurement of material, equipment, and services, whether purchased by the licensee or by its contractors or subcontractors. To the extent necessary, the licensee shall require contractors or subcontractors to provide a quality assurance program consistent with the applicable provisions of this part.

§ 71.111 Instructions, procedures, and drawings.

The licensee shall prescribe activities affecting quality by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall require that these instructions, procedures, and drawings be followed. The instructions, procedures, and drawings must include appropriate quantitative or qualitative acceptance criteria for determining that important activities have been satisfactorily accomplished.

§ 71.113 Document control.

The licensee shall establish measures to control the issuance of documents such as instructions, procedures, and drawings, including changes, which prescribe all activities affecting quality. These measures must assure that documents, including changes, are reviewed for adequacy, approved for release by authorized personnel, and distributed and used at the location where the prescribed activity is performed. These measures must assure that changes to documents are reviewed and approved.

§ 71.115 Control of purchased material, equipment, and services.

(a) The licensee shall establish measures to assure that purchased material, equipment, and services, whether purchased directly or through contractors and subcontractors, conform to the procurement documents. These

measures must include provisions, as appropriate, for source evaluation and selection, objective evidence of quality furnished by the contractor or subcontractor, inspection at the contractor or subcontractor source, and examination of products upon delivery.

(b) The licensee shall have available documentary evidence that material and equipment conform to the procurement specifications prior to installation or use of the material and equipment. The licensee shall retain or have available this documentary evidence for the life of the package to which it applies. The licensee shall assure that the evidence is sufficient to identify the specific requirements met by the purchased material and equipment.

(c) The licensee or designee shall assess the effectiveness of the control of quality by contractors and subcontractors at intervals consistent with the importance, complexity, and quantity of the product or services.

§ 71.117 Identification and control of materials, parts, and components.

The licensee shall establish measures for the identification and control of materials, parts, and components. These measures must assure that identification of the item is maintained by heat number, part number, or other appropriate means, either on the item or on records traceable to the item, as required throughout fabrication, installation, and use of the item. These identification and control measures must be designed to prevent the use of incorrect or defective materials, parts, and components.

§ 71.119 Control of special processes.

The licensee shall establish measures to assure that special processes, including welding, heat treating, and nondestructive testing, are controlled and accomplished by qualified personnel using qualified procedures in accordance with applicable codes, standards, specifications, criteria, and other special requirements.

§ 71.121 Internal inspection.

The licensee shall establish and execute a program for inspection of activities affecting quality by or for the organization performing the activity to verify conformance with the documented instructions, procedures, and drawings for accomplishing the activity. The inspection must be performed by individuals other than those who performed the activity being inspected. Examination, measurements, or tests of material or products processed must be performed for each work operation where necessary to assure quality. If direct inspection of processed material or products is not carried out, indirect control by monitoring processing methods, equipment, and personnel must be provided. Both inspection and process monitoring must be provided when quality control is inadequate without both. If mandatory inspection hold points, which require witnessing or inspecting by the licensee's designated representative and beyond which work should not proceed without the consent of its designated representative, are required, the specific hold points must be indicated in appropriate documents.

§ 71.123 Test control.

The licensee shall establish a test program to assure that all testing required to demonstrate that the packaging components will perform satisfactorily in service is identified and performed in accordance with written test procedures which incorporate the requirements of this part and the requirements and acceptance limits contained in the package approval. The test procedures must include provisions for assuring that all prerequisites for the given test are met, that adequate test instrumentation is available and used, and that the test is performed under suitable environmental conditions. The licensee shall document and evaluate the test results to assure that test requirements have been satisfied.

§ 71.125 Control of measuring and test equipment.

The licensee shall establish measures to assure that tools, gages, instruments, and other measuring and testing devices used in activities affecting quality are properly controlled, calibrated, and adjusted at specified times to maintain accuracy within necessary limits.

§ 71.127 Handling, storage, and shipping control.

The licensee shall establish measures to control, in accordance with instructions, the handling, storage, shipping, cleaning, and preservation of materials and equipment to be used in packaging to prevent damage or deterioration. When necessary for particular products, special protective environments, such as inert gas atmosphere, and specific moisture content and temperature levels must be specified and provided.

§ 71.129 Inspection, test, and operating status.

(a) The licensee shall establish measures to indicate, by the use of markings such as stamps, tags, labels, routing cards, or other suitable means, the status of inspections and tests performed upon individual items of the packaging. These measures must provide for the identification of items which have satisfactorily passed required inspections and tests where necessary to preclude inadvertent bypassing of the inspections and tests.

(b) The licensee shall establish measures to identify the operating status of components of the packaging, such as tagging valves and switches, to prevent inadvertent operation.

§ 71.131 Nonconforming materials, parts, or components.

The licensee shall establish measures to control materials, parts, or components which do not conform to the licensee's requirements in order to prevent their inadvertent use or installation. These measures must include, as appropriate, procedures for identification, documentation, segregation, disposition, and notification to affected organizations. Nonconforming items must be reviewed and accepted, rejected, repaired, or reworked in accordance with documented procedures.

§ 71.133 Corrective action.

The licensee shall establish measures to assure that conditions adverse to quality, such as deficiencies, deviations, defective material and equipment, and nonconformances, are promptly identified and corrected. In the case of a significant condition adverse to quality, the measures must assure that the cause of the condition is determined and corrective action taken to preclude repetition. The identification of the significant condition adverse to quality, the cause of the condition, and the corrective action taken must be documented and reported to appropriate levels of management.

§ 71.135 Quality assurance records.

(a) The licensee shall maintain sufficient written records to furnish evidence of activities affecting quality. The records must include the following: design records, records of use and the results of reviews, inspections, tests, audits, monitoring of work performance, and materials analyses. The records must include closely related data such as qualifications of personnel, procedures, and equipment. Inspection and test records must, at a minimum, identify the inspector or data recorder, the type of observation, the results, the acceptability, and the action taken in connection with any deficiencies noted. Records must be identifiable and retrievable. Records pertaining to the fabrication of the package must be

retained for the life of the package to which they apply. Records pertaining to the use of the package for shipment of radioactive material must be retained for a period of two years after the shipment.

(b) The licensee shall establish a records retention program which is consistent with the applicable regulations, designating factors such as duration, location, and assigned responsibility.

§ 71.137 Audits.

The licensee shall carry out a comprehensive system of planned and periodic audits to verify compliance with all aspects of the quality assurance program and to determine the effectiveness of the program. The audits must be performed in accordance with written procedures or checklists by appropriately trained personnel not having direct responsibilities in the areas being audited. Audited results must be documented and reviewed by management having responsibility in the area audited. Follow-up action, including re-audit of deficient areas, must be taken where indicated.

Appendix A—Determination of A_1 and A_2

I. Single radionuclides.

(1) For a single radionuclide of known identity, the values of A_1 and A_2 are taken from Table A–1 if listed there. The values A_1 and A_2 in Table A–1 are also applicable for radionculides contained in (α, n) or (γ, n) neutron sources.

(2) For any single radionuclide whose identity is known but which is not listed in Table A–1, the values of A_1 and A_2 are determined according to the following procedure:

(a) If the radionuclide emits only one type of radiation, A_1 is determined according to the rules in paragraphs (i), (ii), (iii) and (iv) of this paragraph. For radionuclides emitting different kinds of radiation, A_1 is the most restrictive value of those determined for each kind of radiation. However, in both cases, A_1 is restricted to a maximum of 1000 Ci. If a parent nuclide decays into a shorter lived daughter with a half-life not greater than 10 days, A_1 is calculated for both the parent and the daughter, and the more limiting of the two values is assigned to the parent nuclide.

(i) For gamma emitters, A_1 is determined by the expression:

$$A_1 = \frac{9}{\Gamma} \text{ curies}$$

where Γ is the gamma-ray constant, corresponding to the dose in R/h at 1 m per Ci; the number 9 results from the choice of 1 rem/h at a distance of 3 m as the reference dose-equivalent rate.

(ii) For X-ray emitters, A_1 is determined by the atomic number of the nuclide:

for $Z < 55$—$A_1 = 1000$ Ci

for $Z > 55$—$A_1 = 200$ Ci

where Z is the atomic number of the nuclide.

(iii) For beta emitters, A_1 is determined by the maximum beta energy (E_{max}) according to Table A–2;

(iv) For alpha emitters, A_1 is determined by the expression:

$A_1 = 1000\ A_2$

where A_2 is the value listed in Table A–3;

(b) A_2 is the more restrictive of the following two values:

(i) The corresponding A_1; and

(ii) The value A_2 obtained from Table A–3.

(3) For any single radionuclide whose identity is unknown, the value of A_1 is taken to be two Ci and the value of A_2 is taken to be 0.002 Ci. However, if the atomic number of the radionuclide is known to be less than 82, the value of A_1 is taken to be 10 Ci and the value of A_2 is taken to be 0.4 Ci.

II. Mixtures of radionculides, including radioactive decay chains.

(1) For mixed fission products the following activity limits may be assumed if a detailed analysis of the mixture is not carried out:

$A_1 = 10$ Ci

$A_2 = 0.4$ Ci

(2) A single radioactive decay chain is considered to be a single radionuclide when the radionuclides are present in their naturally occurring proportions and no daughter nuclide has a half-life either longer than 10 days or longer than that of the parent nuclide. The activity to be taken into account and the A_1 or A_2 value from Table A–1 to be applied are those corresponding to the parent nuclide of that chain. When calculating A_1 or A_2 values, radiation emitted by daughters must be considered. However, in the case of radioactive decay chains in which any daughter nuclide has a half-life either longer than 10 days or greater than that of the parent nuclide, the parent and daughter nuclides are considered to be mixtures of different nuclides.

(3) In the case of a mixture of different radionuclides, where the identity and activity of each radionuclide are known, the permissible activity of each radionuclide R_1, R_2 . . . R_n is such that $F_1 + F_2 + . . F_n$ is not greater than unity, where

$$F_1 = \frac{\text{Total activity of } R_1}{A_i(R_1)}$$

$$F_2 = \frac{\text{Total activity of } R_2}{A_i(R_2)}$$

$$F_n = \frac{\text{Total activity of } R_n}{A_i(R_n)}$$

$A_i(R_1, R_2 . . R_n)$ is the value of A_1 or A_2 as appropriate for the nuclide $R_1, R_2 . . R_n$.

(4) When the identity of each radionuclide is known but the individual activities of some of the radionuclides are not known, the formula given in paragraph (3) is applied to establish the values of A_1 or A_2 as appropriate. All the radionuclides whose individual activities are not known (their total activity will, however, be known) are classed in a single group and the most restrictive value of A_1 and A_2 applicable to any one of them is used as the value of A_1 or A_2 in the denominator of the fraction.

(5) Where the identity of each radionuclide is known but the individual activity of none of the radionuclides is known, the most restrictive value of A_1 or A_2 applicable to any one of the radionculides present is adopted as the applicable value.

(6) When the identity of none of the nuclides is known, the value of A_1 is taken to be two Ci and the value of A_2 is taken to be 0.002 Ci. However, if alpha emitters are known to be absent, the value of A_2 is taken to be 0.4 Ci.

TABLE A–1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{227}Ac	Actinium (89)	1000	0.003	7.2×10
^{228}Ac		10	4	2.2×10^{3}
^{105}Ag	Silver (47)	40	40	3.1×10^{4}
^{110m}Ag		7	7	4.7×10^{3}
^{111}Ag		100	20	1.6×10^{5}
^{241}Am	Americium (95)	8	0.008	3.2
^{243}Am		8	0.008	1.9×10^{-1}
^{37}Ar (compressed or uncompressed) [1]	Argon (18)	1000	1000	1.0×10^{5}
^{41}Ar (uncompressed) [1]		20	20	4.3×10^{3}
^{41}Ar (compressed) [1]		1	1	4.3×10^{1}
^{73}As	Arsenic (33)	1000	400	2.4×10^{4}

TABLE A-1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{74}As		20	20	1.0×10^{3}
^{76}As		10	10	1.6×10^{4}
^{77}As		300	20	1.1×10^{5}
^{211}At	Astatine (85)	200	7	2.1×10^{5}
^{193}Au	Gold (79)	200	200	9.3×10^{2}
^{196}Au		30	30	1.2×10^{3}
^{198}Au		40	20	2.5×10^{3}
^{199}Au		200	25	2.1×10^{4}
^{131}Ba	Barium (56)	40	40	8.7×10^{3}
^{133}Ba		40	10	4.0×10^{2}
^{140}Ba		20	20	7.3×10^{4}
^{7}Be	Beryllium (4)	300	300	3.5×10^{3}
^{206}Bi	Bismuth (83)	5	5	9.9×10^{4}
^{207}Bi		10	25	2.2×10^{2}
^{210}Bi (daut)		100	4	1.2×10^{3}
^{212}Bi		6	6	1.5×10^{5}
^{249}Bk	Berkelium (97)	1000	1	1.8×10^{3}
^{77}Br	Bromine (35)	70	25	7.1×10^{4}
^{82}Br		6	6	1.1×10^{4}
^{11}C	Carbon (6)	20	20	8.4×10^{4}
^{14}C		1000	60	4.6
^{45}Ca	Calcium (20)	1000	25	1.9×10^{4}
^{47}Ca		20	20	5.9×10^{3}
^{109}Cd	Cadmium (48)	1000	70	2.6×10^{3}
^{115m}Cd		30	30	2.6×10^{4}
^{115}Cd		80	20	5.1×10^{3}
^{139}Ce	Cerium (58)	100	100	6.5×10^{3}
^{141}Ce		300	25	2.8×10^{4}
^{143}Ce		60	20	6.6×10^{4}
^{144}Ce		10	7	3.2×10^{3}
^{249}Cf	Californium (98)	2	0.002	3.1
^{250}Cf		7	0.007	1.3×10^{3}
^{252}Cf		2	0.009	6.5×10^{3}
^{36}Cl	Chlorine (17)	300	10	3.2×10^{-1}
^{38}Cl		10	10	1.3×10^{6}
^{242}Cm	Curium (96)	200	0.2	3.3×10^{3}
^{243}Cm		9	0.009	4.2×10
^{244}Cm		10	0.01	8.2×10
^{245}Cm		6	0.006	1.0×10^{-1}
^{246}Cm		6	0.006	3.6×10^{-1}
^{56}Co	Cobalt (27)	5	5	3.0×10^{4}
^{57}Co		90	90	8.5×10^{3}
^{58m}Co		1000	1000	5.9×10^{5}
^{58}Co		20	20	3.1×10^{4}
^{60}Co		7	7	1.1×10^{3}
^{51}Cr	Chromium (24)	600	600	9.2×10^{4}
^{129}Cs	Cesium (55)	40	40	7.6×10^{3}
^{131}Cs		1000	1000	1.0×10^{3}
^{134m}Cs		1000	10	7.4×10^{5}
^{134}Cs		10	10	1.2×10^{3}
^{135}Cs		1000	25	8.8×10^{-4}
^{136}Cs		7	7	7.4×10^{4}
^{137}Cs		30	10	9.8×10
^{64}Cu	Copper (29)	80	25	3.8×10^{5}
^{67}Cu		200	25	7.9×10^{4}
^{165}Dy	Dysprosium (66)	100	20	8.2×10^{5}
^{166}Dy		1000	200	2.3×10^{5}
^{169}Er	Erbium (68)	1000	25	8.2×10^{4}
^{171}Er		50	20	2.4×10^{5}
^{152m}Eu	Europium (63)	30	30	2.2×10^{5}
^{152}Eu		20	10	1.9×10^{5}
^{154}Eu		10	5	1.5×10^{5}
^{155}Eu		400	60	1.4×10^{5}
^{18}F	Fluorine (9)	20	20	9.3×10^{1}
^{52}Fe	Iron (26)	5	5	7.3×10^{5}
^{55}Fe		1000	1000	2.2×10^{3}
^{59}Fe		10	10	4.9×10^{4}
^{67}Ga	Gallium (31)	100	100	6.0×10^{3}
^{68}Ga		20	20	4.0×10^{5}
^{72}Ga		7	7	3.1×10^{5}
^{153}Gd	Gadolinium (64)	200	100	3.6×10^{3}
^{159}Gd		300	20	1.1×10^{5}
^{68}Ge	Germanium (32)	20	10	7.0×10^{3}
^{71}Ge		1000	1000	1.6×10^{3}
^{3}H	Hydrogen (1) see T-Tritium			
^{181}Hf	Hafnium (72)	30	25	1.6×10^{4}
^{197m}Hg	Mercury (80)	200	200	6.6×10^{3}
^{197}Hg		200	200	2.5×10^{5}
^{203}Hg		80	25	1.4×10^{4}
^{166}Ho	Holmium (67)	30	30	6.9×10^{4}
^{123}I	Iodine (53)	50	50	1.9×10^{4}
^{125}I		1000	70	1.7×10^{4}
^{126}I		40	10	7.8×10^{4}
^{129}I		1000	2	1.6×10^{-4}
^{131}I		40	10	1.2×10^{4}
^{132}I		7	7	1.1×10^{5}
^{133}I		30	10	1.1×10^{4}
^{134}I		8	8	2.7×10^{5}
^{135}I		10	10	3.5×10^{4}

TABLE A–1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{111}In	Indium (49)	30	25	4.2×10^{3}
^{113m}In		60	60	1.6×10^{1}
^{114m}In		30	20	2.3×10^{1}
^{115m}In		100	20	6.1×10^{2}
^{190}Ir	Iridium (77)	10	10	6.2×10^{4}
^{192}Ir		20	10	9.1×10^{3}
^{194}Ir		10	10	8.5×10^{5}
^{42}K	Potassium (19)	10	10	6.0×10^{4}
^{43}K		20	10	3.3×10^{4}
^{85m}Kr (uncompressed) [1]	Krypton (36)	100	100	8.4×10^{2}
^{85m}Kr (compressed) [2]		3	3	8.4×10^{3}
^{85}Kr (uncompressed) [1]		1000	1000	4.0×10^{0}
^{85}Kr (compressed) [2]		5	5	4.0×10^{1}
^{87}Kr (uncompressed) [1]		20	20	2.8×10^{3}
^{87}Kr (compressed) [2]		0.6	0.6	2.8×10^{2}
^{140}La	Lanthanum (57)	30	30	5.6×10^{4}
LAA	Low specific activity material—see § 71.4			
^{177}Lu	Lutetium (71)	300	25	1.1×10^{3}
MFF	Mixed fission products	10	0.4	
^{28}Mg	Magnesium (12)	6	6	5.2×10^{4}
^{52}Mn	Manganese (25)	5	5	4.4×10^{4}
^{54}Mn		20	20	8.3×10^{3}
^{56}Mn		5	5	2.2×10^{5}
^{99}Mo	Molybdenum (42)	100	20	4.7×10^{3}
^{13}N	Nitrogen (7)	20	10	1.5×10^{4}
^{22}Na	Sodium (11)	6	6	6.3×10^{4}
^{24}Na		5	5	8.7×10^{4}
^{93m}Nb	Niobium (41)	1000	200	1.1×10^{3}
^{95}Nb		20	20	3.9×10^{4}
^{97}Nb		20	20	2.6×10^{5}
^{147}Nd	Neodymium (60)	100	20	8.0×10^{4}
^{149}Nd		30	20	1.1×10^{5}
^{59}Ni	Nickel (28)	1000	900	8.1×10^{-2}
^{63}Ni		1000	100	4.6×10
^{65}Ni		10	10	1.9×10^{5}
^{237}Np	Neptunium (93)	5	0.005	6.9×10^{-4}
^{239}Np		200	25	2.3×10^{3}
^{185}Os	Osmium (76)	20	20	7.3×10^{2}
^{191}Os		600	200	4.6×10^{3}
^{191m}Os		200	200	1.2×10^{4}
^{193}Os		100	20	5.3×10^{3}
^{32}P	Phosphorus (15)	30	30	2.9×10^{3}
^{230}Pa	Protactinium (91)	20	0.8	3.2×10^{3}
^{231}Pa		2	0.002	4.5×10^{-3}
^{233}Pa		100	100	2.1×10^{3}
^{201}Pb	Lead (82)	20	20	1.7×10^{3}
^{210}Pb		100	0.2	8.8×10
^{212}Pb		6	5	1.4×10^{4}
^{103}Pd	Palladium (46)	1000	700	7.5×10^{3}
^{109}Pd		100	20	2.1×10^{4}
^{147}Pm	Promethium (61)	1000	25	9.4×10^{2}
^{149}Pm		100	20	4.2×10^{3}
^{210}Po	Polonium (84)	200	0.2	4.5×10^{3}
^{142}Pr	Praseodymium (59)	10	10	1.2×10^{4}
^{143}Pr		300	20	6.6×10^{3}
^{191}Pt	Platinum (78)	100	100	2.3×10^{3}
^{193m}Pt		200	200	2.0×10^{3}
^{197m}Pt		300	20	1.2×10^{5}
^{197}Pt		300	20	8.8×10^{4}
^{238}Pu	Plutonium (94)	3	0.003	1.7×10
^{239}Pu		2	0.002	6.2×10^{-3}
^{240}Pu		2	0.002	2.3×10^{-1}
^{241}Pu		1000	0.1	1.1×10^{3}
^{242}Pu		3	0.003	3.9×10^{-3}
^{223}Ra	Radium (88)	50	0.2	5.0×10^{3}
^{224}Ra		6	0.5	1.6×10^{5}
^{226}Ra		10	0.05	1.0
^{228}Ra		10	0.05	2.3×10^{3}
^{81}Rb	Rubidium (37)	30	25	8.2×10^{4}
^{86}Rb		30	30	8.1×10^{3}
^{87}Rb		(*)	(*)	6.6×10^{-3}
Rb (natural)		(*)	(*)	1.8×10^{-4}
^{186}Re	Rhenium (75)	100	20	1.9×10^{3}
^{187}Re		(*)	(*)	3.8×10^{-3}
^{188}Re		10	10	1.0×10^{4}
Re (natural)		(*)	(*)	2.4×10^{-3}
^{103m}Rh	Rhodium (45)	1000	1000	3.2×10^{3}
^{105}Rh		200	25	8.2×10^{3}
^{222}Rn	Radon (86)	10	2	1.5×10^{5}
^{97}Ru	Ruthenium (44)	80	80	5.5×10^{3}
^{103}Ru		30	25	3.2×10^{3}
^{105}Ru		20	20	6.6×10^{4}
^{106}Ru		10	7	3.4×10^{2}
^{35}S	Sulphur (16)	1000	60	4.3×10^{4}
^{122}Sb	Antimony (51)	30	30	3.9×10^{3}
^{124}Sb		5	5	1.8×10^{4}
^{125}Sb		40	25	1.4×10^{3}
^{46}Sc	Scandium (21)	8	8	3.4×10^{4}
^{47}Sc		200	20	8.2×10^{3}

TABLE A-1.—A_1 AND A_2 VALUES FOR RADIONUCLIDES—Continued

(See footnotes at end of table)

Symbol of radionuclide	Element and atomic number	A_1(Ci)	A_2(Ci)	Specific activity (Ci/g)
^{48}V		5	5	1.5×10^{4}
^{75}Se	Selenium (34)	40	40	1.4×10^{3}
^{31}Si	Silicon (14)	100	20	3.9×10^{3}
^{147}Sm	Samarium (62)	(*)	(*)	20×10^{-9}
^{151}Sm		1000	90	2.6×10
^{153}Sm		300	20	4.4×10^{2}
^{113}Sn	Tin (50)	60	60	1.0×10^{3}
^{119m}Sn		100	100	4.4×10^{2}
^{125}Sn		10	10	1.1×10^{3}
^{85m}Sr	Strontium (38)	80	80	3.2×10^{3}
^{85}Sr		30	30	2.4×10^{3}
^{87m}Sr		50	50	1.2×10^{3}
^{89}Sr		100	10	2.9×10^{3}
^{90}Sr		10	0.4	1.5×10^{2}
^{91}Sr		10	10	3.6×10^{3}
^{92}Sr		10	10	1.3×10^{3}
^{3}H (uncompressed) [1]	Tritium (1)	1000	1000	9.7×10^{3}
^{3}H (compressed) [1]		1000	1000	9.7×10^{3}
^{3}H (activated luminous paint)		1000	1000	9.7×10^{3}
^{3}H (adsorbed on solid carrier)		1000	1000	9.7×10^{3}
^{3}H (tritiated water)		1000	1000	9.7×10^{3}
^{3}H (other forms)		20	20	9.7×10^{3}
^{182}Ta	Tantalum (73)	20	20	6.2×10^{2}
^{160}Tb	Terbium (65)	20	10	1.1×10^{3}
^{96m}Tc	Technetium (43)	1000	1000	3.8×10^{3}
^{96}Tc		6	6	3.2×10^{3}
^{97m}Tc		1000	200	1.5×10^{4}
^{97}Tc		1000	400	1.4×10^{-3}
^{99m}Tc		100	100	5.2×10^{4}
^{99}Tc		1000	25	1.7×10^{-3}
^{125m}Te	Tellurium (52)	1000	100	1.8×10^{3}
^{127M}Te		300	20	4.0×10^{3}
^{127}Te		300	20	2.6×10^{5}
^{129M}Te		30	10	2.5×10^{3}
^{129}Te		100	20	2.0×10^{5}
^{131m}Te		10	10	8.0×10^{3}
^{132}Te		7	7	3.1×10^{3}
^{227}Th	Thorium (90)	200	0.2	3.2×10^{3}
^{228}Th		6	0.008	8.3×10^{1}
^{230}Th		3	0.003	1.9×10^{-1}
^{231}Th		1000	25	5.3×10^{3}
^{232}Th		(*)	(*)	1.1×10^{-7}
^{234}Th		10	10	2.3×10^{3}
Th (natural)		*	*	2.2×10^{-6}
Th (irradiated) [2]				
^{200}Tl	Thallium (81)	20	20	5.8×10^{3}
^{201}Tl		200	200	2.2×10^{4}
^{202}Tl		40	40	5.4×10^{3}
^{204}Tl		300	10	4.3×10^{3}
^{170}Tm	Thulium (69)	300	10	6.0×10^{3}
^{171}Tm		1000	100	1.1×10^{3}
^{230}U	Uranium (92)	100	0.1	2.7×10^{3}
^{232}U		30	0.03	2.1×10
^{233}U		100	0.1	9.5×10^{-3}
^{234}U		100	0.1	6.2×10^{-3}
^{235}U		100	0.2	2.1×10^{-4}
^{236}U		200	0.2	6.3×10^{-3}
^{238}U		(*)	(*)	3.3×10^{-7}
U (natural)		(*)	(*)	(*)
U (enriched) >20%; 20% or greater		*	*	*
U (depleted)		(*)	(*)	(*)
U (irradiated) [2]				
^{48}V	Vanadium (23)	6	6	1.7×10^{4}
^{181}W	Tungsten (74)	200	100	5.0×10^{3}
^{185}W		1000	25	9.7×10^{-3}
^{187}W		40	20	7.0×10^{4}
^{127}Xe (uncompressed) [3]	Xenon (54)	70	70	2.8×10^{4}
^{127}Xe (compressed) [3]		5	5	2.8×10^{4}
^{131m}Xe (compressed) [1]		10	10	1.0×10^{3}
^{131m}Xe (uncompressed) [1]		100	100	1.0×10^{3}
^{133}Xe (uncompressed) [1]		1000	1000	1.9×10^{3}
^{133}Xe (compressed) [1]		5	5	1.9×10^{5}
^{135}Xe (uncompressed) [1]		70	70	2.5×10^{5}
^{135}Xe (compressed) [1]		2	2	2.5×10^{5}
^{87}Y	Yttrium (39)	20	20	4.5×10
^{90}Y		10	10	2.5×10^{5}
^{91m}Y		30	30	4.1×10^{1}
^{91}Y		30	30	2.5×10^{3}
^{92}Y		10	10	9.5×10^{3}
^{93}Y		10	10	3.2×10^{4}
^{169}Yb	Ytterbium (70)	80	80	2.3×10^{3}
^{175}Yb		400	25	1.8×10^{3}
^{65}Zn	Zinc (30)	30	30	8.0×10^{2}
^{69m}Zn		40	20	3.3×10^{4}
^{69}Zn		300	20	5.3×10^{7}
^{93}Zr	Zirconium (40)	1000	200	3.5×10^{-3}
^{95}Zr		20	20	2.1×10^{4}
^{97}Zr		20	20	2.0×10^{4}

[1] For the purpose of Table A–1, compressed gas means a gas at a pressure which exceeds the ambient atmospheric pressure at the location where the containment system was closed.
[2] The values of A_1 and A_2 must be calculated in accordance with the procedure specified in Appendix A, paragraph II(3), taking into account the activity of the fission products and of the uranium-233 in addition to that of the thorium.
[3] The values of A_1 and A_2 must be calculated in accordance with the procedure specified in Appendix A, paragraph II(3), taking into account the activity of the fission products and plutonium isotopes in addition to that of the uranium.
[4] Unlimited.
[5] Unlimited 100.
[6] Unlimited 0.1
[7] See table A–4.

TABLE A–2.—RELATIONSHIP BETWEEN A_1 AND E_{max} FOR BETA EMITTERS

E_{max} (MeV)	A_1 (Ci)
<0.5	1,000
0.5–<1.0	300
1.0–<1.5	150
1.5–<2.0	30
>2.0	10

TABLE A–3.—RELATIONSHIP BETWEEN A_2 AND THE ATOMIC NUMBER OF THE RADIONUCLIDE

Atomic No.	A_2		
	Half-life less than 1,000 days	Half-life 1,000 days to 10^9 years	Half-life greater than 10^9 years
1 to 81	3 Ci	.05 Ci	3 Ci
82 and above	.002 Ci	.002 Ci	3 Ci

TABLE A–4.—ACTIVITY-MASS RELATIONSHIPS FOR URANIUM/THORIUM

Thorium and uranium enrichment [1] wt % ^{235}U present	Specific activity	
	Ci/g	g/Ci
0.45	5.0×10^{-7}	2.0×10^{6}
0.72 (natural) [2]	7.06×10^{-7}	1.42×10^{6}
1.0	7.6×10^{-7}	1.3×10^{6}
1.5	1.0×10^{-6}	1.0×10^{6}
5.0	2.7×10^{-6}	3.7×10^{5}
10.0	4.8×10^{-6}	2.1×10^{5}
20.0	1.0×10^{-5}	1.0×10^{5}
35.0	2.0×10^{-5}	5.0×10^{4}
50.0	2.5×10^{-5}	4.0×10^{4}
90.0	5.8×10^{-5}	1.7×10^{4}
93.0	7.0×10^{-5}	1.4×10^{4}
95.0	9.1×10^{-5}	1.1×10^{4}
Natural Thorium	$2.2\times10-7$	4.6×10^{5}

[1] The figures for uranium include representative values for the activity of the uranium-234 which is concentrated during the enrichment process. The activity for Thorium includes the equilibrium concentration of Thorium-228.

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

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 83-21193 Filed 8-4-83; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

Interest on Deposits; Stock Savings Banks as "Mutual Savings Banks"; Waiver of Premature Withdrawal Penalty

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: Recently several States have either enacted or have begun enacting statutes which permit mutual savings banks to convert to a capital stock form of ownership. In this connection, two interest-rate control issues have arisen. The first is whether an FDIC-insured mutual savings bank may continue to pay the "differential" interest rate, on deposits to which the differential still applies, after it has converted to a stock savings bank. The second issue is whether the bank may waive the federally required premature-withdrawal penalty relative to withdrawals by depositors who use the funds to purchase capital stock of the newly converted savings bank. The purpose of the following amendments to Part 329 of the FDIC's regulations is to: (1) Include all FDIC-insured, State-chartered stock savings banks within the definition of "mutual savings bank" to enable these institutions to pay the differential interest rate on the applicable deposits, and (2) permit FDIC-insured, state-chartered savings banks to waive the otherwise mandatory premature-withdrawal penalty when depositors withdraw time deposits to purchase stock upon the bank's conversion to a stock savings bank.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. DiNuzzo, Senior Attorney, Legal Division, (202–389–4171), Room 4126B, 550 17th Street, NW., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Recently several States have enacted statutes that permit mutual savings banks chartered by the State to convert to capital stock ownership. Other States are in the process of enacting similar statutes, and it is anticipated that the trend will continue. Two issues regarding federal interest-rate controls have arisen in this respect. This first is whether FDIC-regulated mutual savings banks may continue to pay the interest-rate differential on the appertaining deposits after these savings banks convert to capital stock ownership.

Mutual savings banks are generally allowed by applicable regulations of the FDIC and the Depository Institutions Deregulation Committee ("DIDC") to pay one-quarter percent higher interest than commercial banks on certain deposits. The most important of these deposits is the passbook account, on which mutual savings banks may pay no higher than five and one-half percent interest and commercial banks may pay no higher than five and one-quarter percent (12 CFR 329.7 (1981)). The FDIC's current definition of "mutual savings bank" includes "(1) any mutual savings bank, (2) any guaranty savings bank or stock savings bank which operates under . . . the laws of . . . New Hampshire, Washington, and Maine . . ., and (3) any corporation operating in . . . Massachusetts as a banking company. . . ." *Id.* Inasmuch as the current definition of "mutual savings bank" includes guaranty savings banks in New Hampshire and stock savings banks in Washington and Maine, there is no reason stock savings banks chartered by other States should not be included within that definition. This is especially so because stock savings banks have essentially the same characteristics of mutual savings banks, except for the stock form of ownership. If these institutions are not defined as mutual savings banks, they would not be permitted to pay the differential interest rate on the appertaining deposit accounts—most importantly, the passbook account—after converting from mutual to stock form of ownership. Because of the outflow of deposits which might occur if the differential is disallowed upon a mutual bank's conversion to stock form and the corresponding effect upon the bank's financial condition, it is deemed particularly important that these institutions be accorded the same treatment they received as mutual savings banks and the same treatment afforded to guaranty and stock savings banks chartered in New Hampshire, Washington and Maine. Additionally, section 326 of the Garn-St Germain Depository Institutions Act of 1982 (96 Stat. 1469, 1500 (1982)) requires that all interest-rate differentials on deposit accounts of federally insured depository institutions be eliminated before January 1, 1984; hence, the interest-rate differential will no longer be an issue within the course of a half-year.

In view of the above, the FDIC has herein amended the definition of "mutual savings bank" in Part 329 of its regulations to include all FDIC-insured, State-chartered stock savings banks.

The second interest-rate control issue which emanates from the recent trend of statutory enactments permitting mutual savings banks to convert to stock ownership concerns the federally mandated penalty for the early withdrawal of time deposits. Savings banks converting to a stock form of ownership wish to encourage depositors to use funds in their accounts to purchase capital stock upon the bank's conversion. Holders of a bank's time deposits, however, are unlikely to invest a portion of their deposits in the bank's capital stock if the investment would trigger a penalty for the premature withdrawal of the time deposits.

Section 1204.103 of the DIDC's regulations (12 CFR 1204.103 (1980)) requires that federally insured depository institutions impose a prescribed penalty for the premature withdrawal of a time deposit. Prior to the creation of the DIDC in March 1980, essentially the same penalty provision existed in § 329.4(d) of the FDIC's regulations (12 CFR 329.4(d) (1979)). The FDIC's regulation is still operative in that it contains certain exceptions to the penalty provision that were not incorporated into the DIDC's regulations, but are still applicable.* These exceptions do not include the early withdrawal of a time deposit for the purpose of purchasing stock upon the bank's conversion from mutual to stock form. The regulations of the Federal Home Loan Bank Board ("Bank Board"), however, do permit institutions regulated by the Bank Board to allow depositors to withdraw funds from certificate accounts without the assessment of an early withdrawal penalty for payment of capital stock pursuant to the exercise of subscription rights (12 CFR 563b.7(h) (1983)). This exception to the premature-withdrawal penalty provision existed prior to the promulgation by the DIDC of section 1204.103 and continues to exist as a recognized exception to the DIDC's regulation.

Prior to the creation of the DIDC, the FDIC Board of Directors had never considered, or been asked to consider, granting an exception to the premature-withdrawal penalty in connection with the use of time deposit funds to purchase stock of a mutual savings bank converting to stock ownership. It is the opinion of the Board of Directors that the exception in the Bank Board's regulations relative to the depositors of mutual savings and loan associations may and should apply to depositors of mutual savings banks insured by the FDIC. The purpose of the mandatory penalty provision is to prevent time deposits from being equivalent to deposits payable upon demand and to thereby assist institutions in managing liabilities and controlling liquidity. That concern is rendered irrelevant when a depositor shifts funds from a time deposit to an investment in the bank's permanent capital and, in fact, such a shifting is likely to strengthen the bank's liquidity and capital positions.

After consulation with the senior staff of the DIDC, the FDIC Board of Directors is of the opinion that it possesses the jurisdictional authority to grant this exemption from the otherwise mandatory penalty. The exemption under the foregoing facts, in the form of the Bank Board's regulation, predates the creation of the DIDC and the promulgation of section 1204.103. It is therefore reasonable and lawful to deem the exception to have existed prior to March 1980 for FDIC-insured mutual savings banks as well as for mutual savings and loan associations, inasmuch as those depository institutions are of identical ownership structure.

It is deemed impracticable and unnecessary to follow the provisions of section 553 of title 5 of the United States Code (5 U.S.C. 553 (1966)) in amending the definition of "mutual savings bank" to include all FDIC-insured stock savings banks. This is so because that definition currently includes stock savings banks in certain States and no valid reason exists for not including all similarly structured depository institutions within the definition. Publication of a proposed rule in this regard would also be impracticable and disadvantageous to both newly converted and converting institutions because all interest-rate differentials will be eliminated before January 1, 1984. Any delay, therefore, would weaken the impact of this amendment. It is also deemed impracticable and unnecessary to follow the provisions of section 553 in amending the FDIC's regulations to allow FDIC-insured mutual savings banks to permit depositors to withdraw time deposits before maturity, without the required imposition of a penalty, for the purpose of purchasing capital stock upon the conversion of the bank to stock ownership. This is so because such an exception to the otherwise mandatory early withdrawal penalty already exists for mutual savings and loan associations regulated by the Federal Home Loan Bank Board and because any delay in implementation of this amendment would hamper the efforts of an increasing number of mutual savings banks to convert to a stock form of ownership. In view of these reasons, prior notice, public participation and delayed effectiveness relative to both these amendments are not provided.

Also, regulatory analyses under section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b) (1980)) are unnecessary inasmuch as the FDIC Board of Directors hereby certifies that these amendments will not have a significant impact upon a substantial number of small entities. In addition, the amendments do not entail any reporting or recordkeeping requirement; hence, the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520 (1980) is inapplicable.

List of Subjects in 12 CFR Part 329

Banks and banking, Interest rates.

Chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, 64 Stat. 881, 891 (12 U.S.C. 1819); secs. 302(b) and 303, 94 Stat. 146 (12 U.S.C. 1828(g) and 1832(a)).

2. In § 329.0, footnote 1 remains unchanged and the text of the section is revised to read as follows:

§ 329.0 Scope.

The provisions of this Part 329 apply to the advertisement and payment of interest or dividends on deposits in insured nonmember banks.[1] The provisions of this Part 329 do not apply to any deposit in a bank outside of, or payable only at a bank's office which is located outside of, the States of the United States and the District of Columbia. Except for §§ 329.7, 329.8 and 329.10, and except as may be specifically stated otherwise in this Part 329, the provisions of this Part 329 do not apply to (a) mutual savings banks; (b) guaranty savings banks or stock

* Section 203 of title II of the Depository Institutions Deregulation and Monetary Control Act of 1980 (12 U.S.C. 3502 (1980) transferred virtually all interest rate control authority from the Federal Reserve System, FDIC and Federal Home Loan Bank Board to the DIDC. DIDC regulations supersede the regulations of these agencies to the extent that they are inconsistent with one another. Interest rate control regulations which were issued by the Federal Reserve, the FDIC and the Bank Board prior to the creation of the DIDC continue to be effective as long as they are not inconsistent with DIDC regulations.

savings banks operating substantially under and pursuant to the laws of their respective States pertaining to mutual savings banks; or (c) corporations operating in the Commonwealth of Massachusetts as banking companies pursuant to the provisions of chapter 172A of the General Laws of the Commonwealth of Massachusetts.

3. Section 329.4 is amended by renumbering paragraph (d) as (d)(1) and by adding paragraph (d)(2) as follows:

§ 329.4 Payment of time deposits before maturity.

* * * * *

(d)(1) * * *

(2) Premature withdrawal of time deposit to purchase stock of mutual savings bank converting to stock form of ownership. Notwithstanding subsection (d)(1) of this section, insured mutual savings banks may allow depositors to make a penalty-free early withdrawal of time deposits if the corresponding funds are used to purchase stock of the bank in connection with its conversion to a stock form of ownership. If the premature withdrawal is of only a portion of the time deposit, the deposit shall be cancelled if the appertaining minimum balance requirement is no longer met. The remaining balance will earn interest at the rate applicable to savings deposits.

* * * * *

4. In § 329.7, footnote 14 remains unchanged and the text of § 329.7(a) is revised to read as follows:

§ 329.7 Maximum rates of interest or dividends payable on deposits by insured nonmember mutual savings banks.[14]

(a) *Definitions.* For purposes of this section, the term "mutual savings bank" includes: (1) Any mutual savings bank, (2) any guaranty savings bank or stock savings bank operating substantially under and pursuant to laws of their respective States pertaining to mutual savings banks, and (3) any corporation operating in the Commonwealth of Massachusetts as a banking company pursuant to the provision of chapter 172A or the General Laws of the Commonwealth of Massachusetts.

* * * * *

By order of the Board of Directors, August 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-21356 Filed 8-4-83; 8:45 am]

BILLING CODE 6714-01-M

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[14] * * *

12 CFR Part 329

Payment of Interest on Deposits Situated Outside of the United States; Clarification

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Final rule.

SUMMARY: The Board of Directors of the Federal Deposit Insurance Corporation ("Board", "FDIC") has adopted an amendment to clarify the provisions of FDIC's interest rate regulations with respect to payment of interest on deposits situated outside of the States of the United States and the District of Columbia. Under present regulations, deposits payable only at a bank's office which is located outside of the States of the United States and the District of Columbia are not subject to the provisions of FDIC's regulations regarding payment of interest on deposits including regulations establishing rate ceilings. This amendment to FDIC's regulations clarifies FDIC's interpretation of existing regulations by defining an account payable solely outside of the United States and the District of Columbia to exclude deposits which are automatically linked to, or are an integrated part of, an account maintained and payable at any United States branch or office of the same financial institution. In addition, certain technical amendments are made to conform Part 329 to the International Banking Act of 1978.

EFFECTIVE DATE: September 15, 1983.

FOR FURTHER INFORMATION CONTACT: F. Douglas Birdzell, Counsel, or Barbara Messée, Attorney (202) 389-4171, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

SUPPLEMENTARY INFORMATION: Section 329.0 of FDIC's regulations (12 CFR 329.0) provides that the provisions of Part 329 do not apply to any deposit in a bank located outside of, or payable *only at*, a bank's office which is located outside of the States of the United States and the District of Columbia. The provisions of Part 329 of FDIC's regulations among other things, impose interest rate restrictions on deposits at banks supervised by FDIC. Recently, some question has arisen concerning the application of Part 329 to accounts payable only at overseas offices but integrated with domestic accounts. The principal confusion has arisen where a deposit is automatically accessed within the United States through a domestic account even though the account accessed is established outside of the United States.

To clarify its regulations and prevent further abuses based upon misconstructions of FDIC regulations, the FDIC published in the **Federal Register** on February 15, 1983 a proposed amendment to § 329.0 of its regulations. The proposal contained two components describing two categories of integrated accounts that would be ineligible for the extraterritorial exemption. The first component pertained to the automatic accessibility of an extraterritorial account through a domestic account. The second component addressed extraterritorial accounts that are accessible directly through a domestic office by instruction for or request for payment by means of transfer of funds or credits to the domestic office.

Written comments were submitted by eight parties. Three comments opposed the amendment as inconsistent with the philosophy of deregulation and overly broad. The remaining five comments supported the general purpose of the amendment to clarify the regulations and prevent clear evasions of existing interest rate limitations; however, a large volume of comments expressed confusion and concern over the indirect impact of the second component on certain legitimate international banking practices. Hence, FDIC's Board of Directors has enacted as its final rule only the first part of the proposed amendment, without significant modification.

The purpose of the extraterritorial exemption is to place foreign branches of domestic banks on competitive parity with foreign banks. It is not the purpose to allow banks to devise a program whereby they allow depositors to maintain deposits offshore solely as a device to evade U.S. interest rate ceilings on accounts which operate, in effect, as accounts which are payable within the United States or the District of Columbia. Clearly, the extraterritorial exemption is inappropriate where the terms of the agreement between the bank and the customer provide that the offshore account will be accessed immediately or automatically each time the depositor initiates a transaction in a domestic bank account in the same financial institution.

The FDIC emphasizes that the purpose of this amendment is to clarify existing regulations rather than to expand the scope of Part 329. It is not intended that this amendment should disrupt legitimate international banking practices such as Eurodollar placements, international letters of credit, activities

of shell branches in the Caribbean region, and international transfers of funds through wire transfers or telephone orders for the convenience of foreign travelers.

Nor is it the intent of the FDIC to preclude owners of foreign time deposits or savings accounts from employing the assistance of a domestic branch or office to help effectuate their instructions to renew, terminate, roll-over, withdraw or transfer funds. It is commonly accepted as a legitimate international banking practice that U.S. residents and nonresidents alike can reach their foreign deposits with the assistance of their U.S. bank or branch.

The final amendment, therefore, has been clarified and limited in scope to apply only to extraterritorial accounts which are accessed dometically by checks, drafts, orders, or similar means or devices. The FDIC does not intend to apply the provisions of Part 329 to time certificates of deposit established in accordance with the rules and regulations of the FDIC if: (1) The depositor is entitled under the agreement with the institution to demand payment *only* outside the States of the United States and the District of Columbia, and (2) the funds are not immediately available without penalty to the depositor for use in connection with a demand deposit account in the United States or the District of Columbia.

The Board of Governors of the Federal Reserve System in promulgating its 1981 amendment to § 217.1(k) of its Regulation Q (12 CFR 217.1(k)) chose to grant a blanket exemption to interest rate limitations for all extraterritorial deposits in denominations of $100,000 or more, "as to which the depositor is entitled under the agreement with the institution to demand payment only outside of the States of the United States or the District of Columbia." The FDIC finds no reason to specify a blanket exemption for deposits in excess of $100,000 because all deposits, regardless of denomination, if accessible by check, draft, or order drawn on a domestic branch of the same financial institution, should not be eligible for the extraterritorial exemption. In addition, time deposits of $100,000 or more and IBF time deposits are currently free from interest rate ceilings under § 329.6 of FDIC regulations. (12 CFR 329.6)

The amendment as originally proposed contained a residence requirement which has been deleted from the final regulation because it is not necessary to fulfill the purpose of the regulation and would impose administrative burdens on the banks, requiring them to identify the residence of all account holders and isolate certain accounts for special treatment.

Some comments questioned the jurisdiction of the FDIC to regulate noninsured foreign accounts held by non-U.S. residents. Under the International Banking Act of 1978, the FDIC has jurisdiction to regulate the payment of interest on demand deposits at insured U.S. branches of foreign banks. Under section 6 of the International Banking Act, the definition of an FDIC "insured bank" includes a foreign bank with an insured branch. Nevertheless, the FDIC has not previously attempted, and does not presently intend, to extend Part 329 beyond *insured* State nonmember banks and *insured* U.S. branches of foreign banks, nor to impose U.S. interest rate limitations on accounts maintained and payable solely in a foreign jurisdiction if the account is indeed payable solely outside the States of the United States and the District of Columbia and is not linked to or integrated with a domestic bank account in a manner that causes the two accounts to function or appear to function as one account payable within the United States or the District of Columbia.

Although the Depository Institutions Deregulation Act of 1980 ("DIDA") transferred to the Depository Institutions Deregulation Committee ("DIDC") the FDIC's authority to prescribe new rules governing the payment of interest and the establishment of classes of deposits or accounts for the purpose of interest rate regulation, the FDIC has retained the authority under section 18(g)(1) of the Federal Deposit Insurance Act to define the terms "time deposits" and "savings deposits" and "to prescribe such regulations as it may deem necessary to effectuate the purposes of this subsection."

The FDIC not only has the authority but also has the obligation to clarify its regulations which existed prior to the DIDA and which have not been specifically modified by the DIDC. It is, therefore, appropriate for the FDIC to act at this time to clarify existing regulations by defining the characteristics of an account which is not eligible for the extraterritorial exemption because the account is in fact not payable solely outside the United States and the District of Columbia.

Because of the overwhelming concern with the impact of this amendment on large denomination offshore deposits, many public comments did not state an opinion whether or not the amendment should be applied retroactively; only two comments were opposed to grandfathering. The FDIC is cognizant of the harm that would befall bank customers if the FDIC chose to apply regulations curtailing or nullifying existing contractual relations between a bank and its customers. Hence, the FDIC finds no compelling reason why this amendment to regulation should be applied retroactively.

A technical amendment is also being made at this time to conform the scope of Part 329 to the International Banking Act of 1978 (Pub. L. 95-369, 92 Stat. 620). Under section 18(g) of the Federal Deposit Insurance Act the Board of Directors of the FDIC is authorized to regulate the payment of interest on deposits in insured branches of a foreign bank in the same manner as it regulates interest rates in insured State nonmember banks. Thus, the first sentence of section 329.0 is hereby amended to expand the scope of Part 329 to specifically include insured State branches of a foreign bank.

Because this is a technical amendment authorized by statute, the Administrative Procedures Act does not require that the FDIC publish a proposed rule or solicit public comment.

Regulatory Analyses

The Board hereby certifies that this action will not have a significant economic impact on a substantial number of small entities since only a very few banks have the potential to establish either this form of integrated account or any other account situated outside of the United States but accessible domestically. Accordingly, the requirements of the Regulatory Flexibility Act for initial and final regulatory flexibility analyses are not applicable (5 U.S.C. 605(b)). For the same reason, the Board has determined that it is not feasible to prepare cost-benefit analyses, including a small bank impact statement, which would otherwise be required by the FDIC's policy.

List of Subjects in 12 CFR Part 329

Banks and banking, Interest on deposits, Interest rates, State nonmember banks.

Chapter III of title 12 of the Code of Federal Regulations is amended as follows:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for Part 329 reads as follows:

Authority: Secs. 9 and 18, Pub. L. 797, 64 Stat. 881, 891 (12 U.S.C. 1819 and 1828); sec. 303, Pub. L. 96-221, 94 Stat. 146 (12 U.S.C. 1832(a)).

2. In section 329.0, footnote 1 remains unchanged and the text of the section is revised to read as follows:

§ 329.0 Scope.

The provisions of this Part 329 apply to the advertisement and payment of interest or dividends on deposits in insured nonmember banks[1] and insured State branches of foreign banks. The provisions of this Part 329 do not apply to any deposit in a bank outside of, or payable only at a bank's office which is located outside of, the States of the United States and the District of Columbia, unless the deposit is placed in an account opened on or after September 15, 1983 which deposit is accessible directly or indirectly through any domestic branch or office of a bank by any means or device whatsoever by a check, draft, or order drawn upon an account maintained at any domestic office of the same institution payable within the United States. Except for §§ 329.7, 329.8 and 329.10, and except as may be specifically stated otherwise in this Part 329, the provisions of this Part 329 do not apply to (a) mutual savings banks; (b) guaranty savings banks or stock savings banks operating substantially under and pursuant to the laws of their respective States pertaining to mutual savings banks; or (c) corporations operating in the Commonwealth of Massachusetts as banking companies pursuant to the provisions of chapter 172A of the General Laws of the Commonwealth of Massachusetts.

By order of the Board of Directors, August 1, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 83-21357 Filed 8-4-83; 8:45 am]

BILLING CODE 6714-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket Nos. RM83-21-000, RM83-21-001, RM83-21-002]

Interpretation of Authority To suspend Initial Rate Shedules

Issued: August 1, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order denying rehearing.

SUMMARY: The Federal Energy Regulatory Commission by this order denies rehearing of the Commission's final rule interpreting its suspension authority over initial rates. (48 FR 24,358.) That order revised the Commission's interpretation of its authority to suspend initial rate schedules under the Federal Power and Natural Gas Acts and to establish interim rates during the suspension period if necessary.

FOR FURTHER INFORMATION CONTACT: Kenneth J. Malloy, Office of General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357-8033.

I. Introduction

On May 24, 1983, the Federal Energy Regulatory Commission (Commission) issued a final interpretive rule which revised the Commission's interpretation of its authority both to suspend initial rate schedules under section 205 of the Federal Power Act (FPA) and section 4 of the Natural Gas Act (NGA), and to establish interim rates during the suspension period if necessary (48 FR 24,358 (1983)). This rule is a codification of the Commission's holding in *Middle South Energy, Inc.*, Docket No. ER82-66-001, 23 FERC ¶ 61,277 (May 24, 1983). In that case the Commission concluded that the FPA does not prohibit the Commission from suspending initial rate schedules, establishing interim rates during the suspension period, and establishing contingent refund obligations.

The Commission received timely petitions for rehearing of this final rule from Middle South Energy, Inc. (MSE) (Docket No. RM83-21-002), and Tennessee Gas Pipeline Company (Tennessee) (Docket No. RM83-21-001). MSE seeks rehearing on several grounds: (1) That the Commission lacks statutory authority to suspend initial rates under the Federal Power Act; (2) that the Commission lacks statutory authority to make initial rates subject to refund; and (3) that its action violated the Administrative Procedure Act by failing to allow an opportunity for notice and comment. Tennessee seeks rehearing on the ground that the Commission lacks statutory authority to suspend initial rates under the Natural Gas Act.[1]

[1] The Commission issued an order granting rehearing for the purpose of further consideration on July 21, 1983. 48 FR 34,253 (1983).

II. Statutory Authority To Suspend Initial Rates

A. Suspension of Electric Rates

MSE argues that this Commission lacks the statutory authority to suspend initial rates, pointing out asserted differences in the language and legislative history of the Federal Power Act (FPA) and the Interstate Commerce Act (ICA). As to language, MSE argues that section 205(e) of the FPA provides for suspension only of the newly changed rates referenced in section 205(d). MSE places heavy reliance in this regard on dictum in a court decision on another question. The court stated in a footnote:

> As a matter of commonsensical construction, "any such new schedule" in section 205(e) refers to the immediately preceding "new schedules" in section 205(d) rather than to the more general and more distant "schedules" in section 205(c).[2]

It is equally "commonsensical" to apply the term "any such new schedule" in section 205(e) to the schedules showing "any such rates," which are referenced at the beginning of section 205(d) and required to be filed and posted by section 205(c). However, this important legal question does not turn on which view makes more common sense. As the Supreme Court stated in the *Trans Alaska Pipeline Rate Cases (TAPS)*:

> This Court, in interpreting the words of a statute, has "some 'scope for adopting a restricted rather than a literal or usual meaning of its words where acceptance of that meaning would lead to absurd results . . . or would thwart the obvious purpose of the statute' . . . [b]ut it is otherwise 'where no such consequences would follow and where . . . it appears to be consonant with the purpose of the Act. . . .'"

436 U.S. 631, 643 (1978) (*citing Commissioner* v. *Brown*, 380 U.S. 563, 571 (1965)).

Using this test, the Court found that the term "new" in the suspension provisions of the ICA could not be restricted to mean only "changed." The Court therefore found that the Interstate Commerce Commission (ICC) was authorized by the ICA to suspend "new" rates, whether they were changed rates or initial rates. In an analysis that is equally (or even more)[3] applicable to the FPA the Court found:

[2] *Florida Power & Light Co.* v. *FERC*, 617 F. 2d 809, 812 n. 2 (D.C. Cir. 1980).

[3] See discussion in the final rule regarding this Commission's lack of authority to order reparations. 48 FR at 24,360.

[F]ar from reaching an "'absurd resul[t]'" which would "'thwart the obvious purpose of the statute.'" . . . a literal reading of the word "new" in section 15(7) is necessary to curb mischief flowing from unchecked initial rates, which is in every way identical to that flowing from unchecked changes in rates to which the Mann-Elkins Act is concededly addressed. Given the equivalence of the harms resulting from unchecked initial and changed rates, only unequivocal statements in the legislative history of the Act would support any limitation on the scope of the suspension power.

Id. at 645 (citation omitted). As in the case of the ICA, the Commission has discovered no discussion, much less an "unequivocal statement," in the legislative history of the FPA (and MSE cites to none) that explains why initial rates should not be equally subject to suspension and refund. MSE merely points to each use of the term "change in rate" in the draft legislation, despite the fact that the Supreme Court found such language not to be determinative in *TAPS*.

MSE argues that the FPA was not pieced together over time like the ICA, and therefore need not be interpreted with the same broadness that the Court applied to the ICA. However, one fact that clearly emerges from the legislative history of the FPA is that it was modeled in large part on the ICA. In the 1935 House hearings on the FPA, Commissioner Seavey, on whose views MSE frequently relies, testified that the legislation was patterned, *inter alia*, after the ICA. *Hearings on H.R. 5423 before the House Committee on Interstate and Foreign Commerce*, 74th Cong., 1st Sess. 392 (1935).

Where Congress did intend to give the Federal Power Commission (FPC) lesser powers than those of the ICC, it clearly indicated that it was doing so. For example, Congress clearly stated that it was not giving the FPC authority comparable to that of the ICC to remedy discrimination between interstate and intrastate rates by increasing lower intrastate rates.[4] No such distinction was made by Congress between the suspension powers of the ICC and FPC. Coupling this absence of express Congressional intent with the substantial identity of statutory language, it is reasonable to conclude that Congress intended to vest the Commission (then the FPC) with the same suspension authority that it conferred on the ICC.

MSE finally attempts to distinguish the statutory scheme of the FPA from that of the ICA by stressing the fact that the FPA and Natural Gas Act (NGA) permit private rate contracts, unlike the ICA. The Commission has already addressed this question in its May 24, 1983 *Middle South* order. MSE's discussion is, moreover, inapposite because it attempts to equate contractually-set rates with initial rates. As the Commission noted in its prior order, initial rates are often not established by contract. Likewise, contractually set rates are often not initial rates, but changes in rates. MSE's attempt to apply to all initial rates the *Mobile*[5] decision on contractually-permitted rate filings is completely misplaced.

In conclusion, MSE has offered no arguments, legislative history, or legal authority that convinces the Commission that the Supreme Court's decision in the *TAPS* case does not permit an interpretation of the FPA to allow the suspension of initial rates.

B. Suspension of Natural Gas Rates

Tennessee argues that the Commission erred in concluding that the Commission has the authority under section 4 of the NGA to suspend initial rate schedules. Tennessee notes that under section 7(e) of the NGA, the Commission has authority "to attach to the issuance of a certificate and to the exercise of the rights granted thereunder such reasonable terms and conditions as the public convenience and necessity may require." Tennessee thus argues that this provision of the NGA has been found by the Supreme Court to be the appropriate means of assuring that initial rates are in keeping with the public convenience and necessity. *Atlantic Refining Company v. Public Service Commission of the State of New York*, 360 U.S. 378 (1959) (*CATCO*). Tennessee notes that in discussing the Commission's authority to condition the issuance of certificates of public convenience and necessity upon a showing that the initial rate is in the public interest, the Supreme Court noted "the fact the Commission was not given the power to suspend initial rates under section 7 makes it more important, as the Commission itself says, that this crucial sale should not be permanently certificated unless the rate level has been shown to be in the public interest." *Id.* at 390.

Tennessee argues that this statement indicates that the Supreme Court believes that the Commission does not have the power to suspend initial rates. Tennessee also notes that the legislative history of the NGA indicates that the suspension authority of section 4(e) does not apply to initial rates. In support of this argument, Tennessee cites some sections of the legislative history to support the notion that the suspension powers in section 4(e) apply only to "changes" in rates as opposed to "new" rates. Secondly, Tennessee notes that in 1962 amendments to the NGA, Congress was aware of the *CATCO* decision and believed that initial rates could not be suspended under the NGA.

The Commission agrees that the authority to condition the grant of certificates under section 7(e) of the NGA indicates that the need to suspend an initial rates is not as necessary in the natural gas area as it is in the electric area. Indeed, as the Commission noted in the final rule, "the Commission expects its suspension of initial rates under the NGA will not frequently occur because of the Commission's certificate authority under section 7(e) of the NGA." 48 FR at 24,358, 24,358 n.2 (1983). The Commission does not believe, however, the expected infrequent need to suspend initial rates prevents it from suspending initial rates in those situations where it may be appropriate.

As to the language in *CATCO* cited by Tennessee, the issue before the court was not whether the Commission could suspend initial rates but rather was related to the ability of the Commission to condition certificates under section 7(e) to protect the public while the justness and reasonableness of the rate is being determined under other sections of the NGA. 360 U.S. at 391–92. Thus, the statement cited by Tennessee is at best dictum. The Commission notes that historically it was assumed that the Commission did not have the authority to suspend initial rates. It seems clear that the *CATCO* court was merely reflecting what was then the prevailing interpretation of the Federal Power Commission itself. Accordingly, the Commission does not believe that this ⅛language in *CATCO* is dispositive of the issue of whether the Commission has the authority to suspend initial rates. More importantly, since the decision in the *CATCO* case, the Supreme Court has decided *TAPS*. As discussed above, the *TAPS* case directly supports the Commission's authority to suspend initial rate schedules.

[4] 79 Cong. Rec. 10,384 (June 28, 1935) (remarks of Representative Cole in introducing proposed amendments of H.R. 5423 to limit the reach of the FPC's jurisdiction to only interstate transactions; the amendments were adopted as a part of the bill that became the FPA); *see also, Hearings on H.R. 5423 before the House Committee on Interstate and Foreign Commerce*, 74th Cong., 1st Sess. 396–397 (1935) (colloquy between Representative Cole and Commissioner Seavey); *id.* at 503 (colloquy between Representative Pettengill and Dozier A. DeVane, Solicitor of the Federal Power Commission).

[5] *United Gas Pipe Line Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956).

The Commission has also examined the legislative history cited by Tennessee. At best, this history indicates some confusion over whether suspension powers could be exercised over "new" rates or only "changes" in rates. This ambiguity is noted in the final rule, 48 FR at 24,359. The Supreme Court in *TAPS* required that there be "unequivocal statements" in the legislative history for interpreting the ICA as precluding the ICC from suspending initial rates. Like the Court in *TAPS*, the Commission finds no such "unequivocal statements" in the legislative history of the NGA.

Since the NGA Provisions were modeled substantively after the FPA provisions, the Commission believes that any interpretation of the same provisions in the NGA should follow the interpretations of the FPA. Indeed the Supreme Court recently stated

> The relevant provisions of the [FPA and the NGA] "are in all material respects substantially identical." *FPC v. Sierra Pacific Power Co.*, 350 U.S. 348, 353 (1956) . . . . [W]e, therefore, follow our established practice of citing interchangeably decisions interpreting the pertinent sections of the two statutes.[6]

III. Authority To Order Refunds of Initial Rates

MSE argues that even if the Commission has the power to suspend initial rates, it lacks the power to make them subject to refund since only "increased" rates may be made refundable under section 205(e).

The identical argument was made in the *TAPS* case since section 15(7) of the ICA expressly provides for refunds only in the case of an "increased rate." The Court nevertheless concluded that the ICC had powers "ancillary" to its suspension power "which do not depend on an express statutory grant of authority." 436 U.S. at 654. As in the *TAPS* case, a refund obligation is a necessary and "directly related" means of discharging the Commission's mandate to protect the public pending a more complete determination of the reasonableness of MSE's rates. The Commission thus concludes that this Commission has ancillary powers similar to those of the ICC. These powers were exercised in the May 24, 1983, *Middle South* Order [7] to reaffirm that MSE's rates are subject to refund.[8]

[6] *Arkansas, Louisiana Gas Co., v. Hall*, 453 U.S. 571, 577 n. 7 (1981).

[7] *See* note 11, 23 FERC ¶ 61,277.

[8] MSE attempts to argue again in this context that contract rates may not be suspended and made subject to refund. However, *Mobile* makes it clear that all changes in contracts at the least can be made subject to refund.

IV. Procedural Issues

In making its procedural arguments, MSE's petition for rehearing does not clearly differentiate between the final rule and the order in the MSE rate case. Many of the arguments raised relate to the *Middle South* adjudication and are being disposed of in the Commission's order denying rehearing of MSE's rate case, 23 FERC ¶—— (1983).

Even though the Commission announced its legal interpretation in the *Middle South* adjudication, the Commission also issued a final rule to conform its interpretative rules in the *Code of Federal Regulations* to the new interpretation in the *Middle South* case. This rule serves as notice to the public that the Commission has reinterpreted its statutory authority.

MSE seems to argue that the Commission's final interpretative rule falls into the category of rules that requires notice and comment and advance publication under section 553 of the Administrative Procedure Act, 5 U.S.C. 553 (1976) (APA), and cites the principle that exceptions from rulemaking requirements are to be granted "reluctantly." MSE argues that the Commission's rules are not a matter of mere statutory interpretation, but rather reflect policy changes that require notice and comment.

As the Commission noted in its final rule, notice and comment was not required. The APA exempts interpretive rules from the notice and comment requirements of section 553 of the APA. 5 U.S.C. 553(b)(A) (1976). The issue involved in this rulemaking is whether the Commission has the statutory authority to suspend initial rates. The resolution of this issue depends entirely on an issue of statutory interpretation of the FPA and the NGA; it is not a policy matter to be determined at the discretion of the Commission. Accordingly, the Commission finds that this rule falls squarely within the exception to section 553 of the APA for "interpretative" rules and that notice and comment were unnecessary.

V. Conclusion

For the reasons discussed above, the petitions for rehearing filed by Middle South Energy Inc. and Tennessee Gas Pipeline Company are denied.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21415 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Parts 2, 154, 270, and 271

[Docket No. RM80-47-002]

Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final Rule; Order Clarifying The Policy Statement in Order No. 94–A.

SUMMARY: In the policy statement in Order No. 94–A, the Federal Energy Regulatory Commission (Commission) modified its policy regarding production-related activities undertaken by jurisdictional natural gas pipelines. This order clarifies the Commission's intent that the policy statement in Order No. 94–A is effective as to all pending and future rate proceedings, and applies in those rate cases to costs incurred prior to the issuance of Order No. 94–A, as well as to any costs incurred on or after that date.

EFFECTIVE DATE: The policy announced in Order No. 94–A is effective as to all pending and future rate proceedings and applies in those rate cases to costs incurred prior to January 24, 1983, the date of issuance of Order No. 94–A, as well as to any costs incurred on or after that date.

FOR FURTHER INFORMATION CONTACT:

Teresa Ponder, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, (202) 357–5570.

SUPPLEMENTARY INFORMATION:

Order Clarifying the Policy Statement in Order No. 94–A

Issued August 1, 1983.

On January 24, 1983, the Commission issued Order No. 94–A, Final Rule and Order on Rehearing of Order No. 94,[1] in which the Commission amended its regulations that implemented section 110 of the Natural Gas Policy Act of 1978 (NGPA)[2] and modified its policy regarding production-related activities undertaken by jurisdictional natural gas

[1] Order No. 94–A, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80–47 (issued January 24, 1983), 48 FR 5152 (1983), FERC Stats. and Regs. ¶ 30,419; Order No. 94, "Regulations Implementing Section 110 of the Natural Gas Policy Act of 1978 and Establishing Policy Under the Natural Gas Act," Docket No. RM80–47 (issued July 25, 1980), 45 FR 53099 (1980), FERC Stats. and Regs. ¶ 30,178.

[2] 15 U.S.C. 3301–3432 (Supp. IV 1980).

pipelines. "Indicated Pipelines" [3] filed a joint petition seeking clarification of that order. In response to that petition, this order clarifies the policy statement in Order No. 94–A. However, some of the specific interpretations and positions argued by Indicated Pipelines are rejected as described below.

I. Background

In Order No. 94, the Commission amended interim regulations implementing section 110 relating to recovery of production-related costs by first sellers. That order, among other things, adhered to a historically established policy [4] that precluded producers from recovering production-related costs incurred to process gas to minimum quality standards. The Commission acknowledged that some adjustment should be made for gathering and compression, and announced its intention to initiate a rule-making to establish generic gathering and compression allowances for first sellers. The order also contained a policy statement that deemed prudent activities engaged in by interstate pipelines, which, had they been engaged in by the first seller, would be eligible under the Commission's section 110 regulations for an "add-on" to the otherwise applicable maximum lawful price. The presumption of prudence related to the type of activities engaged in, not the level of costs, and also included a definition of gas compression activities along with other activities for which a first seller could qualify for an "add-on" under Order No. 94. Compression was included because it was recognized in Order No. 94 as an activity which would be allowed, but for which generic allowances applicable to first sellers had yet to be established.[5]

Order No. 94–A expanded the scope of production-related adjustments allowed first sellers by, among other things, eliminating the minimum quality standards. The amendments were made effective only on a prospective basis, except as they applied to certain delivery and compression services.

The policy statement was amended by Order No. 94–A to presume prudent any production-related activity performed by an interstate pipeline for purposes of the Natural Gas Act, so long as the seller is not obligated by contract to perform the activity. While the scope of production-related activities that would be deemed prudent conformed with the scope of production-related costs that could be recovered by first sellers, such conformity was not a critical factor dictating the amended policy statement. In fact, the delineation of the category of activities that may be deemed prudent was expressly shifted from services for which a seller could seek adjustments, to all production-related services, as defined in § 271.1104.

Discussion in the policy statement also clarified the Commission's intentions relating to the effect of deeming certain types of activities prudent. Confusion had been generated regarding whether activities not automatically deemed prudent were effectively deemed to be imprudent. The Commission responded that activities not automatically deemed prudent are not deemed imprudent, but that the prudence of those activities, as well as the prudence of the level of the costs, would be addressed in the appropriate pipeline rate proceeding. That the Commission has announced a policy that deems some activities prudent only indicates a "predisposition" to find the activity prudent. The policy statement was intended to provide guidance, not dictate results.[6] The Commission recognized that in a particular case it "must be prepared to support the policy just as if the policy statement had never been issued."[7]

II. Petition for Clarification

Indicated Pipelines request clarification of the policy statement in Order No. 94–A. More specifically, they seek to have the Commission clarify its intent that the policy statement in Order No. 94–A "applies to all existing and future rate cases and is the standard to be used in judging all production-related services. * * *"[8] Indicated Pipelines argue that such a conclusion is the only logical interpretation of the policy statement in Order No. 94–A in that the "conceptual underpinning of the Order No. 94 policy statement has been disavowed."[9] Indicated Pipelines would also have the Commission recognize the validity of their arguments that Order No. 94 was not justified, and was illegal.[10]

III. Discussion

To begin, we first wish to make it clear that the Commission has not disavowed the legal and logical validity of Order No. 94. In Order No. 94–A, the Commission determined that the regulations promulgated by Order No. 94 for the future did not best implement its objectives and, therefore, amended them. Reaching such a decision is not, however, tantamount to concluding that prior rules were logically or legally deficient, and in Order No. 94–A such a conclusion was disavowed. Accordingly, the amendments of the regulations were expressly made to operate prospectively only—*i.e.*, they only authorized collection by first sellers of amounts of certain production-related costs incurred after issuance of the order, except with respect to gathering and compression costs. We, therefore, do not agree with Indicated Pipelines that by amending the regulations and policy statement announced in Order No. 94, we have determined that they were invalid.

As Indicated Pipelines correctly points out, the Commission's intention regarding the effect of the policy statement was not clearly explained.

As pointed out by Indicated Pipelines, the policy announced in Order No. 94–A abandoned the previously established link between activities which would be presumed prudent and production-related costs a first seller could seek under section 110. The previous policy was changed to ensure appropriate compensation for any production-related activity necessarily undertaken by an interstate pipeline,[11] and to dispel confusion that the presumption of prudence is a function of furthering NGPA controls over first sellers. The reasons for adopting the change do not dictate any distinction between rate cases filed before or after Order No. 94–A was issued, or activities engaged in before or after Order No. 94–A was issued. More importantly, the policy change should not substantively affect the final determination regarding prudence of any costs. The policy only affects the burdens placed on parties to support the prudence, or imprudence, of a particular activity. The policy statement in Order No. 94–A only served to announce the position the

[3] Texas Eastern Transmission Corporation, Transwestern Pipeline Company, Tennessee Gas Pipeline Company, Michigan Wisconsin Pipeline Company, Southern Natural Gas Company, United Gas Pipeline Company, and the Interstate Natural Gas Association of America (added by letter filed May 31, 1983) filed the joint petition on May 24, 1983, as "Indicated Pipelines."

[4] *See* Order No. 94–A for a discussion of the history of the policy at pages 4–27 of the mimeo, FERC Stats. and Regs. ¶30,419 at pp. 30,345–350.

[5] The above description of Order No. 94, and following description of Order No. 94–A, are only a partial summary which is limited to those issues which are pertinent to the requested clarification.

[6] Order No. 94–A, p. 129, FERC Stats. and Regs. ¶30,178 at 30,378.

[7] *See* Pacific Gas and Electric Company v. F.P.C., 506 F. 2d 33 (D.C. Cir. 1974).

[8] "Joint Petition of Indicated Pipelines for Clarification of Order No. 94–A" at page 3.

[9] *Id.* at page 6.

[10] *Id.* at pages 4 and 5.

[11] *See* Order No. 94–A at 125, FERC Stats. and Regs. ¶30,419 at 30,377.

Commission was "predisposed" to take in cases that might come before it. Any party seeking to challenge such a predisposition may challenge it as it is applied in the case-specific adjudications. As explained above, the policy statement only provides guidance, it does not dictate results. Where the doubts as to the presumption of prudence have been raised, the prudence of the activity and costs will be examined.[12]

Because the policy announced in Order No. 94 was amended by Order No. 94–A to establish a presumption of prudence regarding any production-related activity performed by an interstate pipeline so long as the seller is not obligated by contract to perform the activity, and does not substantially affect anyone's rights, we will apply it in all pending and future rate cases, and as to any cost incurred before or after Order No. 94–A was issued.

IV. Conclusion

The policy announced in Order No. 94–A is effective as to all pending and future rate proceedings, and applies in those rate cases to costs incurred prior to January 24, 1983, the issuance of Order No. 94–A, as well as to any costs incurred on or after that date.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21272 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

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18 CFR Parts 157 and 284

[Docket Nos. RM81-19-000 and RM81-29-000]

Interstate Pipeline Blanket Certificates for Routine Transactions and Sales and Transportation by Interstate Pipelines and Distributors; Effective Date and Erratum Notice

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rules; notice of effective date and corrections.

SUMMARY: On July 20, 1983, the Federal Energy Regulatory Commission (Commission) issued two final rules, Order No. 319 in Docket No. RM81–29–000, 48 FR 34875 (Aug. 1, 1983), relating to interstate pipeline blanket certificates for routine transactions, and Order No. 234–B in Docket Nos. RM81–19–000 and RM81–29–000, 48 FR 34872 (Aug. 1, 1983), relating to sales and transportation by interstate pipelines and distributors. This document gives notice of the effective date of those rules and makes technical changes to the regulations in Order No. 319.

DATE: Order No. 319 and Order No. 234–B are effective August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Barbara K. Christin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426; (202) 357–8033.

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act, 44 U.S.C. 3501–3520 (Supp. IV 1980) and the Office of Management and Budget's (OMB) regulations, 5 CFR Part 1320, require that OMB approve certain information collection requirements imposed by agency rule. Upon approval OMB issues a control number.

Order Nos. 319 and 234–B were to become effective on the date of publication by the Commission in the **Federal Register** of OMB's approval to collect the data required in Order No. 319. On August 2, 1983, OMB approved the information collection requirements of Order No. 319 and issued a control number. The OMB control number is 19020060. As of August 5, 1983, Order Nos. 319 and 234–B are effective.

In addition, the following technical changes are made in FR Doc. 83–20105, appearing on page 34875 of the issue of August 1, 1983.

PART 284—[AMENDED]

1. The OMB control number is added parenthetically at the end of § 284.106(c)(3) (*Mimeo* page 79), at 48 FR 34890, and § 284.126(c)(3) (*Mimeo* pages 81–82), at 48 FR 34891, to read as follows:

"(OMB Control Number 19020060.)"

2. In the second sentence of § 284.222(b) (*Mimeo* page 82), at 48 FR 34891, the word "therefore" is corrected to read "therefor."

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21425 Filed 8-4-83; 8:45 am]

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18 CFR Part 271

[Docket Nos. RM79-76-183 (Texas—11 Addition IV) and RM79-76-184 (Texas—11 Addition V); Order No. 321]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1982), to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendations of the Railroad Commission of Texas that an additional area of the Wilcox Formation, located in Duval and McMullen Counties, Texas, and the Wilcox First Hinnant Formation, located in Jim Hogg County, Texas, be designated as tight formations under section 271.703(d).

EFFECTIVE DATE: This rule is effective September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Final Rule

Issued: August 3, 1983.

The Commission hereby amends 271.703(d) of its regulations (18 CFR 271.703(d) (1982)) to include both the Wilcox First Hinnant Formation, and an additional area of the Wilcox formation, as designated tight formations eligible for incentive pricing under 271.703. The amendments were proposed in two Notices of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued April 1, 1983 (48 FR 14975, April 6, 1983) an April 22, 1983 (48 FR 19178, April 28, 1983), respectively,[1] based on recommendations by the Railroad Commission of Texas (Texas) in accordance with 271.703, that the Wilcox First Hinnant Formation, located in Jim Hogg County, Texas, and an additional area of the Wilcox Formation, located in Duval and McMullen Counties, Texas, be designated as tight formations.

Evidence submitted by Texas supports the assertion that both recommended formations meet the

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[12] *See* Order No. 94–A, at pp. 129 and 130, FERC Stats. and Regs. ¶30,419 at 30,378–379.

[1] Comments on the proposed rules were invited and one comment supporting each of the recommendations was received by the Commission in this docket. No party requested a public hearing and no hearing was held.

guidelines contained in section 271.703(c)(2). The Commission adopts the Texas recommendations.

These amendments shall become effective September 2, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271. 703 is amended by adding paragraphs (d)(63)(v) and (d)(63)(vi) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * * *

(63) *Wilcox Formation Texas.* RM79–76 (Texas—11).

* * * * *

(v) *Wilcox First Hinnant Formation in Jim Hogg County.*

(A) *Delineation of formation.* The Wilcox First Hinnant Formation is located entirely within the northwestern portion of Jim Hogg County in south Texas, Railroad Commission District 4, approximately 7 miles northeast of the city of Randado, Texas. The designated area is rectangular and begins at a point at the southwest corner of Section 164, C. Gutierrez Survey A–145, then due north 22,700 feet to a point in Section 98, E. L. Armstrong A–3 Survey (scaled 2,100 feet FWL and 1,800 feet FSL of Survey), then due west 32,200 feet to a point in Los Animos, Heirs of Felipe de la Pena Grant, A–244 (scaled 9,200 feet FSL and 24,500 feet FEL of said Grant), then due south 22,700 feet to a point scaled on the common boundary between Section 578, R. L. Robinson A–267, and Section 575, W. W. Ferguson A–104, being 6,000 feet south of the north line of the common north boundary of said Sections 578 and 575, then due east 32,200 feet to point of beginning, comprising 16,700 acres, or approximately 26 square miles.

(B) *Depth.* The top of the Wilcox First Hinnant Formation is encountered at 12,292 feet in the Edwin L. Cox and Berry R. Cox, Martinez No. 1 Well. The thickness reaches a maximum of 100 feet in the Northeast Thompsonville Field area, located 4½ miles northwest of the Cox Martinez No. 1 well. Downdip from the Northeast Thompsonville Field area, at the Cox Martinez No. 1 well, the sand has noticeably thinned and become shalier, with a total thickness of 58 feet.

(vi) *South Campana (Wilcox 10,400') Field.*

(A) *Delineation of formation.* The Wilcox 10,400' Formation is located in the South Campana (Wilcox 10,400') Field in McMullen and Duval Counties, in south Texas, Railroad Commission Districts 1 and 4, approximately 18 miles northeast of Freer, Texas. The designated area includes all of the acreage within a 2.5 mile radius around the ARCO H. C. Edrington I No. 33 well, which is located in the southeast quarter of Section 61, A. B. & M. Survey, Abstract 43, McMullen County, Texas.

(B) *Depth.* The average depth to the top of the Wilcox 10,400' Formation is approximately 10,890 feet. The subject formation averages from 10 to 12 feet in thickness within the geographical area.

[FR Doc. 83-21273 Filed 8-4-83; 8:45 am]
BILLING CODE 6717-01-M

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18 CFR Part 271

[Docket No. RM79-76-176 (Texas—3 Addition VI) Order No. 322]

High-Cost Gas Produced From Tight Formations; Texas

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V 1982) to designate certain types of natural gas as high-cost gas where the Commission determined that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This final order adopts the recommendation of the Railroad Commission of Texas that an additional area of the Cisco-Canyon Formation, located in Sterling County, Texas, be designated as a tight formation under section 271.703(d).

EFFECTIVE DATE: This rule is effective September 2, 1983.

FOR FURTHER INFORMATION CONTACT: Steven Ross, (202) 357–8571, or Walter W. Lawson, (202) 357–8556.

SUPPLEMENTARY INFORMATION:

Final Rule

Issued: August 3, 1983.

The Commission hereby amends section 271.703(d) of its regulations (18 CFR 271.703(d) (1982) to include the additional area of the Cisco-Canyon Formation as a designated tight formation eligible for incentive pricing under section 271.703. The amendment was proposed in a Notice of Proposed Rulemaking by the Director, Office of Pipeline and Producer Regulation, issued March 1, 1983 (48 FR 9662, March 8, 1983) [1] based on a recommendation by the Railroad Commission of Texas (Texas), in accordance with section 271.703, that an additional area of the Cisco-Canyon Formation, located in Sterling County, Texas, be designated as a tight formation.

Evidence submitted by Texas supports the assertion that an additional area of the Cisco-Canyon Formation located in Sterling County, Texas meets the guidelines contained in section 271.703(c)(2). The Commission adopts the Texas recommendation.

This amendment shall become effective September 2, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.;* Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553)

In consideration of the foregoing, Part 271 of Subchapter H, Chapter I, Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

PART 271—[AMENDED]

Section 271.703 is amended by revising paragraph (d)(12) to read as follows:

§ 271.703 Tight formations.

* * * * *

[1] Comments on the proposed rule were invited, and one comment supporting the recommendation was received by the Commission in this docket. No party requested a public hearing and no hearing was held.

(d) *Designated tight formations.*

* * * * *

(12) *The Cisco-Canyon Formation in Texas.* RM79-76 (Texas—3).

* * * * *

(iii) *The Cisco-Canyon Formation.*

(A) *Delineation of formation.* The Cisco-Canyon Formation is found in the area of the Conger (Penn) Field and the Conger, S.W. (Penn) Field in Glasscock, Reagan and Sterling Counties, Texas, Railroad Commission Districts 7C and 8. The area includes the following surveys: T&P RR Block 33, T-5-S, Sections 34, 36, and W ½ of 38; T&P RR, Block 32, T-5-S, Sections 13 through 17, 20 through 29, 32 through 42 and 44 through 48; EL & RR RR Sections 1, 2, 3 and 4; D. L. Carver Section 4; H. T. Tweedie Section 2; T&P RR, Block 2, Sections 3, 4, 9 through 14, 21 through 26, 33 through 36, 41, 43, 44, 49 through 52, 61, 62, 69, 70, 71, 89 through 92, 100, 118, 128, 146, 155 and 156; GC & SF RR Sections 1 and 3; GC & SF RY Section 1; W. C. Elam Section 4; CT & MC RR Section 2; W. R. Barton Section 4; S. H. Birdwell Section 17; Brooks & Burleson Sections 1 and 2; T. B. Wilson Section 2; C&M RR Section 1; H&TC RR, Block 22, Sections 19 through 39; T&P RR, Block 31, T-5-S, Sections 4, 5, and 7 through 30; O. R. Wilson Section 2; Mrs. Ann Morrison Section 7; F. A. Brooks Section 4; and the north 656.65 acres of the north part of Moses Herrin No. 6 Block A.

(B) *Depth.* The depth to the top of the Cisco Formation varies from approximately 8,670 feet in the southwest part of the area to 6,990 feet in the northeast. The depth to the top of the Canyon Formation varies from approximately 8,810 feet in the southwest to 7,370 feet in the northeast. Total thickness of the two formations varies from approximately 200 feet in the southwest to 710 feet in the northeast.

[FR Doc. 83-21274 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Lasalocid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is clarifying a regulation, reflecting approval of Hoffman-LaRoche's supplemental new animal drug application (NADA) for lasalocid liquid feed supplements. This document amends the regulation to properly reflect all of the conditions of approval.

EFFECTIVE DATE: May 20, 1983.

FOR FURTHER INFORMATION CONTACT: Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5247.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 20, 1983 (48 FR 22707), FDA published a regulation reflecting approval of Hoffman-LaRoche's supplement to NADA 96-298 for lasalocid liquid feed supplements. the regulation failed to reflect that the liquid supplements may be made from 15 percent (68 grams per pound (g/pound)), 20 percent (91 g/pound), 33.1 percent (150 g/pound), and 50 percent (227 g/pound) premixes, and that equines should be denied access to lasalocid premixes and supplements only. In addition, the warning statement "Lasalocid medicated cattle feed is safe for use in cattle only" is redundant and is removed, the word "described" is inserted in place of the word "directed," another warning is revised to change two sentences into one, and mixing directions for liquid supplements are moved to another paragraph because they apply to both recirculating and agitation tank systems. This document amends the regulation to reflect the charges.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

PART 558—NEW ANIMAL DRUGS IN ANIMAL FEEDS

Therefore, under the Federal Food, Drug and Cosmetic Act (sec. 512(i) 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.311 is amended in paragraph (e)(1) (i) and (ii) by removing the word "directed" and inserting in its place the word "described"; in paragraph (e)(1) (ii) by removing the last sentence "Mix the liquid supplement thoroughly with grain and/or roughage prior to feeding"; and by revising paragraph (e)(1) (iii) to read as follows:

§ 558.311 Lasalocid.

* * * * *

(e) * * *

(1) * * *

(iii) All labels must bear the following statements: Mix the liquid supplement thoroughly with grain and/or roughage prior to feeding. Feeding undiluted, mixing errors, or inadequate mixing (recirculation or agitation), of liquid supplements may result in an excess lasalocid concentration which could be fatal to cattle. Do not allow horses or other equines access to premixes or supplements containing lasalocid as ingestion may be fatal. Safety of lasalocid for use by unapproved species or breeding cattle has not been established.

Effective Date: May 20, 1983.

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

Dated: July 28, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-21095 Filed 8-4-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Oxytetracycline

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a supplemental new animal drug application (NDAD) filed by Pfizer, Inc., requesting waiver of the requirements of section 512(m) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(m)) to manufacture finished fish feeds from premixes containing not more than the equivalent of 50 grams of oxytretracycline hydrochloride (OTC HCl) per pound.

EFFECTIVE DATE: August 5, 1983.

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

SUPPLEMENTARY INFORMATION: Pfizer, Inc., 235 East 42d St., New York, NY 10017, submitted supplemental NADA 038-439 requesting waiver of the requirements of section 512(m) of the act for manufacturing finished salmonid and catfish feeds from premixes containing not more than the equivalent of 50 grams of OTC HCl per pound. Approval of use of the 50-gram-per-pound OTC premix for manufacturing salmonid and catfish feeds was published in the **Federal Register** of September 23, 1970 (35 FR 14769). The feeds are used to control bacterial hemorrhagic septicemia and pseudomonas disease in salmonids and catfish and to control ulcer disease and furunculosis in salmonids. The

supplemental NADA is approved, and the regulations are amended accordingly.

Oxytetracycline, as the sole drug, meets the uniform criteria set forth in the 1971 Bureau of Veterinary Medicine memorandum for administrative waiver of the requirements of section 512(m) of the act. The pertinent provisions of the memorandum indicate that the waiver is appropriate if:

1. The feeding of 1.5X to 2X level of the product in the finished feed does not have an impact on the tissue residue picture, i.e., an impact on an existing withdrawal period or tolerance.

2. The product is not a known carcinogen or is not classed with a family of known carcinogens.

3. Appropriate documentation covering animal safety is on file. This will not require additional data since this documentation is by definition a part of the NADA.

4. The margin of safety to the animal and the consumer is such that the product label does not have to contain a statement such as "Use as the sole source of * * *."

5. Data are on file to demonstrate that the product is effective over the approved range. This data should generally satisfy current standards for the demonstration of effectiveness.

6. Except under special circumstances, the product has been used at least 3 years in the target species without significant complaints related to or associated with it. Applications of this criterion require a review of available drug experience reports.

The 1971 memorandum explains that wavier of the ministerial requirements of section 512(m) of the act is permitted only for specific effectiveness claims or at specific levels of the drug, and that distinct products with corresponding labeling for those claims or levels should exist. This is necessary to cover those premixes that can be made into finished feeds with various concentrations of drug.

The foregoing criteria established in the 1971 memorandum constitute an interim agency policy, as discussed in the **Federal Register** of May 28, 1982 (47 FR 23446). In waving the ministerial requirements of section 512(m) of the act, the agency has not waived the current good manufacturing practice regulations under Part 225 (21 FR Part 225) for feed mills mixing such feeds.

The Bureau of Veterinary Medicine has determined pursuant to 21 CFR 25.24(d)(1)(v) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Approval of this supplement is an administrative action that did not require new effectiveness or safety data in support of the waiver. Therefore, a freedom of information summary is not required for this action.

List of Subjects in 21 CFR Part 558

Animal feeds, Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Veterinary Medicine (21 CFR 5.83), § 558.450 is amended by revising paragraph (c)(1) to read as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

§ 558.450 Oxytetracycline.

* * * * *

(c) * * *

(1) Finished feeds containing oxytetracycline only and conforming to the requirements of paragraph (e)(1) in tables 1 and 2, and table 3, item (ii), of this section are not required to comply with the provisions of section 512(m) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

Effective date: August 5, 1983.

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

Dated: August 1, 1983.

Robert A. Baldwin,

Associate Director for Scientific Evaluation.

[FR Doc. 83-21285 Filed 8-4-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, and 234

[Docket No. R-83-1114]

Mortgage Insurance and Home Improvement Loans; Changes in Interest Rates

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This change in the regulations increases the maximum allowable interest rates on insured home mortgage programs. This action by HUD is designed to bring the maximum interest rates into line with other competitive market rates and help assure an adequate supply of and demand for FHA financing.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: James B. Mitchell, Acting Director, Office of Financial Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410, (202-426-4325).

SUPPLEMENTARY INFORMATION: The following miscellaneous amendments have been made to this chapter to increase the maximum interest rate which may be charged on loans insured by this Department. The maximum interest rate on HUD/FHA mortgage insurance programs has been raised from 12.50 percent to 13.50 percent for level payment insured home mortgage programs (including operative builder home loan programs), and from 12.75 percent to 13.75 percent for graduated payment home loan programs (GPM).

The Secretary has determined that such changes are immediately necessary to meet the needs of the market and to prevent speculation in anticipation of a change, in accordance with his authority contained in 12 U.S.C. 1709-1, as amended. The Secretary has, therefore, determined that advance notice and public comment procedures are unnecessary and that good cause exists for making this amendment effective immediately.

This is a procedural and administrative determination as set forth in the statutes and as such does not require a determination of environmental applicability.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 213

Cooperatives, Mortgage insurance.

24 CFR Part 234

Mortgage insurance.

Accordingly, Chapter II is amended as follows:

PART 203—MUTUAL MORTGAGE INSURANCE AND INSURED HOME IMPROVEMENT LOANS

Subpart A—Eligibility Requirements

1. In § 203.20 paragraph (a) is revised to read as follows:

§ 203.20 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

2. In § 203.45 paragraph (b) is revised to read as follows:

§ 203.45 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.75 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

3. In § 203.46 paragraph (c) is revised to read as follows:

§ 203.46 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.75 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

PART 213—COOPERATIVE HOUSING MORTGAGE INSURANCE

Subpart C—Eligibility Requirements—Individual Properties Released From Project Mortgage

4. In § 213.511 paragraph (a) is revised to read as follows:

§ 213.511 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

PART 234—CONDOMINIUM OWNERSHIP MORTGAGE INSURANCE

Subpart A—Eligibility Requirements—Individually Owned Units

5. In § 234.29 paragraph (a) is revised to read as follows:

§ 234.29 Maximum interest rate.

(a) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.50 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

6. In § 234.75 paragraph (b) is revised to read as follows:

§ 234.75 Eligibility of graduated payment mortgages.

* * * * *

(b) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.75 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

7. In § 234.76 paragraph (c) is amended to read as follows:

§ 234.76 Eligibility of modified graduated payment mortgages.

* * * * *

(c) The mortgage shall bear interest at the rate agreed upon by the mortgagee and the mortgagor, which rate shall not exceed 13.75 percent per annum with respect to mortgages insured on or after August 1, 1983.

* * * * *

(Pub. L. 90-301, sec. 3(a), 12 U.S.C. 1709-1; sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: July 29, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-21390 Filed 8-4-83; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Ch. II

Redesignation and Reorganization of Regulations

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: Secretarial Order No. 3087 dated December 3, 1982, as amended, declared that all functions related to royalty and mineral revenue management are the responsibility of the Minerals Management Service (MMS) and that all onshore minerals management functions on Federal and Indian lands are transferred to the Bureau of Land Management (BLM).

Because of this distribution of functions, it is necessary to identify and retain in Chapter II of 30 CFR those regulations that will remain the responsibility of MMS. This rule redesignates and/or identifies regulations that MMS will retain and administer. This rule also sets forth new subchapter, part and subpart headings that reorganize and consolidate MMS regulations in a logical manner. Where BLM and MMS have overlapping or joint regulating responsibilities, the regulation section, containing the joint responsibilities, has been repeated in the new 30 CFR Chapter II and retained in its previous CFR position.

EFFECTIVE DATE: August 5, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Associate Director for Royalty Management, Minerals Management Service (MS660), 12203 Sunrise Valley Drive, Reston, Virginia 22091.

FOR FURTHER INFORMATION CONTACT: Orie L. Kelm, (703) 860-7511, (FTS) 928-7511.

SUPPLEMENTARY INFORMATION: The principal author of this rule is Orie L. Kelm, Deputy Associate Director for Royalty Management (Policy), Minerals Management Service.

Secretarial Order 3071 dated January 19, 1982, established the Minerals Management Service within the Department of the Interior and Amendment No. 2 dated May 26, 1982, set forth the basic organizational structure for the Service. One of the major elements of this structure is the Royalty Management function under the direct responsibility of the Associate Director for Royalty Management. The responsibilities of this function include, among other things, the collection of royalty payments, bonuses, rentals, royalties-in-kind, and other revenues from the leasing and extraction of minerals from Federal and Indian lands.

The existing numerous royalty accounting and royalty management regulations are presently integrated with other regulations in various parts of 30 CFR Chapter II. This redesignation will provide Federal lessees/payors with a consolidation of regulations concerned with all financial issues of minerals Royalty Management. This action will bring order to the present regulations and respond to the recommendation by the Commission on Fiscal Accountability of the Nation's Energy Resources to create an Office of Royalty Management with clearly defined royalty management functions.

The existing royalty regulations are herewith identified and redesignated in Chapter II of 30 CFR. In a later rulemaking, the Royalty Management Program of MMS will also streamline and condense and further redesignate onshore and Indian regulations applicable to royalty financial management matters.

This final rule will also remove 30 CFR Part 225a which was superseded by 10 CFR Part 391 (45 FR 9526). This removal is not a substantive action because it simply implements a previous supersession. Please note that 10 CFR Part 391 has been redesignated as 30 CFR Part 262 (48 FR 1161) and will again be redesignated as 30 CFR Part 209 by this final rule.

The regulations now contained at 30 CFR 211.63 (a) through (k) are the joint responsibility of MMS and BLM. In order to make this clear to readers of these regulations the final rule repeats § 211.63 (a) through (k) in the new 30 CFR Chapter II, at § 203.200. At the same time, § 211.63 is retained in its present position until BLM redesignates it to Title 43.

Administrative Procedure Act

The Department has determined that it is unnecessary under the Administrative Procedure Act (5 U.S.C. 553(b)(B)) to publish this rule for comment because it does not change the rights and obligations of the public.

The customary 30-day period between the publication date and effective date of a final rulemaking is hereby waived because this rule does not initiate change, but is an administrative action reflecting changes.

Executive Order 12291

The Department has determined that this final rule is not a major action and does not require the preparation of a regulatory impact analysis under Executive Order 12291 because it has no economic impact.

Regulatory Flexibility Act

The Department has also determined that this rule will not have a significant economic effect on a substantial number of small entities and does not, therefore, require a small entity flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.* because it has no economic impact on small entities.

Paperwork Reduction Act of 1980

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act of 1969

It is hereby determined that this final rule does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

List of Subjects

30 CFR Part 201

Government contracts, Mineral royalties, Reporting and recordkeeping requirements.

30 CFR Part 202

Minerals royalties, Government contracts, Reporting requirements, Continental shelf.

30 CFR Part 203

Government contracts, Mineral royalties, Public lands-mineral resources.

30 CFR Part 206

Mineral royalties, Government contracts, Continental shelf, Coal, Mines, Reporting requirements, Public lands-mineral resources, Geothermal energy.

30 CFR Part 207

Oil and gas reserves, Public land-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 208

Government contracts, Petroleum, Small businesses.

30 CFR Part 209

Continental shelf, Mineral royalties, Oil and gas exploration, Small businesses.

30 CFR Part 210

Government contracts, Reporting requirements, Mineral royalties, Continental shelf, Public lands-mineral resources, Geothermal energy.

30 CFR Part 211

Administrative practice and procedure, Government contracts, Intergovernmental relations, Mineral royalties, Mines, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 212

Coal, Reporting requirements, Government contracts, Mineral royalties, Public lands-mineral resources.

30 CFR Part 217

Coal, Government contracts, Mineral royalties, Reporting requirements.

30 CFR Part 218

Government contracts, Mineral royalties, Continental shelf, Public lands-mineral resources, Coal, Geothermal energy.

30 CFR Part 220

Accounting, Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 221

Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 223

Oil and gas reserves, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 225

Government contracts, Petroleum, Small businesses.

30 CFR Part 225a

Continental shelf, Government contracts, Petroleum, Small businesses.

30 CFR Part 231

Environmental protection, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 241

Government contracts, Reporting requirements.

30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas reserves, Penalties, Pipelines, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 251

Continental shelf, Freedom of information, Public lands-mineral resources, Reporting and recordkeeping requirements, Science and technology.

30 CFR Part 252

Continental shelf, Freedom of information, Intergovernmental relations, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 256

Administrative practice and procedure, Continental shelf, Government contracts, Mineral royalties, Oil and gas exploration, Pipelines, Public lands-mineral resources, Public lands-rights-of-way, Reporting and recordkeeping requirements, Surety bonds.

30 CFR Part 259

Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 260

Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 261

Accounting, Continental shelf, Mineral royalties, Oil and gas exploration.

30 CFR Part 262

Continental shelf, Mineral royalties, Oil and gas exploration, Small businesses.

30 CFR Part 270

Environmental protection, Geothermal energy, Government contracts, Mineral royalties, Public lands-mineral resources, Reporting and recordkeeping requirements.

Under the authority of the Act of September 6, 1966 (5 U.S.C. 301) and Secretarial Order No. 3087 of December 3, 1982, as amended, Chapter II, Title 30 of the Code of Federal Regulations is amended as set forth below.

Dated: July 20, 1983.

William P. Pendley,

Deputy Assistant Secretary of the Interior.

1. Chapter II is amended by adding new subchapter, part and subpart headings, and redesignating sections as follows:

Former 30 CFR section designations	New 30 CFR chapter II designations
	Subchapter A—Royalty Management
	Part 201—General
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.13	201.100 Responsibilities of the Associate Director for Royalty Management.
	Subpart D—Oil, Gas and Sulfur, Offshore—[Reserved]
	Subpart E—Coal—[Reserved]
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal Resources—[Reserved]
	Subpart H—Indian Lands—[Reserved]
	Part 202—Royalty Rates and Rentals
	Subart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.100	202.100 Production records; rentals, royalties, and payments; drainage and waste.
221.106	202.101 Measurement of oil.
221.107	202.102 Measurement of gas.
221.111	202.103 Royalty rate on oil; flat-rate leases.
	Subpart D—Oil, Gas and Sulfur, Offshore
250.65	202.150 Royalty on oil.
256.55	202.151 Minimum royalty.
256.53	202.152 Royalties.
	Subpart E—Coal—[Reserved]
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal Resources—[Reserved]
	Subpart H—Indian Lands—[Reserved]
	Part 203—Relief or Reduction in Royalty Rates
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.104	203.100 Relief from operating, royalty, and rental requirements.
	Subpart D—Oil, Gas and Sulfur, Offshore
250.21	203.150 Reduction of royalty or net profit share.
	Subpart E—Coal
	203.200 Royalties.
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal Resources—[Reserved]
	Subpart H—Indian Lands—[Reserved]
	Part 206—Product Valuation
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.102	206.100 Waste prevention; beneficial use.
221.108	206.101 Determination of gasoline content of natural gas.
221.109	206.102 Quality basis for computing royalties on natural gasoline, butane, propane, and other liquid hydrocarbon substances extracted from gas.
221.110	206.103 Value basis for computing royalties.
221.112	206.104 Royalty rates on oil; sliding- and step-scale leases (Public land only).
221.113	206.105 Royalty on gas.
221.114	206.106 Royalty on casing-head or natural gasoline, butane, propane, or other liquid hydrocarbon substances extracted from gas.
221.115	206.107 Royalty on drip gasoline or other natural condensate.
	Subpart D—Oil, Gas and Sulfur, Offshore
250.64	206.150 Value basis for computing royalties.
250.66	206.151 Royalty on unprocessed gas.
250.67	206.152 Royalty on processed gas and constituent products.
	Subpart E—Coal—[Reserved]
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal Resources
270.62	206.300 Value of geothermal production for computing royalties.
270.63	206.301 Computations of royalties.
	Subpart H—Indian Lands—[Reserved]
	Part 210—Forms and Reports
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.101	210.100 Division orders, run tickets, sales agreements or contracts.
221.103	210.101 Sales contracts; division orders.
221.118	210.102 Daily report of gas-producing wells (Form 9-352).
221.119	210.103 Statement of oil and gas runs and royalties (Form 9-361 Public; Form 9-361A Indian).
221.120	210.104 Royalty and rental remittance (Form 9-614A Indian).
221.122	210.105 Special forms or reports.
	Subpart D—Oil, Gas and Sulfur, Offshore
250.47	210.150 Sales contracts.
250.94	210.151 Statement of oil and gas runs and royalties.
	Subpart E—Coal—[Reserved]
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal
270.75	210.300 Monthly report of sales and royalty.
270.49	210.301 Sales contracts.
	Subpart H—Indian Lands—[Reserved]
	Part 212—Records and Files Maintenance
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore—[Reserved]
	Subpart D—Oil, Gas and Sulfur, Offshore—[Reserved]
	Subpart E—Coal
	Sec.
211.66(b)	212.200 Maintenance of and access to records.
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal—[Reserved]
	Subpart H—Indian Lands—[Reserved]
	Part 215—Accounting and Auditing Standards [Reserved]
	Part 216—Production Accounting [Reserved]
	Part 217—Audits and Inspections
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore—[Reserved]
	Subpart D—Oil, Gas and Sulfur, Offshore—[Reserved]
	Subpart E—Coal
	Sec.
211.101	217.200 Audits.
	Subpart F—Other Solid Minerals
231.62	217.250 Audits.
	Subpart G—Geothermal—[Reserved]
	Subpart H—Indian Lands—[Reserved]
	Part 218—Collection of Royalties, Rentals, Bonuses and Other Monies Due the Federal Government
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.105	218.100 Royalty and rental payments.
221.121	218.101 Royalty and rental remittance (Navy Petroleum Reserves).
221.123	218.102 Late payment or underpayment charges.
	Subpart D—Oil, Gas and Sulfur, Offshore
250.49	218.150 Royalties, net profit shares, and rental payments.
256.52	218.151 Rentals.
250.56	218.152 Fishermen's Contingency Fund.
251.5–5	218.153 Fishermen's Contingency Fund.
256.56	218.154 Effect of suspensions on royalty and rental.
256.13	218.155 Payment.
	Subpart E—Coal
211.102	218.200 Late payment or underpayment charges.
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal Resources
270.50(a)	218.300 Royalty Payments.
270.81	218.301 Late payment or underpayment charges.
	Subpart H—Indian Lands—[Reserved]
	Part 219—Distribution and Disbursement of Royalties, Rentals and Bonuses—[Reserved]
	Part 228—Cooperative Activities with States and Indian Tribes—[Reserved]
	Part 229—Delegation to States—[Reserved]
	Part 230—Royalty Refunds—[Reserved]
	Part 232—Interest Payments—[Reserved]
	Part 233—Escrow and Investments—[Reserved]
	Part 234—Bonding—Payment Liability—[Reserved]
	Part 241—Penalties
	Subpart A—General Provisions—[Reserved]
	Subpart B—Oil and Gas, General—[Reserved]
	Subpart C—Oil and Gas, Onshore
	Sec.
221.116	241.100 Liquidated damages.
	Subpart D—Offshore Oil and Gas—[Reserved]
	Subpart E—Coal—[Reserved]
	Subpart F—Other Solid Minerals—[Reserved]
	Subpart G—Geothermal—[Reserved]
	Subpart H—Indian Lands—[Reserved]
	Part 242—Notices and Orders—[Reserved]
	Part 243—Appeals—[Reserved]
	Subchapter B—Offshore
No change	Part 250—Oil and Gas and Sulfur Operations in the Outer Continental Shelf

Former 30 CFR section designations	New 30 CFR chapter II designations
No change	Part 251—Geological and Geophysical (G&G) Explorations of the Outer Continental Shelf
No change	Part 252—Outer Continental Shelf (OCS) Oil and Gas Information Program
No change	Part 256—Outer Continental Shelf Minerals and Right-of-Way Management, General
No change	Part 259—Mineral Leasing: Definitions
No change	Part 260—Outer Continental Shelf Oil and Gas Leasing
	Part 265—Alaska OCS Orders—[Reserved]
	Part 266—Atlantic OCS Orders—[Reserved]
	Part 267—Gulf of Mexico OCS Orders—[Reserved]
	Part 268—Pacific OCS Orders—[Reserved]
	Subchapter C—Appeals
No change	Part 290—Appeals Procedures

PARTS 201, 202, 203, 210, AND 241—[AMENDED]

2. The authorities for Parts 201, 202, 203, 210, and 241 are as follows:

Authority: The Act of February 25, 1920 (30 U.S.C. 181, et seq.), as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.) as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, et seq.), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), as amended; the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.), as amended; section 2 of Reorganization Plan No. 3 of 1950 (64 stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; and Secretarial Order 3087, as amended.

PART 206—[AMENDED]

3. The authorities for Part 206 are as follows:

Authority: The Act of February 25, 1920 (30 U.S.C. 181, et seq.) as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), as amended; the National Environmental Act of 1969 (42 U.S.C. 4321 et seq.); as amended; the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964); and the Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) as amended; the Geothermal Act of 1970 (30 U.S.C. 1001 et seq.), as amended; section 2 of Reorganization Plan No. 3 of 1950 (64 stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; and Secretarial Order No. 3087, as amended.

PART 212—[AMENDED]

4. The authorities for Part 212 are as follows:

Authority: The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 181, et seq.); the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359); the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201, et seq.); the National Historic Preservation Act of 1966, as amended (16 U.S.C. 1201, et seq.); the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, et seq.); the Act of March 3, 1909, as amended (25 U.S.C. 396); the Act of May 11, 1938, as amended (25 U.S.C. 396a–396q); the Act of February 28, 1891, as amended (25 U.S.C. 397); the Act of May 29, 1924 (35 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919, as amended (25 U.S.C. 399); R.S. § 441 (43 U.S.C. 1457); the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471, et seq.); the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321, et seq.); and the Freedom of Information Act (5 U.S.C. 552).

PART 217—[AMENDED]

5. The authorities for Part 217 are as follows:

Authority: 35 Stat. 312; 35 Stat. 781, as amended; secs. 32, 6, 26, 41 Stat. 450, 753, 1248; secs. 1, 2, 3, 44 Stat. 301, as amended; secs. 6, 3, 44 Stat. 659, 710; secs. 1, 2, 3, 44 Stat. 1057; 47 Stat. 1487; 49 Stat. 1482, 1250, 1967, 2026; 52 Stat. 347; sec. 10, 53 Stat. 1196, as amended; 56 Stat. 273; sec. 10, 61 Stat. 915; sec. 3, 63 Stat. 683; 64 Stat. 311; 25 U.S.C. 396, 396a–f, 30 U.S.C. 189, 271, 281, 293, 359. Interpret or apply secs. 5, 5, 44 Stat. 302, 1058, as amended; 58 Stat. 483–485; 5 U.S.C. 301, 16 U.S.C. 508b, 30 U.S.C. 189, 192c, 271, 281, 293, 359, 43 U.S.C. 387.

PART 218—[AMENDED]

6. The authorities for Part 218 are as follows:

Authority: The Act of February 25, 1920 (30 U.S.C. 181, et seq.), as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney General's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); The Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, et seq.), as amended; the National Environmental Policy Act of 1969 (42 U.S.C., 4321, et seq.) as amended; the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331, et seq.) as amended; the Geothermal Act of 1970 (30 U.S.C. 1001, et seq.) as amended; section 2 of Reorganization Plan No. 3 of 1950 (64 stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; and Secretarial Order 3087, as amended.

PARTS 223, 225, 261 and 262—[REDESIGNATED AS PARTS 207, 208, 209, AND 220]

7. Chapter II is amended by redesignating Parts 223, 225, 261 and 262 as Parts 207, 208, 220 and 209 respectively.

PART 225a—[AMENDED]

8. Chapter II is amended by removing Part 225a.

9. A new § 203.200 is added to 30 CFR Chapter II Subpart E to read as follows:

§ 203.200 Royalties.

(a) Provisions for the payment of advance royalty in lieu of continued operation are contained at 30 CFR 211.23.

(b) An overriding royalty interest, production payment, or similar interest that exceeds 50 percent of royalty first payable to the United States under the Federal lease, or when added to any other overriding royalty interest exceeds that percentage, except those created in order to finance a mine, shall not be created by a Federal lease transfer or surface owner consent. However, when an interest in the Federal lease or operating agreement is transferred, the transferor may retain an overriding royalty in excess of the above limitation if he shows that he has made substantial investments for improvements directly related to exploration, development, and mining on the land covered by the transfer that would justify a higher payment.

(c)(1) The District Mining Supervisor may waive, suspend, or reduce the rental on a Federal lease, or reduce the Federal royalty, but not advance royalty, on a Federal lease or portion thereof. The District Mining Supervisor shall take such action for the purpose of encouraging the greatest ultimate recovery of Federal coal, and in the interest of conservation of Federal coal and other resources, whenever in his judgment it is necessary to promote development, or if he finds that the Federal lease cannot be successfully

operated under its terms. In no case shall the District Mining Supervisor reduce to zero any royalty on a producing Federal lease.

(2) An application for any of the above benefits shall be filed in triplicate in the office of the District Mining Supervisor. The application shall contain the serial number of the Federal lease, the Bureau of Land Management State Office, the name and address of the record title holder and any operator/lessee, and the description of the lands in the manner provided by 43 CFR 3471.1.

(i) Each application shall include the name and location of the mine; a map showing the extent of the existing, proposed or adjoining mining operations; a tabulated statement of the Federal coal mined, if any, and subject to Federal royalty for the existing or adjoining operation covering a period of not less than 12 months before the date of filing of the application; and existing Federal rental and royalty rates on Federal leases covered by the application.

(ii) Each application shall contain a detailed statement of expenses and costs of operating the entire mine, the income from the sale of coal, and all facts indicating whether the mine can be successfully operated under the Federal rental and royalty provisions fixed in the Federal lease or why the reduction is necessary to promote development. Where the application is for a reduction in Federal royalty, full information shall be furnished as to whether royalties or payments out of production are paid to parties other than the United States, the amounts so paid, and efforts made to reduce them, if any. If the Federal lease included in the application is not part of nor adjoining an operating mine, these detailed financial data may be obtained from another operating mine which is in close proximity and for which the District Mining Supervisor has deemed to have similar operating characteristics.

(iii) The applicant shall also file a copy of agreements, between the operator/lessee and the holders of any royalty interests or production payments other than those created in order to finance a mine, to a reduction of all other royalties from the Federal lease so that the total royalties and production payments owed the holders of these interests will not be in excess of one-half of the Federal royalties, should the Federal royalty reduction be granted.

(3) If the applicant does not meet the criteria of the rules of this Part, the District Mining Supervisor shall reject such application or request more data from the operator/lessee.

(4) If the applicant meets the criteria of the rules of this Part, the District Mining Supervisor shall act on the application.

(d) Operators/lessees shall submit Federal royalty payments as provided for in the Federal lease. The payment shall be made within 30 days after the end of the royalty reporting period for which the royalty accrued.

(e) Where Federal royalty is calculated on a cents-per-ton basis, it shall be based on the actual weight of coal and shall accrue on the sale or use of the coal. In addition, where coal placed in inventory exceeds that which the District Mining Supervisor determines to be required for normal mining and processing operations, the Federal royalty shall also be paid on that excess estimated tonnage in inventory.

(f) Where Federal royalty is calculated on a percentage basis, the value of coal for Federal royalty purposes shall be the gross value at the point of sale, normally the mine, except as provided at 30 CFR 203.200(h). For captive operations or other than arms-length transactions, the District Mining Supervisor shall determine gross value and the point of sale.

(g) The gross value shall be the unit sale or contract price times the number of units sold, unless MMS determines that:

(1) A contract of sale or other business arrangement between the operator/lessee and a purchaser of some or all of the coal produced from the Federal lease is not a bona fide transaction between independent parties because it is based in whole or in part upon considerations other than the value of the coal; or,

(2) No consideration is received from some or all of such coal because the operator/lessee is consuming such coal or adding it to inventories, and for which Federal royalty is due and payble.

In either case, MMS shall determine the gross value of such coal taking into account:

(i) Any consideration received or paid by the operator/lessee in other related transactions.

(ii) The average price paid for coal of like quality produced from the same general area during the Federal lease month.

(iii) Contracts or other business arrangements, between coal producers and purchasers for the sale of coal other than coal produced under such Federal lease, which are comparable in terms, volume, time of execution, area of supply, and other circumstances.

(iv) Mining cost plus reasonable profit margin.

(v) Prices reported to a public utility commission and/or the Federal Energy Regulatory Commission.

(vi) Such other relevant factors as the District Mining Supervisor may deem appropriate.

(h) If additional preparation of the coal is performed prior to sale, such costs shall be deducted from the gross value in determining value for Federal royalty purposes. The District Mining Supervisor will allow such deductions only when, in his judgment and subject to his audit, the operator/lessee provides an accurate account of the costs incurred. However, the following shall not be deducted from the gross value in determining value for Federal royalty purposes: costs of primary crushing, storing, and loading; treatment with chemicals to prevent freezing; treatment with oil to suppress dust in transit; and, other preparation of the coal which in the judgment of the District Mining Supervisor does not enhance the quality of the coal.

(i) If a Federal coal lease that provides for a percentage Federal royalty is developed by *in situ* technology, the gross value of production for the purpose of computing royalty shall be determined by MMS.

(j) If a Federal coal lease that provides for a cents-per-ton Federal royalty is developed by *in situ* technology, MMS will establish a procedure for estimating tonnage for royalty purposes.

(k) In the event waste piles or slurry ponds are reworked to recover coal, or if a market becomes available to sell the waste products containing coal, the operator/lessee shall pay Federal royalty at a rate specified in the Federal lease at the time of recovery. The operator/lessee shall make payment based on the Federal share of the coal when the coal is recovered regardless of whether it is stored on Federal lands. Where such waste containing coal from a Federal lease is mixed with similar waste from private lands, the operator/lessee shall maintain accurate records from which Federal ownership of coal in the waste may be determined. However, nothing in this section requires payment of a Federal royalty on Federal coal for which a Federal royalty has already been paid.

[FR Doc. 83-21259 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 70

[DoD Directive 1332.28]

Discharge Review Board (DRB) Procedures and Standards

AGENCY: Office of the Secretary, DoD.

ACTION: Amendment of final rule.

SUMMARY: This amendment corrects Part 70 to clarify the applicability of the Entry Level Separation (ELS) when an applicant requests recharacterization of a discharge before the Discharge Review Board of the appropriate Military Department. The Entry Level Separation is an uncharacterized separation available only to service members who were separated from the service after October 1, 1982.

EFFECTIVE DATE: April 14, 1983.

FOR FURTHER INFORMATION CONTACT: Colonel Thomas R. Cuthbert, JAGC, USA, Office of the Deputy Assistant Secretary of Defense (Military Personnel and Force Management), Washington, D.C. 20301, telephone (202) 697-3387.

SUPPLEMENTARY INFORMATION: The Entry Level Separation became effective on October 1, 1982, as part of Part 41 of this title, specifically Appendix A., Part 2, paragraph C.3.a. (DoD Directive 1332.14, paragraph C.3.a. of enclosure 3). A question of interpretation subsequently arose whether an Entry Level Separation could be issued to persons discharged before that date in the course of a proceeding before the Discharge Review Boards of the Military Departments. This amendment contains the proper interpretation, answering that question in the negative. The Entry Level Separation, as indicated in this amendment, may be issued only with respect to separations on or after October 1, 1982. A former service member separated on or after that date who was in Entry Level Status at the time of separation may request the Discharge Review Boards to change a discharge under other than honorable conditions to an Entry Level Separation, and the Discharge Review Boards may make such a change on their own motion in the course of a discharge review. For the definition of Entry Level Status, see paragraph 41.6(i) of this title. In FR Doc. 82-23283 appearing in the **Federal Register** on August 26, 1982 (47 FR 37770), this part was reissued, and in FR Doc. 83-5973 appearing in the **Federal Register** on March 9, 1983, this Part was amended, specifically § 70.8(a)(3)(i). The revision hereunder again revises § 70.8(a)(3)(i).

List of Subjects in 32 CFR Part 70

Administrative practice and procedures, Discharge Review boards, Military personnel.

Accordingly, 32 CFR Part 70 is amended as follows:

PART 70—DISCHARGE REVIEW BOARD (DRB) PROCEDURES AND STANDARDS

1. Section 70.8 is amended by revising paragraph (a)(3)(i), reading as follows:

§ 70.8 [Amended]

* * * * *

(a) * * *

(3) * * *

(i) *Character of discharge.* Block 7 of DD Form 293 provides an applicant an opportunity to request a specific change in character of discharge (for example, General Discharge to Honorable Discharge; Other than Honorable Discharge to General or Honorable Discharge). Only a person separated on or after 1 October 1982 while in an entry level status may request a change from Other than Honorable Discharge to Entry Level Separation. A request for review from an applicant who does not have an Honorable Discharge shall be treated as a request for a change to an Honorable Discharge unless the applicant requests a specific change to another character of discharge.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 1, 1983.

[FR Doc. 83-21403 Filed 8-4-83; 8:45 am]

BILLING CODE 3810-01-M

32 CFR Part 253

[DoD Instruction 5210.25]

Assignment of American National Red Cross and United Service Organizations, Inc., Employees to Duty With the Military Services

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule.

SUMMARY: This rule has been revised to provide policies and procedures for the investigation and determination of security acceptability of American National Red Cross (Red Cross) and United Services Organizations, Inc. (USO) non-U.S. citizen employees for assignment to duty with the Military Services overseas. Previously, this rule provided guidance only with respect to U.S. citizen employees as this was the only category of Red Cross and USO personnel who were subject to assignment overseas. The revised rule provides that non-U.S. citizen employees must have been the subject of a background investigation completed with favorable results before they may be nominated for assignment to duty with the Military Services overseas.

EFFECTIVE DATE: This rule was approved and signed by the Deputy Under Secretary of Defense (Policy) on May 10, 1983, and is effective as of May 12, 1983.

FOR FURTHER INFORMATION CONTACT: Mr. William H. Bell, Office of the Deputy Under Secretary of Defense for Policy, Security Plans and Program Directorate, the Pentagon, Room 3C267, Washington, D.C. 20301, 202-697-3969.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-7954 appearing in the **Federal Register** on March 27, 1978 (43 FR 12680), the Office of the Secretary of Defense (OSD) published a final rule adding this Part to this title. In FR Doc. 78-11000 appearing in the **Federal Register** on April 24, 1978 (43 FR 17354), OSD published a correction to this Part. The rule appearing hereunder revises this Part as described in the **SUMMARY**, above.

List of Subjects in 32 CFR Part 253

Administrative practice and procedure, Investigation of Red Cross and USO employees, Military Services, Security measures.

Accordingly, 32 CFR is amended by revising Part 253, reading as follows:

PART 253—ASSIGNMENT OF AMERICAN NATIONAL RED CROSS AND UNITED SERVICE ORGANIZATIONS, INC., EMPLOYEES TO DUTY WITH THE MILITARY SERVICES

Sec.

253.1 Reissuance and purpose.
253.2 Applicability and scope.
253.3 Definitions.
253.4 Policy.
253.5 Responsibilities.
253.6 Procedures.

Authority: Pub. L. 83-131, 5 U.S.C. 301.

§ 253.1 Reissuance and purpose.

This rule reissues this Part to update policy and procedures governing the investigation of American National Red Cross (hereafter "Red Cross") employees and United Service Organizations, Inc. (USO), staff for the purpose of determining the security acceptability of such personnel for assignment to duty with the Military Services.

§ 253.2 Applicability and scope.

(a) This rule applies to the Office of the Secretary of Defense, the Military Departments, the Unified and Specified Commands, and the Defense Investigative Service (hereafter referred to as "DoD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) This rule does not apply to U.S. citizens or foreign nationals who are available locally at overseas locations for temporary or part-time employment with the Red Cross or the USO. Policy and procedures governing investigation and security acceptability of locally hired employees shall be determined by the Military Department concerned.

§ 253.3 Definition.

Employee. Any full-time, salaried individual serving with or employed by the Red Cross or the USO who is subject to assignment for overseas duty with the Military Services.

§ 253.4 Policy.

(a) It is the policy of the Department of Defense that an employee shall be accepted for assignment to duty with the Military Services overseas only after it first has been determined, based upon an appropriate personnel security investigation, that such acceptance for assignment is clearly consistent with the national interest.

(b) The standard and criteria for determining the security acceptability of an employee for assignment or continuation of assignment with the Military Services overseas shall be identical to those established for making security clearance determinations for personnel employed in private industry under §§ 155.4 and 155.5 of this title.

§ 253.5 Responsibilities

(a) The *Deputy Under Secretary of Defense for Policy*, or designee, the *Director, Security Plans and Programs*, shall serve as the primary contact between the Department of Defense and the Red Cross and USO for all matters relating to the policy and procedures prescribed herein.

(b) *Heads of DoD Components* shall comply with the provisions of this rule.

§ 253.6 Procedures

(a) Employees who are U.S. citizens shall have been the subject of a national agency check (NAC), completed with favorable results, before being nominated for assignment with the Military Services overseas.

(b) Employees who are not U.S. citizens shall have been the subject of a background investigation (BI), completed with favorable results, before being nominated for assignment with the Military Services overseas.

(c) An employee will not be assigned for duty with the Military Services overseas or continued in such an assignment when it has been determined that assignment or continuation of assignment is not clearly consistent with the national interest.

(d) Completed security forms (DD Form 398, Personnel Security Questionnaire (BI/SBI), or 398–2, Personnel Security Questionnaire (National Agency Check)) shall be forwarded to the Defense Industrial Security Clearance Office (DISCO), Defense Investigative Service, for initiation of the NAC or BI, as appropriate.

(e) Upon completion of the appropriate investigation, the results shall be returned to the DISCO where a determination shall be made concerning security acceptability of the employee. If the determination is favorable, the DISCO shall provide a statement to that effect to the Red Cross or the USO. If the DISCO is unable to make a favorable security acceptability determination, the procedures described in § 253.6(f)(3), below, shall apply.

(f) Whenever any DoD Component or the Red Cross or the USO receives information indicating that an employee's assignment or continuation of assignment with the Military Services overseas may not clearly be consistent with the national interest, the information shall be furnished to the DISCO for appropriate review. In such cases, the following actions shall be taken:

(1) The DISCO shall arrange for the conduct of any investigation warranted to resolve the adverse or questionable information.

(2) In cases arising after the initial security acceptability determination has been made, the DISCO shall review the information or report of investigation to determine whether the security acceptability determination is to continue in effect. If such adjudication is favorable, no further action is required. The Red Cross or the USO will not be notified in such cases in order to preclude the possibility of any adverse inference being drawn.

(3) If, after reviewing the information or report of investigation, the DISCO is unable to make a favorable security acceptability determination, the case shall be referred for further processing in accordance with Part 155 of this title.

M. S. Healy,

OSD Federal Register Liaison Officer, Department of Defense.

August 1, 1983.

[FR Doc. 83-21404 Filed 8-4-83; 8:45 am]

BILLING CODE 3810-01-M

POSTAL SERVICE

39 CFR Part 111

Requiring Proof of Loss on Registered Mail Claims and Inquiries

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule amends postal regulations governing indemnity claims and inquiries on registered mail. The changes extend the proof of loss requirements of insured mail claims to registered mail claims and inquiries. These changes are intended to reduce the present large number of invalid claims and inquiries filed. This will result in significant savings in employee work-hours and will permit quicker service for customers with valid claims.

EFFECTIVE DATE: September 12, 1983.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Belford, (202) 245–4529.

SUPPLEMENTARY INFORMATION: On June 14, 1983, the Postal Service published the proposal in the **Federal Register** for comment, 48 FR 27267. A detailed explanation of the proposal accompanied it.

The Postal Service received one letter of comment. The commenter was confused as to whether a mailer would be required to show proof of loss in all registered mail claims, even where there is no postal insurance. The proposal and the final rule very clearly applies to all registered mail claims, insured or uninsured.

The commenter was also under the erroneous impression that he would be required to pay the $3.75 inquiry fee to show proof of loss if he had requested a return receipt at the time of mailing but didn't receive the return receipt. A mailer in that situation can request a duplicate return receipt, which can be used to prove non-delivery. There is no charge for obtaining a duplicate.

The commenter believed that the inquiry fee of $3.75 should be refunded if the article was not delivered. However, the inquiry fee represents the cost of the service performed by postal employees who make a search of delivery records and is not considered an integral part of the claimant's loss. See DMM 149.312.

Like the cost of the mailer's postage to mail an inquiry form to the addressee, and the cost of the addressee's postage to return the form, the inquiry fee is only incidentally or consequentially related to the loss of the item, and is specifically not covered by postal insurance. See DMM 149.252g. Expanding the present scope of coverage to include such peripheral expenses, or indeed any of the types of claims currently barred by regulation, would require the Postal Service to rework both its insurance contract and the associated fee schedule.

The commenter is also mistaken in his assumption that there is usually no relationship between the sender and the receiver of registered items. Because there is ordinarily some relationship, whether business or personal, between such parties, it is not an imposition to expect them to cooperate in filing a claim for loss. Furthermore, there is no fee to file a claim. As was pointed out above, the $3.75 is the cost of a search for a delivery record where the mailer can provide no other proof of non-delivery.

After due consideration of the points made by the one commenter, the Postal Service hereby adopts, without change, the following amendments of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register.** See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal service.

Part 149—Indemnity Claims

1. In 149.4, revise .411, .412, .413, and .441 to read as follows:

149.4 Registered mail claims.

.41 How to File

.411 Required Forms. A customer may file a claim at any post office, classified station or branch. Form 565, *Registered Mail Application For Indemnity/Inquiry* (May 1982 or later) must be used to file a claim for loss or damage of registered mail insured by the Postal Service. Do not complete a separate Form 1510–B or 3841–A for registered claims. A claim has not been filed until a completed Form 565 has been received by the Postal Service.

.412 Evidence of Loss or Damage

a. *Claims for Complete Loss Filed by the Mailer.* All mailers filing claims for complete loss of registered mail must provide proof that a loss has actually occurred before a post office will accept a claim for indemnity. This proof may be supplied by any one of the following methods:

(1) The mailer may obtain Form 565 from any post office. The mailer must then complete the Form 565 and mail it to the addressee. Postal Service personnel will not mail the claim form for the mailer, but will provide assistance in completing the form upon request. The addressee must complete Items 10 and 11 on the Form 565 and return it to the mailer. If the addressee has signed the claim form and indicated the article was not received 15 days or more after the date of mailing, the mailer may then take the claim form, along with the original mailing receipt, to a post office and file the claim.

(2) If the mailer is unable to obtain the cooperation of the addressee in signing Form 565 for a registered article or, if he prefers, the mailer may send a check or money order for $3.75 to the post office of address and request a copy of the delivery record, provided 15 days or more have elapsed since the date of mailing. Any such request for a delivery record must contain the date the article was mailed, the registered number, and the complete name and address of the mailer and addressee (see 149.23).

(3) If the mailer receives a notice from the post office of address that a delivery record is not on file, the mailer may take this notice and original mailing receipt to any post office and file a claim for loss. The post office accepting the claim must attach a copy of the notice from the addressee post office to the Form 565 claim set and send them to the St. Louis PDC for adjudication.

(4) If the mailer has written and signed documentation (such as a letter dated at least 15 days after the date of mailing) from the addressee stating the addressee did not receive the article, the mailer may take this documentation to a post office, along with the original mailing receipt, and file a claim. A Postal Service employee must attach this documentation, or a copy of it, to the claim form.

b. *Claims for Complete or Partial Loss of Contents.* The container and packaging must be presented to the Postal Service for inspection when the claim is filed. *Exception:* The claimant may submit a Form 673, *Report of Rifled Article,* or a Form 3760, *Wrapper Found Without Contents* (which was received from the Postal Service), to file a claim.

c. *Claims for Damage.* The article with the mailing container and packaging must be presented to the Postal Service for inspection at the time the claim is filed.

.413 How to Complete Form 565

a. *Customer Action.* Type or print legibly with a ballpoint pen (press hard). Fill out items 2–9 and the lower portion (marked "Registered Mail Claim Identification") of the form. If you need help, the accepting postal employee will assist you. Complete items 2 through 9 as follows:

Item 2. Enter the name, address, and ZIP Code of the mailer.

Item 3. Enter the name, address and ZIP Code of the addressee.

Note.—Be sure to check the Payee block in either item 2 or 3 to indicate who should receive the indemnity payment.

Item 4. Enter the register number.

Item 5. Check the appropriate block to indicate the type of claim.

Item 6. List and describe the lost, missing or damaged articles. For damage claims, describe packaging in detail.

Item 7. Enter the total amount claimed, excluding postage.

Item 8. For damage claims only, list location of the damaged articles.

Item 9. Mailer must sign, date claim form and enter telephone number.

b. Endorsements and Signatures (Items 9 or 11, 22, or 27). The accepting post office employee will endorse the customer's original mailing receipt Claim Filed, then date and sign.

Return the receipt to the customer with instructions to keep it until the claim is settled. Make sure the customer has completed item 9 or 11, whichever is appropriate. Also, the postmaster, or his designated representative, will date and sign the form either in item 22 or 27, whichever is appropriate.

c. *Claim Identification.* The claimant must complete the identification section at the bottom of the claim form. The individual listed on the identification section must be the person listed in either item 2 or 3.

* * * * *

.44 Additional Post Office Responsibilities

.441 Claim Form Initiated at Another Office

a. Mailing Office (Sent from Address Office)

(1) Request the mailer to appear with the necessary documentation. Do not release the claim form to the mailer.

(2) Complete claims for damaged registered articles received from the office of address by having mailer sign, date and enter his telephone number on the claim in item 9. Complete items 12 through 22.

(3) Endorse the original registered mail receipt "Claim Filed", date and sign it. Return the receipt to the customer and instruct him to keep it unitl the claim is settled. Custmers using firm mailing books must submit the original copy. Reproduced copies are not acceptable.

(4) If the form is complete (including those claims for registers declared at *No*

Value), process as follows (do not separate parts of form remaining):

(a) Forward all claims for alleged wrong delivery, alleged rifling and no value loss to the local postal inspector-in-charge. Endorse the envelope, "Form 565." The rifled envelope or package must accompany the claim file.

(b) Send Claims for damage and for loss with value to the Director, Postal Data Center, P.O. Box 14632, St. Louis, MO 63180–9000. Endorse envelope, "Form 565."

b. Address Office (Claim Sent from Mailing Office)

(1) When a claim is for loss, search files (Forms 3849, *Delivery Notice or Recipt;* 3883, *Firm Delivery Books;* 3867, *Registered and Certified Matter Received for Delivery;* and manifold bills) for record of receipt and/or delivery and endorse claim form to indicate results (item 24).

(2) If the claim is for damage and the addressee has possession of the damaged article, the article and the packaging must be presented for inspection and retained by the post office until relased by the PDC.

(3) Complete Form 565 (items 23 through 27).

(4) If Form 565 is incomplete, return to the postmaster at the office of mailing. If Form 565 is complete, follow instructions in 149.441a(4) (a) or (b) for disposition.

(5) All portions of the claim form must be completed within seven (7) days after receipt and forwarded to the St. Louis PDC or the Inspection Service, whichever is applicable.

* * * * *

Part 911—Registered Mail

2. In 911.5, revise .521, .531, .532, and .533 to read as follows:

911.5 Inquiries on uninsured articles.

.52 How to File

.521 Original Inquiry. The mailer may not file an inquiry until 15 days after the date of mailing. An inquiry may be filed at any post office, classified station, or branch. Form 565, *Registered Mail Application for Indemnity/Inquiry* (May 1982 edition or later) must be used in processing an inquiry for uninsured registered mail. An inquiry may be filed in the following manner:

a. Any mailer filing an inquiry for the alleged loss of registered mail must provide proof that a loss has actually occurred before a post office will accept the inquiry.

b. This proof may be supplied by method (1), (2) or (3), below.

(1) The mailer may obtain Form 565 from any post office. The mailer must then complete Form 565 and mail it to the addressee. Postal Service personnel will not mail the claim form for the mailer, but assistance in completing the form will be provided upon request. The addressee must complete items 10 and 11 on the claim form and return it to the mailer. If the addressee has signed the claim form and indicated the article was not received 15 days or more after the date of mailing, the mailer may then take the claim form, along with the original mailing receipt, to a post office and file an inquiry.

(2) If the mailer has written and signed documentation (such as a letter dated at least 15 days after the date of mailing) from the addressee stating the addressee did not receive the article, the mailer may take this documentation to a post office, along with the original mailing receipt, and file a claim. The Postal Service employee must attach this documentation, or a copy of it, to the claim form.

(3) If the mailer is unable to obtain the cooperation of the addressee in signing Form 565 for a registered article or, if he prefers, the mailer may send a check or money order for $3.75 to the post office of address and request a copy of the delivery record, provided 15 days or more have elapsed since the date of mailing. Any such request for a delivery record must contain the date the article was mailed, the registered number and the complete name and address of the mailer and addressee (see 149.23). The response to this search of delivery records will end the inquiry process.

* * * * *

.53 How to Complete Form 565

.531 Acceptance. On Form 565 the accepting postal employee must draw a line through the word "Indemnity". Make sure items 2–9 are complete and the addressee has indicated nonreceipt of the article in item 10 and signed item 11, or the mailer must have signed documentation from the addressee that the article was not received.

.532 *Accepting Post Office Responsibilities.* The postal employee accepting the inquiry must complete items 12 and 15 from the information on the mailer's mailing receipt. The employee will then forward Form 565 to the Claims and Inquiry Section, if there is one, or to the employee designated to handle inquiries. The Claims and Inquiry personnel must:

(1) Verify that the "Declaration of Claimant" and "Postmaster Mailing Office" sections of the Form 565 have been completed properly, or obtain any missing information (items 12 and 15 only).

(2) Enter post office and ZIP Code in item 21, sign item 22 and enter the date.

(3) Forward the form to the Postmaster at the office of address, marked "Attention: Claims and Inquiry Section." *Do not remove any parts of the form.*

.533 Procedures at the Post Office of Address

Upon receipt of Form 565, personnel at the post office of address must take the following actions:

(1) Within five days, check delivery records to verify whether or not a record of delivery is on file and enter the results of the search in item 24 of the form.

(2) If delivery records indicate delivery, return the Form 565, with all parts attached, to the mailer.

(3) If there is no record of delivery, note these findings in item 24 of the form. Remove Forms 1510–B–1 and 1510–B–2 and send them to the local postal inspector-in-charge. Return the Form 565 to the mailer.

(4) If the inquiry indicates a partial loss of contents has occurred, forward Forms 1510–B–1 and 1510–B–2 to the local postal inspector-in-charge. Return the Form 565, annotated to show partial loss of contents, to the mailer.

A transmittal letter making these changes in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided by 39 CFR 111.3

(39 U.S.C. 401, 403)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-21402 Filed 8-4-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[WH-10-FRL 2410-8]

Hazardous Waste Management Program; Alaska, Oregon, Washington; Request for Extension of Interim Authorization Application Deadline

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of extension of application submission deadline and interim authorization period.

SUMMARY: The States of Alaska, Oregon, and Washington have requested extensions of the July 26, 1983 deadline for submittal of applications for interim authorization, under the Resource

Conservation and Recovery Act of 1976, as amended, of their respective State hazardous waste management programs. EPA is granting these requests for extension.

Alaska. On July 11, 1983, the State of Alaska requested an extension to apply for both phases of interim authorization. The State has agreed to submit a complete application by October 1983. Until a determination is made on Alaska's application, EPA will remain responsible for administration and enforcement of the Federal hazardous waste program in that State.

Oregon. On June 9, 1983, the State of Oregon requested an extension of the phase II interim authorization application deadline. Rather than applying for phase II interim authorization, the State has proposed to apply for final authorization by April 1984. By granting the extension, EPA is allowing Oregon to retain phase I interim authorization beyond July 26, 1983, until EPA makes a determination on the State's application for final authorization.

Washington. On June 20, 1983, the State of Washington requested an extension of the phase II C interim authorization application deadline. Rather than applying for phase II C interim authorization, the State has proposed to apply for final authorization by June 1984. By granting the extension, EPA is allowing Washington to retain phases I and II (components A and B) interim authorization beyond July 26, 1983, until EPA makes a determination on the State's application for final authorization.

EFFECTIVE DATE: July 26, 1983, or date of publication in the **Federal Register**, whichever is earlier.

FOR FURTHER INFORMATION CONTACT: Toby Hegdahl, M/S 530, Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, telephone (206) 442-2808.

SUPPLEMENTARY INFORMATION: a. *Background:* 40 CFR 271.122(c)(1), 48 FR 14258, allows States to apply for interim authorization any time prior to July 26, 1983. 40 CFR 271.122(c)(4), 48 FR 14258, requires States which have received any but not all phases/components of interim authorization to amend their original submissions by July 26, 1983, to include all components of phase II. 40 CFR 271.137(a), 48 FR 14264, provides that on July 26, 1983, interim authorization terminates except where States have submitted by that date applications for all phases/components of interim authorization. Where the authorization terminates, EPA is to administer and enforce the Federal program in that State.

However, 40 CFR 271.122(c)(1), 271.122(c)(4), and 271.137(a) also allow the Regional Administrator to extend, for good cause, the July 26, 1983 deadline for submission of the interim authorization applications and for termination of programs with interim authorization. Furthermore, at 47 FR 32382, preamble language indicates a regulatory intent to allow an extension of the July 26, 1983 deadline to allow for States to apply for final rather than interim authorization without reversion of State programs approved for interim authorization.

Alaska. Alaska has not yet formally applied for interim authorization. Because the State desires an informal review of their application prior to submitting a formal application, an extension of the application deadline has been requested. Alaska has agreed to the following schedule for applying for interim and then final authorization:

October 1983—Submit complete application for interim authorization.
April 1984—Submit draft application for final authorization.
July 1984—Submit complete application for final authorization.

Oregon. Oregon received phase I interim authorization on July 16, 1981. The State has already informally pursued application for phase II. However, because of deficiencies in the coverage of Oregon's phase II program which have not yet been fully remedied, and because of the limited time available to the State before an application for final authorization would have to be submitted, Oregon has requested approval from EPA to extend the July 26, 1983 deadline to apply for final authorization rather than phase II interim authorization according to the following schedule:

November 1983—Submit draft final authorization application.
April 1984—Submit complete application for final authorization.

Washington. Washington received phase I and phase II, components A and B interim authorization, August 2, 1983. The State's application did not include the phase II C land disposal permitting component because additional regulations are needed to implement this aspect of the program. The State also needs to amend regulations to remedy deficiencies for final authorization. Because of the limited time available to the State before an application for final authorization would have to be submitted, from Washington has requested approval for EPA to extend the July 26, 1983 deadline to apply for final authorization rather than phase II C interim authorization according to the following schedule:

January 1984—Submit draft final authorization application.
June 1984—Submit complete application for final authorization.

b. *Decision:*

Alaska. With a State legislative mandate to develop and achieve authorization of a hazardous waste management program, Alaska is in the process of adopting regulations necessary to implement the statute. An informal review of an application with the new regulations will help ensure that Alaska's formal application for interim authorization is acceptable. I therefore am approving Alaska's request to extend the interim authorization application deadline to October 1983.

Oregon. The State is making progress toward final authorization by establishing additional statutory authority and revising regulations. By allowing the State to proceed directly to final authorization instead of applying for phase II interim authorization, EPA can ensure that Oregon is able to achieve final authorization more quickly and efficiently. Therefore, I am approving Oregon's request to extend the July 26, 1983 deadline and allowing the State to submit an application for final authorization according to the above schedule. If the State fails to meet this schedule, the State program approved for interim authorization for phase I will terminate and administration of the hazardous waste program will revert to EPA.

Washington. The State is making progress toward final authorization by establishing additional statutory authority and revising regulations. By allowing the State to proceed directly to final authorization instead of applying for phase II C interim authorization, EPA can ensure that Washington is able to achieve final authorization more quickly and efficiently. Therefore, I am approving Washington's request to extend the July 26, 1983 deadline and allowing the State to submit an application for final authorization according to the above schedule. If the State fails to meet this schedule, the State program approved for interim authorization for phase I and phase II components A and B will terminate and administration of the hazardous waste program will revert to EPA.

List of Subjects in 40 CFR Part 271.

Hazardous materials, Indian lands, Reporting and recordkeeping requirements, Waste treatment and

disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority: This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: July 25, 1983.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 83-21361 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 425

[FRL-2411-3]

Leather Tanning and Finishing Point Source Category; Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correction of Final Rule.

SUMMARY: EPA is correcting two of the effective dates for the applicability of the sulfide pretreatment standards contained in 40 CFR 425.04. The erroneous dates appeared in the **Federal Register** on July 15, 1983 (48 FR 32346). These changes are not substantive in nature.

FOR FURTHER INFORMATION CONTACT: Technical information may be obtained by writing to Donald F. Anderson, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, or by calling (202) 382-7189.

SUPPLEMENTARY INFORMATION: The effective date for 40 CFR 425.04(c)(1) as revised at 48 FR 32346 is correct. However, the dates for 40 CFR 425.04(c)(2) and 40 CFR 425.04(c)(3) as revised at 48 FR 32346 are in error. Therefore, the regulations are revised as follows:

1. 40 CFR 425.04(c)(2) as amended at 48 FR 32346 refers to October 13, 1983. This is revised to read "January 11, 1984."

2. 40 CFR 425.04(c)(3) as amended at 48 FR 32346 refers to October 13, 1983. This is revised to read "February 10, 1984."

Dated: July 29, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-21360 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-41

[FPMR Amdt. G-63]

Supporting Documentation for Supplemental Billings (Claims) and Payment of Transportation Claims

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This regulation amends the policy and procedures concerning required documentation to support supplemental billings (claims) and the paying of supplemental bills (claims) by Government agencies for transportation services furnished the United States Government. This amendment requires that a copy of the bill of lading and a copy of the linehaul carrier's original voucher be submitted in support of a supplemental billing to Government agency finance offices. This documentation will permit agency finance offices to make payment within 30 days as required by the Prompt Payment Act, 31 U.S.C. 1801. This new procedure will reduce the potential for improper or duplicate payments as well as decrease the various finance offices' administrative workloads. This amendment also prescribes that certain supplemental bills be submitted to the Office of Transportation Audits, General Services Administration (GSA), for examination prior to payment. This procedure will ensure adequate protection against the possibility of duplicate payment. It will also exclude the claims described in section 101-41.604-2(b) from interest penalties of the Prompt Payment Act.

EFFECTIVE DATE: August 5, 1983.

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

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

Background

A proposed rulemaking was published in the **Federal Register** of February 9, 1983 (48 FR 5969), inviting comments on a revision of the Federal Property Management Regulations concerning required documentation to support supplemental billings (claims). A single comment was received regarding the proposal. Marvin Hayes Lines, Inc., Clarksville, Tennessee, expressed concern that requiring vouchers to be supported by a copy of the Standard Form 1103, U.S. Government Bill of Lading (GBL), would be burdensome to the trucking industry. The Company stated that delivering carriers usually receive only the original GBL (SF 1103). Since this document is used to bill the Government, the Marvin Hayes Lines reasoned that it would be necessary to make copies of all SF 1103's in the event an extra copy was later needed to support a supplemental billing. 41 CFR Part 101-41.302-2 stipulates that GBL copies SF 1103 and SF 1105, U.S. Government Freight Waybill (Original), are to be sent to destination (SF 1105, in fact, serves as a substitute billing document if the SF 1103 is lost). The origin carrier may also make the SF 1106, U.S. Government Freight Waybill (Carrier's Copy), available to the delivering carrier. Failure of the origin carrier to convey SF 1103 and SF 1105 to the destination carrier would violate Federal regulations. Accordingly, billing carriers should have ready access to a copy of the GBL for the purpose of complying with this revised supplemental billing procedure.

On July 13, 1982, Federal Property Management Regulations Amendment G-57 amended 41 CFR Part 101-41.604 to permit Government agencies to pay certain supplemental bills (claims) for transportation services. Since the implementation of Amendment G-57, GSA has determined that these expanded payment procedures do not give the Government adequate protection against possible duplicate payments. These supplemental bills will now be sent to GSA for prepayment audit.

List of Subjects in 41 CFR Part 101-41

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

PART 101–41—[AMENDED]

Title 41, Part 101–41 of the Code of Federal Regulations is amended as follows:

Subpart 101–41.3—Freight Transportation Services Furnished for the Account of the United States

1. Section 101–41.309–2(c) is revised to read as follows:

§ 101–41.309–2 Motor carrier or freight forwarder destination storage in transit of household goods or mobile dwellings.

* * * * *

(c) Supplemental billing for accessorial charges. Standard Form 1113, Public Voucher for Transportation Charges, bearing the same bill number as the linehaul carrier's original bill plus a letter suffix; e.g., 12345–A, shall be used to bill any accessorial charges accruing at the point of destination not included in the linehaul carrier's original billing. The voucher shall identify the bill of lading and tariff or quotation authority for the accessorial charges. The voucher shall be supported by the following:

(1) A statement of services ordered and furnished, signed by or for the person who ordered the accessorial services;

(2) A statement signed by the property owner or his authorized agent, certifying receipt of the property at his residence and listing any loss or damage;

(3) A copy of the bill of lading bearing the fund citation; and,

(4) A copy of the original SF 1113, Public Voucher for Transportation Charges, which was submitted by the linehaul carrier.

The originals of those statements listed in items 1 and 2 shall be used as support for accessorial charges.

* * * * *

Subpart 101–41.4—Standards for the Payment of Charges for Transportation Services Furnished for the Account of the United States

2. Section 101–41.401 is amended by adding paragraphs (c)(3) and (e).

§ 101–41.401 Payment upon presentation of bills.

* * * * *

(c) * * *

(3) Providing the carrier with notice of an apparent error, defect, or impropriety within 15 days of receipt of an invoice.

* * * * *

(e) For the purposes of determining whether interest penalties under the Prompt Payment Act, 31 U.S.C. 1801, are due, the date on which payment is due is 30 days after receipt of a proper carrier bill or claim.

* * * * *

3. Section 101–41.402–2 is revised to read as follows:

§ 101–41.402–2 Limitations on advance payment of charges for transportation services.

The payment of charges in advance of completion of service is authorized for:

Subpart 101–41.6—Claims Against the United States Relating to Transportation Services

4. Section 101–41.600 is revised to read as follows:

§ 101–41.600 Scope and applicability of subpart.

This subpart sets forth procedures applicable to the presentation, settlement, reconsideration, and review of claims against the United States relating to freight and passenger transportation services, and implementation of the Prompt Payment Act, 31 U.S.C. 1801.

5. Section 101–41.602(c) is revised as follows, and paragraph (d) is added:

§ 101–41.602 Statutory limitations on filing of claims.

* * * * *

(c) Each claim of a carrier or forwarder, whether filed with GSA or with its designee (the agency out of whose activities the transaction arose), must be clearly stamped with the month, day, and year of receipt by GSA or the designee agency so that there will be no question regarding the filing date when the determination of compliance with the 3-year limitation imposed thereon by 31 U.S.C. 3726 is made and for the purposes of the Prompt Payment Act.

(d) For the purposes of determining whether interest penalties under the Prompt Payment Act are due, the date on which payment is due is 30 days after receipt of a proper carrier bill or claim.

* * * * *

6. Section 101–41.603–2 paragraph (a) is revised to read as follows:

§ 101–41.603–2 Form of claims.

(a) Charges claimed for passenger or freight transportation services shall be billed on Standard Form 1113, Public Voucher for Transportation Charges, in the manner prescribed in §§ 101–41.214 and 101–41.310. Those claims for an amount in addition to that originally paid to the carrier for the same service, or for an amount collected by GSA or by another agency shall be presented on SF 1113 in the form of a supplemental bill (claim) bearing the same number as the original bill but with an alphabetical suffix. An alphabetical sequence of suffixes shall be used for any additional supplemental bills. Each supplemental bill (claim) for freight transportation services shall be accompanied by a copy of the GBL ordering the service and a copy of the original voucher which was submitted by the linehaul carrier. Generally only one supplemental bill shall be presented for all supplemental charges relating to the items paid on the original bill.

* * * * *

7. Paragraph (a) of §101–41.603–4 is revised as follows:

§ 101–41.603–4 Where to file transportation claims.

(a) Claims involving collection actions resulting from the transportation audit performed by the General Services Administration must be filed directly with GSA (BWCA). Any claims so submitted to GSA will be considered 'disputed claims' under Section 4(b) of the Prompt Payment Act. All other transportation claims generally shall be filed with the agency out of whose activities they arose; if that is not feasible (e.g. where the responsible agency cannot be determined or is no longer in existence) they may be sent to GSA (BWCA) for forwarding to the responsible agency or for direct settlement by GSA's transportation audit office. Claims for GSA processing shall be addressed to the General Services Administration (BWCA), Washington, DC 20405.

* * * * *

8. Section 101–41.604–2 is amended by adding paragraphs (b)(4), (b)(5), and (b)(6), and revising paragraph (d) as follows:

§ 101–41.604–2 Transportation claims not payable by agencies.

* * * * *

(b) * * *

(4) Any pricing adjustment claims for services previously billed and paid.

(5) Claims described in paragraph (b) of this section are subject to GSA prepayment audit. Any claims so submitted to GSA will be considered 'disputed claims' under Section 4(b) of the Prompt Payment Act.

(6) Interest penalties under the Prompt Payment Act are not required when payment is delayed because of a disagreement between a Federal agency and a carrier or forwarder over the amount of the payment or other issues. Claims concerning any interest that may be payable will be resolved in accordance with the provisions of the

Contract Disputes Act of 1978, 41 U.S.C. 601 *et seq.*

* * * * *

(d) Agencies shall notify claimants of the dates on which their claims are forwarded to GSA but shall not inform them of administrative recommendations. Agencies need not take further administrative action but shall forward to GSA (BWCA) any materials subsequently received which relate to forwarded claims and shall furnish supplemental reports to GSA when requested. Any claims so submitted to GSA will be considered 'disputed claims' under Section 4(b) of the Prompt Payment Act.

* * * * *

(31 U.S.C. 3726, 31 U..S.C. 1801, and 40 U.S.C. 486(c))

Dated: July 15, 1983.

Ray Kline,

Acting Administrator of General Services.

[FR Doc. 83-21147 Filed 8-4-83; 8:45 am]

BILLING CODE 6820-34-M

Proposed Rules

Federal Register
Vol. 48, No. 152
Friday, August 5, 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.

MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1255

Ancillary Matters; Discovery

AGENCY: Office of the Special Counsel, Mert Systems Protection Board.

ACTION: Notice of proposed amendment of rule.

SUMMARY: The Office of the Special Counsel (OSC) proposes to amend its regulations to delete reference to service of subpoenas by a representative of the Special Counsel or a U.S. Marshal or Deputy Marshal and to permit service of subpoenas either in person or by registered or certified mail.

DATE: Comments must be received by September 6, 1983.

ADDRESS: Comments should be sent to the Office of the Special Counsel, Room 818, 1120 Vermont Avenue, NW., Washington, D.C. 20419.

FOR FURTHER INFORMATION CONTACT: Ralph B. Eddy, Office of the Special Counsel, (202) 653-7307.

SUPPLEMENTARY INFORMATION: Under 5 U.S.C. 1205(b)(2)(A), the Special Counsel may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. Current regulations of the Office of the Special Counsel provide that subpoenas may be served by a representative of the Special Counsel, or a U.S. Marshal or Deputy Marshal. For reasons of economy and convenience, the Special Counsel proposes to permit service of subpoenas either in person or by certified mail. Such service is consistent with the practice of the Merit Systems Protection Board which permits service by registered or certified mail. *See* 5 CFR 1201.84.

E.O. 12291 Federal Regulation

OSC has determined that this is not a major rule as defined in section 1(b) of E.O. 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it pertains solely to the manner in which OSC may serve subpoenas.

List of Subjects in 5 CFR Part 1255

Ancillary matters, Discovery.

PART 1255—[AMENDED]

Accordingly, pursuant to 5 U.S.C. 1206(k), OSC proposes to amend 5 CFR Part 1255 by revising paragraph (a) of § 1255.1 to read as follows:

§ 1255.1 Subpoenas.

(a) The Special Counsel may issue subpoenas requiring the attendance and testimony of witnesses and the production of documentary or other evidence from any place in the United States or any territory or possession thereof, the Commonwealth of Puerto Rico, or the District of Columbia. A subpoena may be served either in person or by registered or certified mail.

* * * * *

Dated: July 27, 1983.

K. William O'Connor,

Special counsel.

[FR Doc. 83-21145 Filed 8-4-83; 8:45 am]

BILLING CODE 7400-02-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1139

[Docket No. AO-374-A8]

Milk in the Lake Mead Marketing Area; Notice of Hearing on Proposed Amendments to Tenative Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider proposals by the Lake Mead Cooperative Association to amend the Lake Mead Federal milk order. The proposed amendments would change from Class III to Class II the classification of certain cream and specialty milk products, price producer milk at the location of the plant from which the milk is diverted, change the formulas for computing the pool obligation of certain partially regulated distributing plants, and relax the limits on the amount of milk that may be diverted from pool plants to nonpool manufacturing plants and still be pooled under the order. The cooperative claims that the proposed amendments are needed to maintain orderly marketing conditions.

DATE: The hearing will convene at 9:30 a.m., on August 16, 1983.

ADDRESS: The hearing will be held at the Flamingo Hilton and Tower, 3555 Las Vegas Blvd. South, Las Vegas, Nevada 89109.

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

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

Notice is hereby given of a public hearing to be held at the Flamingo Hilton and Tower, 3555 Las Vegas Blvd. South, Las Vegas, Nevada 89109, beginning at 9:30 a.m. (local time) on August 16, 1983, with respect to proposed amendments to the tentative marketing agreement and to the order, regulating the handling of milk in the Lake Mead marketing area.

Since the diversion provisions of the order have been suspended pending consideration of amendment action based on a hearing, the Department has concluded that less than 15 days' notice of the hearing is warranted in this proceeding.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed

amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreement and to the order.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

List of Subjects in 7 CFR Part 1139

Milk marketing orders, Milk, Dairy products.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by the Lake Mead Cooperative Association

Proposal No. 1

§ 1139.3 [Amended]

Amend § 1139.3 by inserting the words "described in § 1139.7(a)" at the end of the text.

Proposal No. 2

§ 1139.7 [Amended]

Amend § 1139.7 (a) and (b) by removing the parenthetical phrase "(including milk diverted from such plant to a nonpool plant pursuant to § 1139.13)" whereever it appears in such paragraphs.

Proposal No. 3

§ 1139.10 [Amended]

Revise § 1139.10(a) to read as follows:

* * * * *

(a) Is both a dairy farmer and the operator of a plant from which fluid milk products are disposed of as route dispositon in the marketing area;

Proposal No. 4

In § 1139.13, revise paragraph (d)(1) to read as follows:

§ 1139.13 Producer milk.

* * * * *

(d) * * *

(1) Such milk shall be priced at the location of the pool plant from which diverted.

* * * * *

Proposal No. 5

In § 1139.13, remove paragraphs (d)(4) and (d)(5) and revise paragraph (d)(2) to read as follows:

§ 1139.13 Producer milk.

* * * * *

(d) * * *

(2) A cooperative association may divert for its account the milk of its member producers (other than producer milk diverted pursuant to paragraph (d)(3) of this section) from whom milk production is received during the month at a pool plant.

* * * * *

Proposal No. 6

Revise § 1139.40 to read as follows:

§ 1139.40 Classes of utilization.

Except as provided in § 1139.42, all skim milk and butterfat required to be reported by a handler pursuant to § 1139.30 shall be classified as follows:

(a) *Class I milk.* Class I milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid milk product, except as otherwise provided in paragraphs (b) and (c) of this section; and

(2) Not specifically accounted for as Class II or Class III milk.

(b) *Class II milk.* Class II milk shall be all skim milk and butterfat:

(1) Disposed of in the form of a fluid cream product, eggnog, yogurt, and any product containing 6 percent or more nonmilk fat (or oil) that resembles a fluid cream product, eggnog, or yogurt, except as otherwise provided in paragraph (c) of this section;

(2) In packaged inventory at the end of the month of the products specified in paragraph (b)(1) of this section;

(3) In bulk fluid milk products and bulk fluid cream products disposed of to any commercial food processing establishment (other than a milk or filled milk plant) at which food products (other than milk products and filled milk) are processed and from which there is no disposition of fluid milk products or fluid cream products other than those received in consumer-type packages; and

(4) Used to produce:

(i) Cottage cheese, lowfat cottage cheese, and dry curd cottage cheese;

(ii) Milkshake and ice milk mixes (or bases) containing 20 percent or more total solids, frozen desserts, and frozen dessert mixes;

(iii) Any concentrated milk product in bulk, fluid form other than that specified in paragraph (c)(1)(iv) of this section;

(iv) Plastic cream, frozen cream, and anhydrous milkfat;

(v) Custards, puddings, and pancake mixes; and

(vi) Formulas especially prepared for infant feeding or dietary use that are packaged in hermetically sealed glass or all metal containers.

(c) *Class III milk.* Class III milk shall be all skim milk and butterfat:

(1) Used to produce:

(i) Cheese (other than cottage cheese, lowfat cottage cheese, and dry curd cottage cheese);

(ii) Butter;

(iii) Any milk product in dry form;

(iv) Any concentrated milk product in bulk, fluid form that is used to produce a Class III product;

(v) Evaporated or condensed milk (plain or sweetened) in a consumer-type package and evaporated or condensed skim milk (plain or sweetened) in a consumer-type package; and

(vi) Any product not otherwise specified in this section;

(2) In inventory at the end of the month of fluid milk products in bulk or packaged form and products specified in paragraph (b)(1) of this section in bulk form;

(3) In fluid milk products and products specified in paragraph (b)(1) of this section that are disposed of by a handler for animal feed;

(4) In fluid milk products and products specified in paragraph (b)(1) of this section that are dumped by a handler if the market administrator is notified of such dumping in advance and is given the opportunity to verify such disposition;

(5) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1139.15; and

(6) In shrinkage assigned pursuant to § 1139.41(a) to the receipts specified in § 1139.41(a)(2) and in shrinkage specified in § 1139.41 (b) and (c).

Proposal No. 7

In § 1139.76, the introductory text of paragraph (b) preceding paragraph (1) is revised and a new paragraph (c) is added to read as follows:

§ 1139.76 Payments by handler operating a partially regulated distributing plant.

* * * * *

(b) Except as provided by paragraph (c) of this section, the payment under this paragraph shall be the amount

resulting from the following computation:

* * * * *

(c) If the partially regulated distributing plant is subject to a milk classification and pricing program enforced under the authority of a State government, the obligation of the handler operating such plant with respect to fluid milk products from such plant disposed of in the marketing area shall be computed at a rate arrived at by subtracting from the Class I price f.o.b. the partially regulated plant the appropriate class prices as established for such products under the State program: *Provided,* that as an alternative the handler operating such partially regulated distributing plant may have his obligation computed under paragraph (b) of this section by submitting to the market administrator complete information including computations establishing his obligation under paragraph (b) together with written agreements from other persons as necessary to make their records and facilities available to the market administrator in the same manner as required of handlers under Part 1000.5 for purposes of verification of the reported data and computations.

Proposed by the Dairy Division, Agricultural Marketing Service

Proposal No. 8

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendments thereto that may result from this hearing.

Copies of this notice of hearing and the order may be obtained from the Market Administrator, W. Joe Albright, 1121 E. Missouri, Suite 324, Phoenix, Arizona 85014, or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be inspected there.

From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington Office only)
Office of the Market Administrator, Lake Mead Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

Signed at Washington, D.C., on August 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-21355 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 3

[Docket No. 83-005]

Animal Welfare, Marine Mammals

Correction

In FR Doc. 83-20674, beginning on page 34710, in the issue of Friday, July 29, 1983, make the following corrections:

1. In § 3.104(b), on page 34719, paragraphs (3) (i) and (ii) are corrected to read as follows:

(3) * * *

(i) The minimum volume of water required for up to two Group I cetaceans is based upon the following formula:

$$\text{Volume} = \left(\frac{\text{MHD}}{2}\right)^2 3.14 \times \text{depth}$$

When there are more than two Group I cetaceans housed in a primary enclosure pool, the additional volume of water required for each additional Group I cetacean in excess of two is based on the following formula:

$$\text{Volume} = \frac{(\text{Average adult length})^2}{2} \times 3.14 \times \text{depth}$$

See Table I for required volumes.

(ii) The minimum volume of water required for up to four Group II cetaceans is based upon the following formula:

$$\text{Volume} = \left(\frac{\text{MHD}}{2}\right)^2 \times 3.14 \times \text{depth}$$

When there are more than four Group II cetaceans housed in a primary enclosure pool, the additional volume of water required for each additional Group II cetacean in excess of four is based on the following formula:

$$\text{Volume} = (\text{average adult length})^2 \times 3.14 \times \text{depth}$$

See Table II for required volumes.

* * * * *

2. On page 34720 in the first column, in § 3.104(d)(2)(ii), in the third line under "Examples:", "1.4] +" should read "1.4".

BILLING CODE 1505-01-M

Food Safety and Inspection Service

9 CFR Parts 317, 319, and 381

[Docket No. 78-733P]

Labeling for Meat and Poultry Products With Cheese Substitutes; Revised Pizza Standard

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposes rule.

SUMMARY: This document proposed to establish more informative labeling requirements by amending the Federal meat and poultry products inspection regulations on the labeling of cheese substitutes in meat and poultry products to more prominently identify the use of these substances. This document also proposes to amend the Federal meat inspection regulations on the standard of pizza to specify both a minimum cheese content of 6 percent of the total product and a minimum of 12 percent cheese and cheese substitute content in order to assure the marketing of these products in accordance with established consumer expectations. In addition, the pizza standard as it relates to the use of meat would be revised to clarify that only cooked meat or meat food products can be used. The revision would make the standard consistent with the requirement for sausage pizza.

DATE: Comments must be received on or before October 3, 1983.

ADDRESS: Written comments should be sent in duplicate to: Regulations Office, Attn: Annie Johnson, FSIS Hearing Clerk, Food Safety and Inspection Service, U.S. Department of Agriculture, Room 2637, South Agriculture Building, Washington, DC 20250. Oral comments provided under the Poultry Products Inspection Act should be directed to: Mr. Robert G. Hibbert, (202) 447-6042. (See also "Comments" under Supplementary Information.)

FOR FURTHER INFORMATION CONTACT: Mr. Robert F. Hibbert, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447-6042.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This action has been reviewed in conformance with Executive Order 12291 and has been classified as not a "major rule". It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service (FSIS), has determined that this proposed rule will have a significant economic impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601). An Initial Regulatory Flexibility Analysis has been prepared as a result of that determination and is available from Paul Ragan, Director Regulations Office, Policy and Program Planning, Food Safety and Inspection Service, U.S. Department of Agriculture.

The Regulatory Flexibility Act directs agencies to analyze the impact of their regulatory actions. If it is determined that an action would significantly affect a substantial number of small entities, agencies must prepare an Initial Regulatory Flexibility Analysis to identify (1) reasons why the Agency is considering the action, (2) the objectives and legal basis for the proposal, (3) the kind and number of small businesses affected, (4) the projected reporting, recordkeeping, and other compliance requirements, (5) Federal rules which may duplicate, overlap, or conflict with the proposal, and (6) significant alternatives which accomplish the stated objectives and minimize the economic impact of the proposal.

FSIS is taking this action as a result of industry petitions, consumer demands for informative labeling, and possible confusion between Food and Drug Administration (FDA) and USDA labeling policy on cheese substitutes. The objectives of the proposal are: (1) To ensure that meat pizzas meet consumers' expectation, i.e., contain some substantial level of cheese, (2) to require the product labels for meat/poultry food products containing cheese substitutes where cheese is an anticipated ingredient declare the presence of the substitutes, and (3) to seek consistency between FDA's and FSIS's labeling policy on cheese, cheese substitute, and imitation cheese.

FSIS has determined that this proposal could impact on 50 percent of the pizza industry. The proposed labeling changes could result in higher first year costs for small pizza firms as opposed to larger firms because small firms have a higher percentage of approved labels. However, the costs of using natural cheese rather than a substitute to comply with the proposal should be the same for both large and small pizza firms.

FSIS considered six alternatives which would address one or more of the objectives. The alternatives considered were:

(1) Revise the pizza standard to require at least 12 percent natural cheese.

(2) Revise the pizza standard to require at least 12 percent cheese and cheese substitutes (optional) with a minimum of 6 percent natural cheese.

(3) Require all meat and poultry food products which use cheese substitute to declare the use of such ingredients in the product name.

(4) Require all meat and poultry food products to list ingredients as a percentage of the total wight versus order of predominance.

(5) Initiate an educational campaign to inform consumers about use of cheese and cheese substitutes in meat and poultry products.

(6) Revise the pizza standard to require at least 12 percent cheese and cheese substitute (optional) with a minimum of 6 percent natural cheese, and require informative labeling of cheese substitutes.

FSIS has reviewed each of the above alternatives and considers alternative 6 to be the most appropriate since it addresses all of the proposal's objectives. Although alternative 6 could have a substantial impact on some firms, the cost of new labels could be reduced by allowing firms to use existing labeling inventories over a reasonable phase-in period.

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Regulations Office and should reference the docket number which appears in the heading. Any person desiring opportunity for an oral presentation of views should make such request to Mr. Robert Hibbert so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this proposal will be made available for public inspection in the Regulations Office between 9:00 a.m. and 4:00 p.m., Monday through Friday.

Background

Under the Federal Meat Inspection Act (FMIA) (21 U.S.C. 603 *et seq.*) and the Poultry Products Inspection Act (PPIA) (21 U.S.C. 451 *et seq.*), any meat or poultry product whose labeling is false or misleading in any particular is "misbranded" within the meaning of the relevant statute. Under these Acts, the term "labeling" means labels and other written, printed, or graphic matter (1) upon any article or on any of its containers or wrappers, or (2) accompanying such article. Therefore, under the Acts, a meat or poultry product could be "misbranded" by, among other things, bearing false or misleading wording or pictorial vignettes on the label, or representing that certain ingredients are in the product when they are not.

Pizzas that include meat are a meat food product subject to the FMIA. Section 7(c) of this statute (21 U.S.C. 607(c)) authorizes the Secretary of Agriculture to prescribe standards of identity or composition for such products.

The Department's standard for pizza, since it was first adopted in 1970, has been modified only to permit the use of what is currently identified as mechanically separated (species). Section 319.600(a) of the Federal meat inspection regulations (9 CFR 319.600) states: "'Pizza with Meat' is a bread-based meat food product with tomato sauce, cheese, and meat topping. It shall contain cooked meat from not less than 15 percent raw meat: Mechanically Separated (Species) may be used in accordance with § 319.6." A similar definition is included in the regulations for "Pizza with Sausage" (319.600(b)), with the meat product content requirement being 12 percent cooked sausage or 10 percent dry sausage.

In 1973, the Animal and Plant Health Inspection Service, a predecessor agency of the Food Safety and Inspection Service (FSIS), published a proposal in the **Federal Register** to change the standard of composition for products labeled "pizza" (38 FR 16363). That proposal would have allowed the use of uncooked meat in pizza products and would have required that the currently unspecified content of cheeses in this food item be specified at 12 percent. In response to that proposal, the Department received 80 comments. Of the thirty-eight comments from consumers, approximately half opposed

the use of uncooked meat in such products, expressing concerns about its wholesomeness. Twenty-one processors commented, most of whom opposed the proposed 12 percent cheese requirement. A total of 21 additional comments were also received from State officials, trade organizations, congressmen, consumer organizations, and members of the academic community. Most of these expressed opposition to one or more of the proposal's provisions. A final rule on the 1973 proposal was not issued. The 1973 proposal is hereby withdrawn and superseded by this proposed rule.

In 1978 the Wisconsin Cheese Makers Association submitted a petition to amend the Department's standard of identity for pizza. That organization requested that pizzas containing cheese substitutes by clearly distinguishable from pizzas containing standardized varieties of cheese.

As the present standard indicates, cheese is an essential, characterizing ingredient of "pizza." But "cheese," as specified in § 319.600, is not further defined in the regulation. Consequently, pizza makers may use, and many are using, cheese substitutes to replace more expensive standardized varieties of cheese. Replacing some or all of the cheese with a cheese substitute must, by law, be reflected in the list of ingredients. However, the petition asserted that this form of labeling is insufficient to prevent consumers from being misled. Ingredient labeling, it argued, does not offset implicit and explicit labeling claims that the cheese substitute is "cheese" as defined in standard of identity regulations issued by the Food and Drug Administration (FDA). The appearance and texture of cheese substitute may not be easily distinguishable from standardized cheese when seen through the packaging, and carton vignettes may depict what appears to be a standardized cheese on the pizza.

If valid, the concerns raised by the Wisconsin Cheese Makers Association petition would appear to apply to any standardized meat or poultry product which contains cheese. Consumers may be deceived when cheese substitutes are used as ingredients in standardized meat or poultry products, especially when the cheese is a characterizing ingredient, unless the name of the product is descriptive enough to distinguish it from products containing standardized cheese.

For purposes of this proposed regulation, "cheese" is defined as a variety cheese subject to an FDA standard, e.g., "mozzarella" (21 CFR 133.155). Other cheese products are subject to FDA standards of identity, e.g., pasteurized cheese foods and spreads, which may be further characterized by the name of variety cheeses, e.g., "pasteurized process roquefort cheese spread" (21 CFR 133.179). Still other products, including those most likely to be used as cheese substitutes on pizzas, are subject to no standard-of-identity regulations. FDA proposed standards for products which substitute for or resemble variety cheese on September 19, 1978 (43 FR 42118), but no final regulation has been published. Therefore, such products are merely required to bear a nonmisleading descriptive name or common or usual name (see 21 CFR 102.5). The one qualification is that products which substitute for or resemble a standardized product but are nutritionally inferior to that product must bear the term "imitation" (21 CFR 101.1(e)).

In 1979 the Department received another request to modify the pizza standard. Jeno F. Palucci, a pizza manufacturer, requested that the pizza standard be revised to provide for three new classes of pizza: (1) "Pizza with meat sauce," containing not less than 6 percent fresh meat, (2) "pizza flavored with meat sauce," containing no less than 3 percent fresh meat, and (3) "pizza," containing no less than 3 percent fresh meat. (There appears to be a typographical error in the petition since "pizza" and "pizza flavored with meat sauce" would have the same meat content as stated.) The petitioner asserted that this modification would allow a greater variety of wholesome products to be made available to the consumer.

On December 11, 1979, the Department published in the **Federal Register** (44 FR 71427) a notice seeking information from the public on the need for modification of the pizza standard, focusing upon the issues raised by these two petitions. In response to this notice, the Department received 222 comments. Of these, 184 comments favored a reduction in the amount of meat required in this product while seven comments were opposed to any such change. However, over 90 percent of those favoring such a change were food producers and their employees, and these comments were mainly in a standard form, without supporting analysis or data, indicating their agreement with Mr. Palucci's suggestion that the standard be revised. In addition, no data were presented regarding the nutritional and economic effect of reducing the meat content requirement for pizza with meat. One congressional comment also favored lowering the meat content requirement. The seven comments received by the Department in opposition to reducing the meat content requirement were primarily from the pizza manufacturing industry.

There was more diversity in the comments received by the Department regarding the labeling of cheese substitutes in pizza. There were a total of 38 comments received which discussed this topic. Eight comments favored a continuation of the present policy of showing the use of cheese substitutes in the ingredients statement only. For example, the Central Soya Company of Fort Wayne, Indiana, indicated that the ingredients statement is sufficient to inform the consumer of the presence, absence, or variation in ingredients other than meat in the product. The remaining 30 comments supported some type of change in the regulation to distinguish those pizza products using cheese substitutes. Twenty-seven comments wanted to see the cheese-substitute disclosure appear as part of the main display panel of the product label, either as a qualifier to the name or as part of the product name, as in "imitation pizza." Three comments wanted only real cheese used in pizzas and consequently sought a prohibition of the use of substitutes. Twelve comments were received from industry associations, and only one suggested that the Department continue its present labeling policy with regard to the cheese ingredients in pizza.

The Department of Agriculture and Markets for the State of New York commented specifically on the cheese-substitute issue. It observed that milk and dairy products are particularly susceptible to imitation and that, therefore, consumer deception is an obvious concern of dairy farmers. It further observed that cheese is an expected and traditional part of the pizza, and recommended that the currently unspecified content of cheese in this food item should be specified at 12 percent. The comment also noted that it is the policy of the State of New York to preclude the use of cheese substitutes without "imitation" labeling or other prominent disclosure to prevent consumer deception.

The Pillsbury Company of Minneapolis, Minnesota, advised that it opposed the amendment with regard to cheese substitute labeling. It maintained that inherent in such a proposal is a suggestion that cheese substitutes are somehow "inferior" to natural cheese. The comment indicated that the company has researched extensively the organoleptic and nutritional qualities of cheese replacements. Under its findings, a comparison of nutritional values of

natural cheese to cheese substitute revealed little difference. The company indicated that, given the cost savings to manufacturers and consumers, consumer acceptance of "cheese substitute," and the relative nutritive equivalence of "cheese substitute," it saw no need to change the existing standard.

A May 20, 1980, letter to the Secretary of Agriculture signed by two United States Senators and 22 members of the House of Representatives urged revision of the pizza standard to require a minimum content of 12 percent cheese. They believed the current standard was no longer adequate to protect consumers. They further stated that the consumer buying frozen pizza expects the pizza to contain real milk cheese. However, they maintained that in today's market, pizzas are found to contain a combination of real cheese and a cheese substitute without the consumer being alerted to this combination other than through ingredients statement disclosure.

The Proposal

(1) *The Pizza with Meat Standard.* The present standard for poizza with meat requires that pizza contain cooked meat made from not less than 15 percent raw meat. This aspect of the standard has caused confusion not only to the public but also to the processing industry. At the present time, there is some use of raw meat on pizza. Concern over the use of raw meat on pizza products, as proposed in 1973, was primarily from individual consumers who felt this would adversely affect the product's wholesomeness. These concerns were reiterated in some responses to the 1979 notice. The potential hazard of foodborne infection, e.g., salmonellosis, is reduced or eliminated in meat which is adequately cooked. Trichinosis is also prevented by the process of adequately cooking pork, which is an ingredient in most sausage pizzas.

In order to avoid confusion in the future by the public or industry, the Department is proposing that the standard be clarified, permitting only cooked meat or meat food products. The Department's records on approved labels include information that specifies percentages of the individual ingredients of product formulas. Such information on approved "pizza with meat" labels indicates that a requirement of not less than 12 percent cooked meat will be more meaningful and more easily understood. A 12-percent cooked-meat requirement does not reduce the amount of meat currently required for meat pizzas under the present standard, which is cooked meat made from not less than 15 percent raw meat, and is consistent with the requirement for sausage pizza. The requirement would reduce or eliminate any potential hazard of foodborne infection.

The Department is not proposing to establish standards for new categories of products containing meat ingredients below this level. The longstanding meat-content requirement has served to establish definite consumer expectations regarding the amount of meat in meat pizzas. The Department does intend to continue its recently established policy of requiring pizzas containing less meat than provided for in the standard to bear appropriate, descriptive labeling to ensure that consumers are not misled into believing that they are standardized "meat pizzas." If nutritionally inferior to the standardized product, such a pizza must be labeled as an imitation of the standardized product. If not nutritionally inferior to the standardized product, it must be clearly identified as a substitute product by including on the label both the percentage of meat in the product and the percentage of meat in the standard. For example, a product that is not nutritionally inferior to the standardized product could be labeled as "pizza—contains 6 percent sausage; this is not 'sausage pizza' which contains 12 percent sausage." Comments on the continuation of this policy are being solicited by this document.

The pizza standard would also be revised to include more specific provisions regarding the use of cheese and cheese substitutes. While a minimum of 12 percent cheese or cheese and cheese substitute would be required, in no event could a pizza contain less than 6 percent cheese when a combination of cheese and cheese substitute is used. These proposed levels are designed to maintain a sufficient amount of cheese to characterize the product. Comments on this aspect of the proposal, especially those supported by research or survey data, are particularly welcome. Pizzas containing cheese substitute would also be labeled in accordance with the general labeling requirements for products containing cheese substitutes, as discussed more fully below. Certain varieties of cheese (and their substitutes), e.g., creamed cheese and cottage cheese, are not appropriate for use on pizza because of their high moisture content; these varieties would be specifically excluded by the standard. The standard would also be modified to clarify that optional ingredients such as vegetables are permitted, and that the standard applies only to pizza products containing meat.

(2) *Descriptive Labeling of Products Containing Cheese Substitutes.* While the Department's review of this matter has centered on pizza products, concerns expressed about the use of cheese substitutes in pizzas are equally relevant to a wide variety of other meat or poultry products traditionally characterized by a cheese ingredient, but which contain cheese substitutes. The Department recognizes the possibility of consumer deception or misunderstanding from the use of such ingredients and believes that additional descriptive labeling is necessary. Therefore, this proposal would require that all meat and poultry products that would ordinarily contain cheese as a characterizing ingredient bear labeling that properly discloses the presence of cheese substitutes in order to assure that consumers are adequately informed about true time composition of the product.

Specifically, the proposal would require that when a product name includes the name of a cheese or the term "cheese," and the product contains a cheese substitute, the product name must include either the common or usual name of the substitute or the term "cheese substitute." If the substitute is nutritionally inferior to cheese, the name of the cheese substitute must include the word "imitation." The name of the cheese substitute would appear in the product name in the order of its predominance by weight, in the total product formula. For example, a "Ham and Cheese Spread," which in fact contained more cheese substitute than cheese, would be renamed under this proposal "Ham, Cheese Substitute and Cheese Spread;" "Beef and Cheese Turnover" containing cheese and a lesser amount of nutritionally inferior cheese substitute might be renamed "Beef, Cheese and Imitation Cheese Turnover."

The proposal would also require that products without a cheese reference or claim in the name, but that nonetheless would reasonably be expected to contain cheese, indicate the presence of any cheese substitute in a phrase qualifying the name, in print no less than one-half the size of the name. The phrase would declare the presence of the cheese substitute. If the product includes cheese and cheese substitute, the phrase would be "Contains ——— and ———," the blanks containing the name of the cheese and cheese substitute in their order of predominance, by weight, in the product.

The proposed disclosure requirement for substitute and imitation cheese ingredients would not affect current requirements for "imitation" labeling. Thus, for example, in addition to the disclosure statement concerning its cheese content, any standardized meat product whose required ingredients include "cheese" would still be required to bear "imitation" labeling, if the use of imitation cheese caused the product to be nutritionally inferior to the standardized product.

The Department is aware that the adoption of this proposal would necessitate some change in the labeling of products that contain cheese as a characterizing ingredient, which, in turn, might impose additional costs upon the manufacturers of these products. However, the Department believes that the establishment of these requirements is necessary in order to assure the proper labeling of the products. To allow the continuation of the status quo would serve to perpetuate an inconsistency between the Department's policies and those enforced by the FDA. It would also permit claims to be made regarding cheese in products which consist in large measure of substances which are not cheese and which are not derived from cheese. The Department would work with manufacturers to minimize the cost of this change by allowing reasonable time to deplete existing supplies of labels. Comments on how these concerns could be accommodated within a reasonable period of time would be valuable to the Department.

List of Subjects

9 CFR 317

Meat inspection, Food labeling.

9 CFR 319

Meat inspection, Standards of identity.

9 CFR 381

Poultry products inspection, Food labeling, Standards of identity.

Accordingly, it is proposed to amend the Federal meat inspection regulations (9 CFR Parts 317 and 319), and the Federal poultry products inspection regulations (9 CFR Part 381) as set forth below:

PART 317—[AMENDED]

1. The authority citation for Parts 317 and 319 reads as follows:

Authority: 34 Stat. 1260, 79 Stat. 903, as amended, 81 Stat. 584, 84 Stat. 91, 438, 21 U.S.C. 71 *et seq.*, 601 *et seq.*, 33 U.S.C. 1254.

2. Section 317.8(b) of the Federal meat inspection regulations (9 CFR 317.8(b)) would be amended by adding a new paragraph (35) to read as follows:

§ 317.8 False or misleading labeling or practices generally; specific prohibitions and requirements for labels and containers.

* * * * *

(b) * * *

(35)(i) When a product containing cheese includes in its name the name of a specific cheese or the term "cheese," any cheese substitute ore imitation cheese used as an ingredient must also be indicated in the name of the product. Such ingredients shall appear in the product name, in identical type, in their order of predominance by formula weight. For example, the name of a sandwich spread formulated, in part, with 10 percent cheddar cheese and 15 percent cheddar cheese substitute, might be called "Ham, Cheddar Cheese Substitute and Cheddar Cheese Spread." If the cheese substitute were nutritionally inferior to cheese, the product might be called "Ham, Imitation Cheddar Cheese and Cheddar Cheese Spread."

(ii) When a product containing cheese substitute or imitation cheese does not declare "cheese" in the product name, but the product otherwise purports or would be reasonably expected to contain cheese, the product name shall be qualified by a phrase declaring that cheese, cheese substitute, or imitation cheese was used in formulating the product. The qualifying phrase "Containing ——— and ———" shall be shown contiguous to the product name, in the same print style, in print not less than one-half the size of the product name. The blanks shall be filled in with the name of the cheese or the term "Cheese," and the name of the cheese substitute or the term "Cheese Substitute," as appropriate in order of predominance by formula weight. For example, "Sausage Pizza" would be qualified by "Containing Cheese Substitute and Cheese," in that order if the quantity of cheese substitute exceeded the quantity of cheese. If the cheese substitute were nutritionally inferior to cheese, the product would be qualified by "Containing Imitation Cheese and Cheese," in their order of predominance by formula weight.

(iii) For purposes of this regulation, the term "cheese" refers to any variety of cheese subject to a Food and Drug Administration (FDA) standard of identity regulation. The term "cheese substitute" refers to any ingredient that substitutes for or resembles any cheese. Pasteurized/processed cheese foods and cheese spreads, although also subject to FDA standard-of-identity regulations, shall be considered "cheese substitutes," if used together with, or in place of, a specific variety of cheese. Non-standardized "cheese substitutes" must be identified by a nonmisleading, descriptive name or common or usual name. The names of cheese substitutes that are nutritionally inferior to the cheese for which they substitute must include the term "Imitation," e.g., "Imitation Cheddar Cheese."

PART 319—[AMENDED]

3. Section 319.600 (9 CFR 319.600) would be revised to read as follows:

§ 319.600 Pizza products containing meat.

(a) Pizza products containing meat are bread-dough based products with a topping consisting of tomato sauce, cheese, and meat food product. The cheese may be supplemented by one or more cheese substitutes or imitation cheeses if labeled in accordance with the requirements of § 317.8(b)(35). Other safe and suitable ingredients, such as vegetables, may be used as flavoring or garnishment. The cheese and (optionally) cheese substitute(s) or imitation cheese(s) content shall in combination not be less than 12 percent, with the cheese not less than 6 percent, based on formula weight. Cheese shall not include creamed cheese, cottage cheese, dry curd cottage cheese, neufchatel cheese, cook cheese, skim milk cheese, ricotta or similar cheeses.

(b) Pizza products containing meat shall contain, on the basis of formula weight, not less than 12 percent cooked meat except that pizza products whose only meat ingredient is dry sausage, such as "pepperoni pizza," shall contain, on the basis of formula weight, not less than 10 percent dry sausage. The product name on the label of pizza products containing meat shall include the name of the meat or meat food product ingredients, e.g., "Sausage Pizza." Mechanically separated [Species] may be used in accordance with § 319.6 of this chapter.

PART 381—[AMENDED]

4. The authority citation for Part 381 reads as follows:

Authority: Sec. 14 of the Poultry Products Inspection Act, as amended by the Wholesome Poultry Products Act (21 U.S.C. 451 *et seq.*); the Talmadge-Aiken Act of September 28, 1962 (7 U.S.C. 450); and sec. 21(b) of the Federal Water Pollution Control Act, as amended by Pub. L. 91-224 and by other laws (33 U.S.C. 1254).

5. Section 381.129 of the Federal poultry products inspection regulations (9 CFR 381.129) would be amended by adding a new paragraph (d) to read as follows:

§ 381.129 False or misleading labeling on containers.

* * * * *

(d)(i) When a product containing cheese includes in its name the name of a specific cheese or the term "cheese," any cheese substitute or imitation cheese used as an ingredient must also be indicated in the name of the product. Such ingredients shall appear in the product name in identical type, in their order of predominance by formula weight. For example, the name of a sandwich spread formulated, in part, with 10 percent cheddar cheese and 15 percent cheddar cheese substitute, might be called "Chicken, Cheddar Cheese Substitute and Cheddar Cheese Spread." If the cheese substitute were nutritionally inferior to cheese the product might be called "Chicken, Imitation Cheddar Cheese and Cheddar Cheese Spread."

(ii) When a product containing cheese substitute or imitation cheese does not declare "cheese" in the product name, but the product otherwise purports or would be reasonably expected to contain cheese, the product name shall be qualified by a phrase declaring that cheese, cheese substitute, or imitation cheese was used in formulating the product. The qualifying phrase "Containing ——— and ———" shall be shown contiguous to the product name, in the same print style, in print no less than one-half the size of the product name. The blanks shall be filled in with the name of the cheese or the term "Cheese," and the name of the cheese substitute or the term "Cheese Substitute," as appropriate in their order of predominance by formula weight. For example, "Chicken Cordon Bleu" would be qualified by "Containing Cheese Substitute and Cheese," in that order if the quantity of cheese substitute exceeded the quantity of cheese. If the cheese substitute were nutritionally inferior to cheese, the product would be qualified by "Containing Imitation Cheese and Cheese," in their order of predominance by formula weight.

(iii) For purposes of this regulation, the term "cheese" refers to any variety of cheese subject to a Food and Drug Administration (FDA) standard of identity regulation. The term "cheese substitute" refers to any ingredient that substitutes for or resembles any cheese. Pasteurized/processed cheese foods and cheese spreads, although also subject to FDA standard-of-identity regulations, shall be considered "cheese substitutes," if used together with, or in place of, a specific variety of cheese. Nonstandardized "cheese substitutes" must be identified by a nonmisleading, descriptive name or common or usual name. The names of cheese substitutes that are nutritionally inferior to the cheese for which they substitute must include the term "Imitation," e.g., "Imitation Cheddar Cheese."

Done at Washington, D.C., on July 25, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-21409 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-DM-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Reg. Z; Doc. No. R-0477]

Truth in Lending; Intent To Make Determinations of Effect on State Laws; New Hampshire and New Jersey

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of intent to make determinations of effect on state laws.

SUMMARY: The Board is publishing for comment proposed determinations as to whether certain provisions in the laws of New Hampshire and New Jersey are inconsistent with, and therefore preempted by, the Truth in Lending Act or Regulation Z. The request for preemption determinations concerns state laws governing the offering of cash discounts in the sale of motor vehicle fuel. The Board believes that these laws may be of a type not subject to the Board's preemption authority and specifically requests comment on this question. Alternatively, the Board has assumed—for discussion purposes—that these laws are subject to a preemption determination, and proposes to find that the laws are not preempted.

DATE: Comments must be received on or before October 7, 1983.

ADDRESS: Comments should refer to Docket No. R-0477 and be mailed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or delivered to Room B-2223, 20th and Constitution Avenue, NW., Washington, D.C., between 8:45 a.m. and 5:15 p.m. Comments may be inspected in Room B-1122 between 8:45 a.m. and 5:15 p.m.

FOR FURTHER INFORMATION CONTACT: Gerald Hurst or Lynn Goldfaden, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, at (202) 452-3667 or 452-3867.

SUPPLEMENTARY INFORMATION: (1) *General.* The Board has received a request for a determination as to whether provisions of certain laws in New Hampshire and New Jersey are inconsistent with, and therefore preempted by, the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) and Regulation Z (12 CFR Part 226). This notice is issued under authority delegated to the Director of the Division of Consumer and Community Affairs, as set forth in the Board's Rules Regarding Delegation of Authority (12 CFR 265.2(h)(2); 48 FR 4454, February 1, 1983).

Section 111(a)(1) of the act authorizes the Board to determine whether any inconsistency exists between chapters 1 (General Provisions), 2 (Credit Transactions), or 3 (Credit Advertising) of the Truth in Lending Act or its implementing regulation, Regulation Z, and any state law relating to the disclosure of information in connection with consumer credit transactions. Section 171(a) of the act authorizes the Board to determine whether any inconsistency exists between chapter 4 (Credit Billing) of the act or its implementing regulation and any state law relating to credit billing practices.

Section 167(b), the federal statutory provision relevant to these determinations, is located in chapter 4 of the act, but its purpose is to provide an exception for certain cash discounts to the finance charge rules in section 106, which is found in chapter 1. Since section 167(b) is significant only in its relationship to the finance charge rules, the Board believes that section 111(a)(1), instead of section 171(a), provides the appropriate standard for review for preemption determinations concerning the federal cash discount provision.

The Board believes, however, that the state laws addressed in the present preemption request may be outside the scope of the Board's preemption authority under the Truth in Lending Act. The state laws deal with permissible sales and pricing practices in the sale of motor vehicle fuel rather than with the disclosure of information in connection with consumer credit transactions. Section 111(b) of the act, which limits the effect of the federal act on state laws, provides that:

> This title does not otherwise annul, alter or affect in any manner the meaning, scope or applicability of the laws of any State, including, *but not limited to*, laws relating to the types, amounts or rates of charges, or any element or elements of charges, permissible under such laws in connection with the extension or use of credit * * *. (Emphasis added.)

If the state laws contained in this request do not fall within the scope of section 111(a)(1), it appears that the

Board would not be authorized to make preemption determinations as to those laws. The Board believes that the state laws included in the present request may not be subject to preemption determinations because they do not relate to the disclosure of credit terms. Comment is specifically requested on this point.

If the Board, however, ultimately finds that these state laws are within the scope of section 111(a)(1), it will be necessary to make preemption determinations as to those laws. Therefore, in order to facilitate public comment, this notice includes proposed determinations, on the assumption that the state laws may be subject to the Board's preemption authority.

(2) *Standards for and effect of preemption determinations.* In determining whether a state law is inconsistent with the federal provisions, § 226.28(a)(1) of Regulation Z, which implements § 111 of the act, provides that a state law is inconsistent if it requires a creditor [1] to make disclosures or take actions that contradict the federal law. A state law is contradictory, and therefore preempted, if it significantly impedes the operation of the federal law or interferes with the purposes of the federal statute.

In general, preemption determinations are limited to those provisions of state law identified in the request for a determination. At the Board's discretion, however, other state provisions that may be affected by the federal law also may be addressed.

If the Board determines that a state requirement is inconsistent with the federal law, the state law is preempted to the extent of the inconsistency. Creditors in that state may not make disclosures using the inconsistent term or form, even on a separate document from the federal disclosures. A determination on provisions in the law of one state will have no effect in the validity of similar provisions in other states.

Preemption determinations have an effective date of the October 1 that follows the determination by at least 6 months, as required by section 105(d) of the act. It is expected that these proposed determinations, if adopted, would have an effective date of October 1, 1984, although creditors could begin complying with the determinations before that time.

(3) *Discussion of specific requests and proposed determinations.* In response to a request from a federation of trade associations representing independent petroleum marketers, the Board has reviewed provisions in the laws of New Hampshire and New Jersey. The request is available for public inspection and copying, subject to the Board's Rules Regarding Availability of Information (12 CFR Part 261). The proposed determinations regarding the state laws at issue, together with the reasons for the proposals, are set forth below.

New Hampshire. The federation has requested a determination of whether section 339–B:8,II of New Hampshire Revised Statutes Annotated (1981 Supp.) (N.H. Rev. Stat. Ann.), as interpreted by the state Attorney General's office, is inconsistent with, and therefore preempted by, the Truth in Lending Act and Regulation Z. Under that law it is unlawful for any person operating a retail gasoline station to:

> Post a different price at one pump for the same grade of gasoline as is dispensed from another pump when both pumps are supplied from a common storage at the same service station and when the gasoline dispensed from both is represented to be and is sold as the same quality of gasoline; provided, however, that this paragraph shall not prohibit such price differences between a self-service and an attendant-operated pump supplied from a common storage as described hereinabove.

The New Hampshire Attorney General's office, in opinions dated May 26, 1982, and January 21, 1983, has interpreted N.H. Rev. Stat. Ann. section 339–B:8,II as prohibiting the establishment of separate "cash pumps" and "credit pumps" with different posted prices for the same grade of gasoline, but permitting the dealer to vary the price charged for separate sales of gasoline from the same pump according to the method of payment. As a result, dealers in New Hampshire may offer "a discount for cash program which involves the posting and charging of one price for the same grade of gasoline with a discount provided for customers who pay with cash, if advertised and operated in a manner which is neither deceptive nor misleading."

The federation argues that since the federal law contains a provision stating that the establishment of separate pumps or islands for cash and credit sales is an allowable means of offering a cash discount (see Comment 4(b)(9)–3 of the Official Staff Commentary to Regulation Z (12 CFR Part 226, Supplement I; as amended, 48 FR 41343, September 20, 1982) the state law, as interpreted, is inconsistent with federal law, impedes and interferes with the offering of cash discounts, and is preempted. The Board, however, does not believe that the state law is preempted.

In discussing the term "regular price" in the Official Staff Commentary, the staff made clear that offering a discount by establishing separate cash and credit pumps, and posting only the cash or credit prices on these pumps, would be considered an appropriate means of offering a discount under section 167(b) of the act and would not result in a surcharge prohibited under section 167(a)(2). However, this material only describes a permissible means of offering a cash discount under federal law, not a required or the sole means of doing so.

The purpose of the federal cash discount provision is to encourage the offering of cash discounts by removing certain impediments to offering them. Specifically, Congress provided that a discount offered in accordance with section 167(b) of the act would not be a finance charge under the federal Truth in Lending Act, or a finance charge or other charge for credit under state usury or disclosure laws (see section 171(c) of the act). The New Hampshire law does not provide that a discount offered in accordance with the federal law is to be a finance charge for disclosure or usury purposes. Rather, the state law, by prohibiting a particular practice in the sale of gasoline, prohibits one manner of offering discounts that is permissible under federal law while allowing dealers to offer discounts in another manner. As a result, the Board does not believe that the state law significantly impedes or interferes with the federal scheme and therefore the state law is not preempted.

New Jersey. The federation has also requested a determination on two provisions of New Jersey law as they have been interpreted in relation to the offering of cash discounts by petroleum retailers. The first provision in question provides:

> A retail dealer may sell similar fuels at different prices to cash and credit customers, and the price posted on top of the pump and on the pump meter shall be the credit purchase price. A conspicuous sign shall also be displayed at the pump or at the island posting the price per gallon (or per gallon and per liter) reduction for cash purchasers of fuels.

New Jersey Administrative Code (N.J.A.C.) § 18:19–2.7(b).

A February 9, 1983 memorandum from the New Jersey Department of Law and Public Safety clarified this provision by stating:

1. All gasoline pumps will show the posted price per gallon and/or liter at the higher or credit card price. A sign

[1] A service station operator accepting credit cards is a "creditor" for limited purposes under § 226.2(a)(17)(iii) of Regulation Z, 12 CFR Part 226.

disclosing the cents-off per gallon discount may be shown at the pump or at the island site. The lower cash price may be posted on a street sign or some other sign not in close proximity to the pumps themselves. This sign shall be accessible to the public.

2. Separate islands for cash and/or credit may be used provided that the pump posted signs and computer prices on both the cash island and credit card island reflect the higher credit card price.

The federation believes that these provisions result in two positions that are contradictory to positions taken by the Board and should be preempted. Specifically, the positions are:

(1) New Jersey law requires the meter on a gasoline pump dedicated to cash sales to display the higher credit card price.

(2) New Jersey law requires the meter on a gasoline pump used for both cash and credit card sales to display the higher credit card price.

With respect to the first position, the federal law does permit a service station operator to designate separate pumps or separate islands as being for either cash or credit purchases while displaying only the appropriate cash or credit price at the pumps. (See Comment 4(b)(9)–3 of the Official Staff commentary to Regulation Z.) The New Jersey law, however, like the New Hampshire law described above, requires certain sales practices to be followed by persons offering cash discounts in the sale of gasoline.

The federal law, as interpreted by the staff, simply gives an example of a permissible means of offering a discount under section 167(b). The federal law does not require the use of this method and a state's decision to prohibit a specific method of offering cash discounts does not significantly impede the operation of the federal law or interfere with its purposes. Therefore, the Board believes that the provisions of New Jersey law are not preempted.

With respect to the second position, the staff has not taken a position as to whether it is appropriate to display the cash price on the meter of a pump used for both cash and credit card sales. However, even if a position had been taken that it was permitted, the Board believes the state law would not be preempted. Once again, the federal law would only be providing an example of a method of giving a discount that is proper under federal law.

The federation also asks for a determination that New Jersey Attorney General's Formal Opinion No. 2—1982 is preempted. The opinion addresses section 56:6–2(e) of New Jersey Statutes Annotated, which provides:

> No rebates, allowances, concessions or benefits shall be given directly or indirectly, so as to permit any person to obtain motor fuels from a retail dealer below the posted price or at a net price lower than the posted price applicable at the time of sale.

Relying largely upon a court decision, *Sperry and Hutchinson Co. v. Margetts*, 15 N.J. 203 (1954), that discusses the Statutory provision, the Attorney General concluded that:

> There is no statutory impediment under the Motor Fuel Act to a motor fuel retail dealer establishing one price for the sale of gasoline to its credit customers and a separate lower price to its cash customers, *provided a discount would approximate the economic value to the retailer of providing a discount to his cash customers.* (Emphasis added.)

The federation argues that this opinion, in implicitly placing a limit on the amount of the discount that can be offered to cash customers, is inconsistent with the federal cash discount provision and therefore should be preempted.

Congress, in passing the Cash Discount Act of 1981, expressly removed the five percent limitation on the amount of a cash discount that could be offered to cash customers and excluded from the treatment as a finance charge in credit card transactions. Once again, however, the federal law is permissive with respect to the amount of a cash discount that is allowed under the federal cash discount provision. The state law, as interpreted, results in an absolute prohibtion on the offering of discounts in a certain manner. The law does not say that cash discounts in excess of a specific amount, or in excess of an amount that approximates "the economic value to the retailer of providing a discount to his cash customers," is to be treated as a finance charge or other charge for credit under state disclosure or usury laws; instead the law prohibits a retail dealer from offering a discount at all under certain circumstances. A retail dealer can offer a cash discount in compliance with the state law and still take advantage of the benefits of the federal cash discount provision, although the dealer may not take advantage of the unlimited nature of the federal cash discount provision. As a result, the Board believes that the state position, as set forth in the formal opinion of the Attorney General, does not significantly impede the operation of the federal law or interfere with its purposes, and therefore is not preempted.

(4) *Comment requested.* Interested persons are invited to submit comments regarding the proposed finding that these state laws are not subject to the Board's preemption authority and the proposed determinations. After the close of the comment period and analysis of the comments received, notice of final action on the proposals will be published in the **Federal Register.**

List of Subjects in 12 CFR Part 226

Advertising, Credit, Consumer Protection, Finance, Truth in Lending.

Board of Governors of the Federal Reserve System, August 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83–21395 Filed 8–4–83; 8:45 am]

BILLING CODE 6210–01–M

FEDERAL TRADE COMMISSION

16 CFR Part 460

Trade Regulation Rule: Labeling and Advertising of Home Insulation

AGENCY: Federal Trade Commission.

ACTION: Invitation to comment on requested conditional partial exemption.

SUMMARY: The Federal Trade Commission invites submission of written public comments on a petition for a partial exemption for manufacturers of loose-fill cellulose insulation products from the requirement in Section 460.5(a)(2) of its trade regulation rule concerning the labeling and advertising of home insulation (16 CFR Part 460). Section 460.5(a)(2) requires that tests to determine the R-value of loose-fill cellulose insulation be conducted at the product's settled density, as determined by the settled density test procedure referenced in the General Services Administration's ("GSA") Federal Specification HH–I–515D (June 15, 1978) or Federal Specification HH–I–515D, Amendment-1 (Oct. 11, 1979). This partial exemption would be conditioned upon the use of an alternative procedure to determine settled density. Under the alternative procedure, loose-fill cellulose insulation manufacturers could determine settled density by applying a multiplier correction factor to the results of the cyclone shaker test procedure which currently is required by GSA's Federal Specification HH–I–515D, Amendment-1 (Oct. 11, 1979).

DATES: Written comments regarding the petition to allow the use of the alternative procedure will be accepted until October 4, 1983.

ADDRESS: Written comments should be addressed to the Secretary, Federal

Trade Commission, 6th St. and Pennsylvania Ave. N.W., Washington, D.C. 20580. All comments should be captioned: "Comment on Petition for Conditional Partial Exemption for Cellulose Manufacturers—Home Insulation Rule, FTC File No. 215–59." The petition and supporting documents cited herein are available for inspection at Federal Trade Commission headquarters in Room 130.

FOR FURTHER INFORMATION CONTACT: Kent C. Howerton, 202–376–2891, or Michael G. Leahy, 202–376–2820, Attorneys, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION:

I. Background

Mono-Therm Industries ("petitioner" or "Mono-Therm"), a manufacturer of cellulose insulation, has petitioned the Commission for a partial exemption from Section 460.5(a)(2) of the Trade Regulation Rule Concerning the Labeling and Advertising of Home Insulation, 16 CFR Part 460 (the "Rule").[1] The petitioner requests permission to use a .91 multiplier factor in conjunction with the cyclone shaker test result to determine the settled density of loose-fill cellulose insulation.

Section 460.5(a)(2) of the Rule requires that tests to determine the R-value of loose-fill cellulose insulation be conducted at the product's "settled density", *i.e.*, the density to which a product can be expected to settle over time. Coverage chart information and R-values on product labels and fact sheets must relate to the product at its settled density. The Commission requires manufacturers to determine the settled density of loose-fill cellulose insulation according to the Canadian drop box test (the "drop test")[2] or the cyclone shaker test.[3] Both tests attempt to replicate actual *in situ* measurement of the settled density of loose-fill cellulose insulation in a laboratory setting. Under the drop test procedure, settled density is determined by comparing original blown density and product settlement which results from dropping tests and climatic cycling over a 28 day period. Under the cyclone shaker procedure, settled density is determined by measuring the volumetric difference before and after applying concentrated vibration to a measured sample for approximately five minutes.

The drop test can be burdensome as an ongoing test because of the testing time requirements. The cyclone shaker test, on the other hand, is simplier to conduct and gives a result faster than the drop test.

The petitioner argues that the cyclone shaker test procedure significantly overstates the settled density of loose-fill cellulose insulation products and thereby places sellers of loose-fill cellulose insulation at a distinct competitive disadvantage compared to sellers of other insulation products. Therefore, Mono-Therm requests that the Commission issue a stay of the settled density testing requirements of Section 460.5(a)(2) of the Rule, conditioned on the alternative use of a .91 multiplier factor in conjunction with the results obtained by the cyclone shaker test procedure to determine the settled density of loose-fill cellulose insulation.

In support of its petition, Mono-Therm has submitted collections of test data and supporting papers and reports. Mono-Therm has previously requested that the Commission issue a stay of, and grant a partial exemption from, the settled density testing requirements of § 460.5 (a)(2) of the Rule conditioned on the use of another alternate procedure to determine the settled density of loose-fill cellulose insulation. That procedure, the Canadian Government Specifications Board's Method B, Specification 51–GP–60M, provided for calculation of settled density by multiplying a product's blown density result by 1.27. Due to insufficient evidence of accuracy, the Commission ultimately rejected Method B as an alternative test procedure for measuring settled density.[4]

II. Discussion of Basis for Petition

A. Petitioner's Supporting Materials

Petitioner relies on materials submitted by Noel Lane,[5] President of Lane Instrument Company and Product Assurance Consultant to Mono-Therm, and by George Andrews,[6] Technical Director of Fiber Products Corporation. In addition, Mono-Therm cites a recent Oak Ridge National Laboratory ("ORNL") report concerning an ongoing research study.[7]

Although Mono-Therm has argued consistently that the "field and laboratory data compiled during the last five years provide overwhelming evidence that the cyclone shaker test overstates settled density and that a multiplier of .91 is necessary to correct this overstatement", and Lane and Andrews both actively endorse the use of a .91 "correctional factor" applied to cyclone shaker test results to determine settled density of loose-fill cellulose insulation, the Commission believes that the data submitted is too limited and inconclusive to support a tentative decision at this time.[8] Petitioner has relied on the same data at different

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[1] The petition, plus attachments, has been placed on the public record as Document No. X–21 in FTC File No. 215–59.

[2] General Services Administration ("GSA") Federal Specification HH–I–515D (June 15, 1978). This specification, requiring use of the drop test to determine cellulose settled density, was in effect at the time the Commission promulgated the Rule. Based on the rulemaking record, the Commission required use of the drop test in § 460.5(a)(2) when it promulgated the Rule on August 31, 1979, referencing the GSA specification in the Rule. The specification was superseded by an amendment which became effective on October 11, 1979. The amended specification replaced the drop test with the cyclone shaker test, which had been adopted by the Consumer Product Safety Commission ("CPSC") as part of its standard for cellulose insulation. GSA Federal Specification HH–I–515D, Amendment-1 (Oct. 11, 1979).

[3] GSA Federal Specification HH–I–515D, Amendment-1 (Oct. 11, 1979). *See supra* note 2. The Commission issued an advisory opinion specifically accepting use of the cyclone shaker test method for compliance with Section 460.5(a)(2) of the Rule. Advisory Opinion from the Commission to Mono-Therm Industries (Sept. 25, 1980), FTC File No. 215–59, 16 CFR 460. In its opinion, the Commission noted that it would permit but not require the alternative use of the cyclone shaker test procedure. The Commission took this action in view of the fact that the GSA specification referenced by the Rule was amended shortly after the Rule was promulgated to require that R-values be determined at the settled density determined by the cyclone shaker test rather than by the Canadian drop box test. Consequently, there was significant confusion in the industry as to which test procedure was required under the Rule. In addition, the Commission recognized that both the CPSC and GSA required cellulose manufacturers to conduct the cyclone shaker test for purposes of conducting flammability and corrosiveness tests. To avoid unnecessary compliance costs imposed by the different tests and taking into account its required use by the two federal agencies, the Commission decided to permit its use. *Id.*

[4] *See* Denial of petition for partial exemption, recission of tentatively granted partial exemption and lifting of conditional stay, 47 FR 40156 (Sept. 13, 1982).

[5] N. W. Lane, Jr., "Cellulose Insulation, Settled Density: Determination of," Feb. 1982, Document No. X–21, Attachment 1, FTC File No. 215–59.

[6] Letter dated August 27, 1982, to Kent C. Howerton, FTC from George Andrews, Technical Director, Fiber Products Corporation, Colton, Calif., Document No. X–21, Attachment 4, FTC File No. 215–59.

[7] McElroy, Yarbrough, and Graves, "An In-Situ Study of Attic Loose-fill Thermal Insulation in Residential Application," Sept. 1982, Document No. X–21, Attachment 6, FTC File No. 215–59. This document discusses research sponsored by the Office of Building Energy Research and Development, Building Systems Division, U.S. Department of Energy, under contract W–7405–eng–26 with the Union Carbide Corporation. D. L. McElroy is a Senior Research Staff Member and R. S. Graves is Senior Technologist in the Metals and Ceramics Division. D. W. Yarbrough is a Professor, Chemical Engineering Department, Tennessee Technological University, Cookeville, Tennessee.

[8] *See* Letter and attachments dated June 9, 1982 to William A. Terranova, CMA from Kent C. Howerton, FTC, Document No. Y–83, FTC File No. 215–59.

times to argue for a range of multipliers.[9] In so doing, petitioner has relied on "average" values of blown/settled density rates without adequately explaining a statistically significant number of individual cases mentioned in its data base which are not accounted for in the correction factor model.

In addition, the ORNL study is still in progress. Although its tentative results appear to support a finding that the cyclone shaker test may overstate the settled density of loose-fill cellulose products, the Commission believes that it is too early to determine if the results specifically support the .91 multiplier factor.

Although the Commission declines to make a tentative decision based on information in the petition, the Commission is very interested in receiving written comments to assist it in resolving the issues presented.

B. Additional Relevant Materials

Most experts who have contributed to the public record generally concede that the drop test is a fundamentally accurate predictor of long term *in situ* density of loose-fill cellulose insulation. Therefore, drop test results are used as a benchmark to compare the accuracy of alternative measurement methods with *in situ* measurements. Both the National Research Council of Canada ("NRCC") and ORNL have previously conducted tests [10] similar to those proferred in Mono-Therm's petition to determine the difference in density obtained between the cyclone shaker method and *in situ* measurement. The NRCC cyclone shaker tests recorded a maximum difference of seven percent (7%) compared to Canadian drop box test results. The ORNL cyclone shaker tests recorded a maximum difference of two percent (2%) under similar experimental conditions. These density differences are somewhat lower than the nine percent (9%) to twelve percent (12%) differences proffered in the Mono-Therm studies. However, both of these studies rely on a small sample population and the scatter of results is relatively large. Thus, neither of these studies, taken separately or together, provides definitive guidance concerning the appropriateness of or need for any specific correction factor.

III. Recommendations

While the petitioner has raised questions about the accuracy of the cyclone shaker test, the data supplied is not conclusive. Accordingly, the Commission believes that public comment on the appropriateness of this correction factor is needed before a final decision is made. As a general adjunct, the Commission additionally requests public comment on the appropriateness of correction or multiplier factors and their alternatives before making a final decision in this matter. Therefore, the Commission solicits written public comment on this subject including additional data, opinions, and analysis from all interested parties. Written public comments will be accepted until October 4, 1983.

List of Subjects in 16 CFR Part 460

Advertising, Insulation, Labeling, Trade practices.

By direction of the Commission

Emily H. Rock,

Secretary.

[FR Doc. 83-21183 Filed 8-4-83; 8:45 am]

BILLING CODE 6750-01-M

[9] Lane, "Settled Density, Correlation Estimate Between Canadian and Cyclone Shaker Procedures," Sept. 13, 1979 (arguing for a .93 multiplier), Document No. S-16, Appendix 2 to Exhibit (I), FTC File No. 215-59; and Lane, "Settled Density, Correlation of Canadian and CPSC Procedures," Nov. 3, 1979 (arguing for a .91 multiplier). *Id. See also* Letter of April 3, 1982 to Kent C. Howerton, FTC, from Joan Z. Bernstein and Vaughan Finn, Wald, Harkrader, and Ross, Counsel for Mono-Therm Industries, Inc. (arguing for a multiplier in the range of .88 to .91), Document No. X-21, Attachment 2 (pg. 2), FTC File No. 215-59.

[10] Yarbrough McElroy, and Harris, "Properties and Testing of Loose-Fill Cellulose Insulation," ORNL TM-6433 (February, 1982), Document No. Y-82, FTC File No. 215-59.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-165 (Kansas-2)]

High-Cost Gas Produced From Tight Formations; Kansas

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. §§ 3301-3432 (Supp. V. 1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1982)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Kansas that the "Tarkio sands" of the Wabaunsee Group be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on September 16, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on August 17, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357-8511, or C. W. Gray, Jr., (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued: August 2, 1983.

I. Background

On December 16, 1982, the State of Kansas Corporation Commission (Kansas) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1982)), that the "Tarkio sands" of the Wabaunsee Group located in Russell, Ellsworth, and Lincoln Counties, Kansas be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Kansas' recommendation that the "Tarkio sand" of the Wabaunsee Group be designated a tight formation should be adopted. Kansas' recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Kansas has recommended that the "Tarkio sands" in Section 36, Township 13 South, Range 12 West; Sections 1, 12, 13, and 24, Township 14 South, Range 12 West; Sections 31 through 36, Township 13 South, Range 11 West; Sections 1 through 24, Township 14 South, Range 11 West; Sections 31 through 36, Township 13 South, Range 10 West; and Sections 1 through 24, Township 14 South, Range 10 West, in Russell, Ellsworth, and Lincoln Counties be designated as a tight formation. The "Tarkio sands" are a Late Pennsylvanian marine deposit. The average depth to the top of the recommended interval is 2200 feet.

The "Tarkio sands" as they are defined by Kansas consist of three shaley sand stringers within the

Wabaunsee Group. These three stringers are located in the interval between the base of the Willard Shale and the top of the Dry Shale Member of the Stother Limestone. The First "Tarkio sand" is defined as the first sand stringer encountered below the Grandhaven Limestone Member and within the Dry Shale Member of the Stotler Limestone. The "Second Tarkio sand" is defined as the first sand stringer encountered below the Dover Limestone Member of the Stotler Limestone and is the uppermost sand stringer within the Pillsbury Shale. The "Third Tarkio sand" is defined as the first sand stringer encountered within the Willard Shale, which lies directly above the Emporia Limestone. The total thickness of these three zones is 20 to 30 feet.

III. Discussion of Recommendation

Kansas claims in its submission that evidence gathered through information and testimony presented at a public hearing in Docket No. 132, 991–C (C–20, 035) convened by Kansas on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Kansas also asserts that the recommended formation exhibits low permeability characteristics, and the price established in § 271.703(a) is necessary to provide reasonable incentives for production of gas from the recommended formation.

Kansas further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97 [Reg. Preambles 1977–1981], FERC Stat. and Reg. ¶ 30,180 (1980), notice is hereby given of the proposal submitted by Kansas that the "Tarkio sands" of the Wabaunsee Group as described and delineated in Kansas' recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before September 16, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–165 (Kansas-2) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of a desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than August 17, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the reguations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Kansas' recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(194) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(141) through (193) [Reserved]

(194) *"Tarkio sands" of the Wabaunsee Group in Kansas.* RM79–76–165 (Kansas-2).

(i) *Delineation of formation.* The "Tarkio sands" of the Wabaunsee Group are located in Section 36, Township 13 South, Range 12 West; Sections 1, 12, 13, and 24, Township 14 South, Range 12 West; Sections 31 through 36, Township 13 South, Range 11 West; Sections 1 through 24, Township 14 South, Range 11 West; Sections 31 through 36, Township 13 South, Range 10 West; and Sections 1 through 24, Township 14 South, Range 10 West, in Russell, Ellsworth, and Lincoln Counties, Kansas. The "Tarkio sands" consist of three shaley sand stringers of Late Pennsylvanian age. The "First Tarkio sand" is defined as the first sand stringer encountered in the Dry Shale Member of the Stotler Limestone; the "Second Tarkio sand" is defined as the first sand stringer encountered in the Dover Limestone Member of the Stotler Limestone; and the "Third Tarkio sand" is defined as the first sand stringer encountered in the Willard Shale.

(ii) *Depth.* The average depth to the top of the "First Tarkio sand" is about 2200 feet. The top of the "Second Tarkio sand" is approximately 17 feet below the base of the "First Tarkio sand" and the top of the "Third Tarkio sand" is approximately 65 feet below the base of the "Second Tarkio sand." The average thickness of: the "First Tarkio sand" is 6 feet, the "Second Tarkio sand" is 11 feet, and the "Third Tarkio sand" is 10 feet.

[FR Doc. 83–21400 Filed 8–4–83; 8:45 am]

BILLING CODE 6717–01–M

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18 CFR Part 271

[Docket No. RM79–76–209 (Wyoming–17)]

High-Cost Gas Produced From Tight Formations; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission; DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (Supp. V. 1982), to designate certain types of natural gas as high-cost gas where the Commission determines that the gas is produced under conditions which present extraordinary risks or costs. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This

Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the State of Wyoming that the Bear River Formation be designated as a tight formation under § 271.703(d).

DATES: Comments on the proposed rule are due on September 16, 1983.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on August 17, 1983.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE, Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Leslie Lawner, (202) 357–8511, or Victor Zabel, (202) 357–8616.

SUPPLEMENTARY INFORMATION:

Issued: August 2, 1983.

I. Background

On July 12, 1983, the State of Wyoming Oil and Gas Conservation Commission (Wyoming) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1982)), that the Bear River Formation located in Lincoln, Sublette, and Sweetwater Counties, Wyoming, be designated as a tight formation. Pursuant to § 271.703(c)(4) of the regulations, this Notice of Proposed Rulemaking is hereby issued to determine whether Wyoming's recommendation that the Bear River Formation be designated a tight formation should be adopted. The United States Department of the Interior, Bureau of Land Management concurs with Wyoming's recommendation. Wyoming's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The recommended formation is located north and east of the La Barge Platform are in southwest Wyoming. The area contains about 222,720 acres and is in Lincoln, Sublette, and Sweetwater Counties, Wyoming. It encompasses all or part of Townships 25 and 26 North, Range 109 West; Township 29 North, Range 111 West; Townships 26 through 31 North, Range 112 West; and Townships 28 through 31 North, Range 113 West.

The vertical limits of the Bear River Formation are defined by the Mowry Shale Formation above and the Thermopolis Shale Formation below. The depth the top of the formation averages 9,000 feet and gross thickness varies from 10 to 40 feet.

III. Discussion of Recommendation

Wyoming claims in its submission that evidence gathered through information and testimony presented at a public hearing in Wyoming Cause No. 1, Order No. 1, Docket No. 53–81(B) and in a hearing convened in Docket No. W–96–1 by the Bureau of Land Management on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formation, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formation is expected to produce more than five (5) barrels of oil per day.

Wyoming further asserts that existing State and Federal Regulations assure that development of this formation will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977–1981], FERC Stat. and Reg ¶ 30,180 (1980), issued in Docket No. RM80–68 (45 FR 53456, August 12, 1980), notice is hereby given of the proposal submitted by Wyoming that the Bear River Formation, as described and delineated in Wyoming's recommendation as filed with the Commission, be designated as a tight formation pursuant to § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, D.C. 20426, on or before September 16, 1983. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–209 (Wyoming–17), and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with the Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE, Washington, D.C., during business hours.

Any person wishing to present testimony, views, data, or otherwise participate at a public hearing should notify the Commission in writing of the desire to make an oral presentation and therefore request a public hearing. Such request shall specify the amount of time requested at the hearing. Requests should be filed with the Secretary of the Commission no later than August 17, 1983.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

(Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432)

Accordingly, the Commission proposes to amend the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, as set forth below, in the event Wyoming's recommendation is adopted.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended by adding paragraph (d)(195) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.*

* * * * *

(142) through (194) [Reserved]

(195) *Bear River Formation in Wyoming.* RM79–76–209 (Wyoming–17).

(i) *Delineation of formation.* The Bear River Formation is found in Lincoln, Sublette, and Sweetwater Counties, Wyoming, in Townships 25 and 26 North, Range 109 West, All; Township 26 North, Range 112 West, Northeast ¼; Township 27 North, Range 112 West, East ½; Township 28 North, Range 112 West, West ½; Township 28 North, Range 113 West, Northeast ¼; Township 29 North, Range 111 West, West ½; Township 29 North, Range 112 West, All; Township 29 North, Range 113 West, Sections 1 through 27, and 34 through 36; Townships 30 and 31 North, Ranges 112 and 113 West, All; 6th P.M.

(ii) *Depth.* The Bear River Formation's vertical limits are defined by the Mowry Shale Formation above and the Thermopolis Shale Formation below. The gross thickness of the formation varies from 10 to 40 feet. The average

depth of the top of the Bear River Formation is 9,000 feet.

[FR Doc. 83-21407 Filed 8-4-83; 8:45 am]
BILLING CODE 6717-01-M

18 CFR Part 271

[Docket Nos. RM79-76-135 (West Virginia-3), RM79-76-134 (West Virginia-2), RM79-76-127 (West Virginia-1 Addition II)]

High-Cost Gas Produced from Tight Formations; Informal Conference; West Virginia

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of informal conference.

SUMMARY: At the request of the State of West Virginia Office of Oil & Gas and the Tight Formation Committee of West Virginia, an informal conference will be held to review the recommendations of West Virginia that certain formations described in the above-captioned dockets be designated as tight formations under § 271.703 of the Federal Energy Regulatory Commission's regulations.

The Notice of Proposed Rulemaking in Docket No. RM79-76-134 (West Virginia-2) was published at 47 FR 53740 (November 29, 1982); the Notice in RM79-76-135 (West Virginia-3) was published at 47 FR 43986 (October 5, 1982); the Notice in RM79-76-127 (West Virginia-1 Addition II) was published at 47 FR 39863 (September 10, 1982).

DATE: The conference will be held on August 16, 1983 at 2:00 p.m.

ADDRESS: The conference will be held in Room 6200, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Peter J. Roidakis, (202) 357-8307, or Matthew Charsky, (202) 357-8311.

SUPPLEMENTARY INFORMATION:
August 2, 1983.

Take notice that on Tuesday, August 16, 1983, a conference will be held in the above-captioned dockets. The conference was requested by the State of West Virginia Office of Oil & Gas and the Tight Formation Committee of West Virginai. The conference will convene at 2:00 p.m. in Room 6200, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

The conference is open to the public and all interested perosns are invited to attend.

Kenneth F. Plumb,
Secretary.

[FR Doc. 83-21414 Filed 8-4-83; 8:45 am]
BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Change in the Customs Service Field Organization

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to change the Customs Service field organization by consolidating the Philadelphia and Chester, Pennsylvania, and Wilmington, Delaware, ports of entry into a single port of entry with headquarters in Philadelphia. The consolidated port area would include the geographical territory of the existing three ports. The change is being proposed to promote substantial savings to Customs in the use of its manpower, eliminate unnecessary travel, improve service, and reduce costs for the importing community.

DATE: Comments must be received on or before October 4, 1983.

ADDRESS: Comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Richard C. Coleman, Office of Inspection, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8157).

SUPPLEMENTARY INFORMATION:

Background

As part of a continuing program to obtain more efficient use of its personnel, facilities, and resources, and to provide better service to carriers, importers, and the public, Customs proposes to amend § 101.3(b), Customs Regulations (19 CFR 101.3(b)), by consolidating the Philadelphia and Chester, Pennsylvania, and Wilmington, Delaware, ports of entry into a single port of entry with headquarters in Philadelphia. The consolidated port area would include the geographical territory of the existing three ports.

The proposed consolidation would permit much faster and more economical servicing of oil tankers in the lower Delaware Bay area by utilizing Customs personnel assigned to Dover Air Force Base, in Dover, Delaware, rather than sending personnel as much as 250 miles, roundtrip, from Philadelphia. Such travel is costing Customs from one-half to a full man day for every ship currently serviced at Big Stone Beach, which is six miles off Slaughter Beach, Delaware.

Another benefit for Customs is that reimbursable travel expenses would be reduced 75-80 percent while the Customs response time would be decreased from 4 hours to under 1 hour. Vessel entry activities would be reduced substantially for both vessel agents and the shipping industry. Vessel entrance and clearance would be facilitated for both vessel agents and their accounts at reduced costs.

The shipping community would also benefit from faster processing of their entries. By vessel it can take 12 hours to transit the Delaware River from the lower Delaware Bay to the Port of Philadelphia, and around 9 hours to go from the lower Delaware Bay to Wilmington and Chester. Importers of quota-class merchandise cannot present their entries to Customs until the vessel arrives within the port of entry. Consolidating the Delaware River and lower Delaware Bay into one port of entry will permit importers to present their entries to Customs as soon as the vessel enters the lower Delaware Bay.

If the proposed change is adopted, the list of Customs regions, districts, and ports of entry in section 101.3(b), Customs Regulations, will be amended accordingly.

The limits of the proposed consolidated port of Philadelphia would be the geographical territory of the existing three ports of Philadelphia and Chester, Pennsylvania, and Wilmington, Delaware. The geographical limits of the proposed consolidated port of Philadelphia would be as follows:

The ports of Philadelphia, Pennsylvania (comprising the territory within the corporate limits of Philadelphia, Pennsylvania, Camden and Gloucester City, New Jersey, the territory within the limits of the Boroughs of Brooklawn, National Park, and Paulsboro, and the Townships of West Deptford and Greenwich, all in the State of New Jersey, the Borough of Folcroft and the Townships of Darby and Tinicum, all in the State of Pennsylvania, and the territory between the Delaware River and U.S. Highway No. 13, in Bucks County, State of Pennsylvania, from the corporate limits of Philadelphia to and including

Morrisville, Pennsylvania, and the territory between the Delaware River and U.S. Highway No. 130 and U.S. Highway No. 206, in Camden, Burlington, and Mercer Counties, State of New Jersey, from the corporate limits of Camden, New Jersey, to and including Trenton, New Jersey), Chester, Pennsylvania (comprising the territory within the corporate limits of Chester, Pennsylvania, the territory within the limits of the Boroughs of Marcus Hook, Trainer, Upland, Parkside, Eddystone, and the Townships of Lower Chichester and Ridley, all in the State of Pennsylvania, and the territory extending along the Pennsylvania side of the Delaware River from Darby Creek to the Delaware State line, a distance of approximately 10 miles), and Wilmington, Delaware (comprising the territory within the corporate limits of Wilmington, Delaware, the territory within the limits of New Castle, Newport, and Claymont, all in the State of Delaware, and the territory within the limits of Carneys Point and Deep Water Point, all in the State of New Jersey, and the territory lying between U.S. Highway No. 13 and the Delaware River, from the corporate limits of Wilmington to the Chesapeake and Delaware Canal, all in the State of Delaware).

Comments

Before adopting this proposal, consideration will be given to any written comments timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Authority

This change is proposed under the authority vested in the President by section 1 of the Act of August 1, 1914, 38 Stat. 623, as amended (19 U.S.C. 2) and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951 (3 CFR 1949–1953 Comp. Ch. II) and pursuant to authority provided by Treasury Department Order No. 101–5 (47 FR 2449).

List of Subjects in 19 CFR Part 101

Customs duties and inspection, Imports, Organization.

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. Customs routinely establishes, expands, and consolidates Customs ports of entry throughout the United States to accommodate the volume of Customs-related activity in various parts of the country. Although this change may have a limited effect upon some small entities in the Philadelphia and Chester, Pennsylvania, and Wilmington, Delaware, areas, it is not expected to be significant because the extension of the limits of Customs ports of entry in other locations has not had a significant economic impact upon a substantial number of small entities to the extent contemplated by the Regulatory Flexibility Act. Accordingly, it is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Donald F. Kelly,

Acting Commissioner of Customs.

Approved:

Robert E. Powis,

Acting Assistant Secretary of the Treasury.

[FR Doc. 83-21390 Filed 8-4-83; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Labor Certification Process for the Temporary Employment of Aliens in Agriculture: Adverse Effect Wage Rate Methodology; Extension of Comment Period

AGENCY: Employment and Training Administration, Labor.

ACTION: Proposed rule; extension of comment period.

SUMMARY: This document extends until August 22, 1983, the period for filing comments regarding a proposed rule amending the regulations (20 CFR 655.207 (b) and (c)) for adverse effect wage rates and piece rates under the temporary alien agricultural certification program. This action is taken to permit additional time for comments from interested parties.

DATE: Written comments on the proposed rule must be received by August 22, 1983.

ADDRESS: Send written comments to Mr. Richard C. Gilliland, Director, United States Employment Service, Employment and Training Administration, Room 8000—Patrick Henry Building, 601 D Street, NW., Washington, D.C. 20213.

FOR FURTHER INFORMATION CONTACT: Mr. Charles I. Carter, Telephone: 202–376–6292.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 22, 1983 (48 FR 33684), the Employment and Training Administration (ETA) of the Department of Labor (DOL) published a notice of proposed rulemaking to revise the regulations at 20 CFR 655.207 (b) and (c) regarding adverse effect wage rates and piece rates for the temporary alien agricultural certification program. Interested persons were requested to submit written comments, to be received on or before August 5, 1983.

The beginning of the 1983 harvest season is imminent, and DOL is seeking to avoid, as much as possible, the retroactive application of wage rates. A longer comment period would increase the amount of time for which wage rates would be applied retroactively.

However, virtually all of the comments received thus far from agricultural employers, agricultural producer organizations and Members of Congress, have requested an extension of the comment period. Balancing those comments against the imminence of the harvest season, DOL has determined to grant, in this one instance in this rulemaking, a 17-day extension of the comment period for all interested persons. This would result in a total comment period of 31 days.

Accordingly, in FR Doc. 83–19932, appearing at page 33684 in **Federal Register** issue of July 22, 1983, the paragraph headed "DATE:" in the first column is amended by changing the first sentence thereof to read: "Written comments on the proposed rule must be received by August 22, 1983."

Signed at Washington, D.C., this 2nd day of August 1983.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-21383 Filed 8-4-83; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 291

[Docket No. 83N-0249]

Agency Collection of Information Under Review by the Office of Management and Budget (OMB)

AGENCY: Food and Drug Administration.

ACTION: Notice of intent.

SUMMARY: The Food and Drug Administration (FDA) is announcing its intent to issue an advance notice of proposed rulemaking for changes in the collection of information requirements contained in the agency's methadone regulations at 21 CFR 291.505. This notice is required by 5 CFR 1320.14(f).

FOR FURTHER INFORMATION CONTACT: Edwin V. Dutra, Jr., National Center for Drugs and Biologics (HFN-7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION: On March 30, 1983, FDA submitted to the Office of Management and Budget (OMB) for clearance the existing recordkeeping and reporting requirements contained in the agency's methadone regulations found at 21 CFR 291.505.

On July 13, 1983, OMB notified FDA through the Department of Health and Human Services of its decision to require the agency to initiate proposals for change in the collection of this information. OMB has extended its approval for this collection of information under OMB control number 0910-0140 through December 1984. As OMB has suggested, FDA intends to issue an advance notice of proposed rulemaking soliciting specific recommendations and advice from affected persons. The publication of this notice is required by OMB regulations, 5 CFR 1320.14(f).

Dated: July 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-21094 Filed 8-4-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 200

[Docket No. R-83-1101]

Use of Materials Bulletin No. 39a—HUD Building Product Standards and Certification Program for Aluminum Windows, Storm Windows, Sliding Glass Doors and Storm Doors

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

ACTION: Proposed rule.

SUMMARY: This rule would adopt as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin that incorporates certain standards issued by the American National Standards Institute, Inc. for the manufacture of aluminum windows, storm windows sliding glass doors and storm doors. UM 39a revises and supersedes existing UM 39.

The rule also would supplement HUD's building products certification procedures by requiring, for this particular certification program, that certain additional information be included in the label which each manufacturer would affix to the certified product, and would specify the frequency with which aluminum windows, storm windows, sliding glass doors and storm doors would be tested in order to be acceptable under the MPS.

DATE: Comments must be received by September 6, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the to the Office of General Counsel Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 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. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 755-5929. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In response to an industry request, HUD has evaluated technical standards prepared by the American National Standards Institute, Inc. (ANSI) for aluminum windows, storm windows, sliding glass doors and storm doors. As a result of its evaluation, HUD is accepting those standards and is proposing to adopt them as part of its Minimum Property Standards through issuance of Use of Materials Bulletin No. 39a (UM 39a). In doing so, the Department follows the provisions of 24 CFR 200.935 regarding administrator qualifications and procedures for HUD building product certification programs and the HUD Technical Suitability of Products Program Handbook 4950.1. In addition, UM 39a would augment the labeling requirements of Sec. 200.935 (d)(6) to include the manufacturer's name and a code that identifies the manufacturing plant location, the specification designation and the manufacturer's series or model number. Finally, UM 39a specifies that the frequency of testing under Sec. 200.935 (d)(8) would be every four years. Because these added requirements only relate to this particular certification program, they are set out in a new Sec. 200.938, not as amendments to existing Sec. 200.935, which governs all certifications under the Minimum Property Standards. Thus, Sec. 200.938 would augment Sec. 200.935; it would not supplant it.

The text of UM 39a is not being reproduced in this rule because its substance is embodied in the new Sec. 200.938, which HUD is proposing to adopt as set forth below. However, a copy of UM 39a is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, Washington, DC 20410.

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 implements 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 Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291. 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 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-based 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 would not have a significant economic impact on a substantial number of small entities. UM 39a adopts product standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standards.

This rule was listed as Item H–1–80 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1983, 48 FR 18054, at 18079, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, Incorporation by reference.

Accordingly, 24 CFR Part 200 is proposed to be amended by adding a new § 200.938, to read as follows:

§ 200.938 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Aluminum Windows, Storm Windows, Sliding Glass Doors and Storm Doors.

(a) *Applicable standards.* (1) Aluminum windows, storm windows, sliding glass doors and storm doors certified for this program shall be designed, assembled, and tested in conformance with the following Architectural Aluminum Manufacturer's Association (AAMA) standards:

ANSI/AAMA 302.9–1977 Specifications for Aluminum Prime Windows.

ANSI/AAMA 402.9–1977 Specifications for Aluminum Sliding Glass Doors.

ANSI/AAMA 1002.9–1977 Specifications for Aluminum Combination Vertically Sliding or Horizontally Operating Storm Windows for External Applications.

ANSI/AAMA 1002.10–1983 Specifications for Aluminum Insulating Storm Products for Windows and Sliding Glass Doors.

ANSI/AAMA 1102.7–1977 Specifications for Aluminum Storm Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, DC 20408.

(b) *Labeling.* (1) Under the procedures set forth in paragraph (d)(6) of Sec. 200.935, concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administator to the manufacturer. In the case of aluminum windows, storm windows, sliding glass doors and storm doors, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the HUD Building Product Standards and Certification Program;

(ii) The manufacturer's name and the identity and location of the manufacturing plant;

(iii) The specification designation and manufacturer series or model number.

(2) The certification label shall be permanently affixed to each aluminum window, storm window, sliding glass door and storm door.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of Sec. 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of aluminum windows, storm windows, sliding glass doors and storm doors, testing and inspection shall be conducted as follows:

(1) At least every four years, a sample unit of the maximum size commercially available, shall be selected by the administrator for testing in accordance with the applicable standard in an approved laboratory.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed:

Authority: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b.

Dated: June 29, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-21268 Filed 8-4-83; 8:45 am]

BILLING CODE 4210-27-M

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24 CFR Part 200

[Docket No. R–83–2002]

Use of Materials Bulletin No. 59b—HUD Building Product Standards and Certification Program for Wood Window Units and Wood Sliding Patio Doors

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

ACTION: Proposed rule.

SUMMARY: This rule would adopt as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin that incorporates certain standards issued by the American National Standards Institute, Inc. for the manufacture of wood window units and wood sliding patio doors. UM 59b revises and supersedes existing UM 59a.

The rule also would supplement HUD's building products certification procedures by requiring, for this particular certification program, that certain additional information be included in the label which each manufacturer would affix to the certified product, and would specify the frequency with which wood window units and wood sliding patio doors would be tested in order to be acceptable under the MPS.

DATE: Comments must be received by September 6, 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 7th Street, S.W., Washington, DC 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. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, DC 20410; telephone (202)

755-5929. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: In response to industry requests, HUD has evaluated technical standards prepared by the American National Standards Institute, Inc. (ANSI) for wood window units and wood sliding patio doors. As a result of its evaluation, HUD is accepting those standards and is proposing to adopt them as part of its Minimum Property Standards through issuance of Use of Materials Bulletin No. 59b (UM 59b). In doing so, the Department follows the provisions of 24 CFR 200.935 regarding administrator qualifications and procedures for HUD building product certification programs and the HUD Technical Suitability of Products Program Handbook 4950.1. In addition, UM 59b would augment the labeling requirements of Sec. 200.935 (d)(6) to include the manufacturer's name and a code that identifies the manufacturing plant location, the specification designation and manufacturer's series or model number. Finally, UM 59b specifies that the frequency of testing under Sec. 200.935 (d)(8) would be every four years. Because these added requirements only relate to this particular certification program, they are set out in a new Sec. 200.939, not as amendments to existing Sec. 200.935 which governs all certifications under the Minimum Property Standards. Thus, Sec. 200.939 would augment Sec. 200.935; it would not supplant it.

The text of UM 59b is not being reproduced in this rule because its substance is embodied in the new Sec. 200.939, which HUD is proposing to adopt as set forth below. However, a copy of UM 59b is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, Washington, DC 20410.

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 implements 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 Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued by the President 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 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-based 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 would not have a significant economic impact on a substantial number of small entities. UM 59b adopts product standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standards.

This rule was listed as Item H-34-79 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1983, 48 FR 18054, at 18079, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs—Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum property standards, Incorporation by reference.

Accordingly, 24 CFR Part 200 is proposed to be amended by adding a new § 200.939, to read as follows:

Accordingly, 24 CFR Part 200 is proposed to be amended by adding a new § 200.939, to read as follows:

§ 200.939 Supplementary specific procedural requirements under HUD building product standards and certification program for wood window units and wood sliding patio doors.

(a) *Applicable standards.* (1) Wood window units and wood sliding patio doors shall be designed, assembled and tested in compliance with the following standards, which are incorporated by reference:

NASI/NWMA/I.S. 2-80 Industry Standard for Wood Window Units.
ANSI/NWMA/I.S. 3-80 Industry Standard for Wood Sliding Patio Doors.

(2) These standards have been approved by the Director of the Federal Register for incorporation by reference. They are available from the American National Standards Institute, Inc., 1430 Broadway, New York, NY 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street, NW., Room 8401, Washington, D.C. 20408.

(b) *Labeling.* (1) Under the procedures set forth in paragraph (d)(6) of § 200.935, concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to be manufacturer. In the case of wood window units and wood sliding patio doors, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the HUD Building Product Standards and Certification Program;

(ii) The manufacturer's name and the identity and location of the manufacturing plant;

(iii) The specification designation and manufacturer series or model number.

(2) The certification label shall be permanently affixed to each wood window unit and wood sliding patio door.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of wood window units and wood sliding patio doors, testing and inspection shall be conducted as follows:

(1) At least every four years, a sample unit of the maximum size commercially available, shall be selected by the administrator for testing in compliance with the applicable standards in a approved laboratory.

(2) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed.

Authority: Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); sec. 211 of the National Housing Act, 12 U.S.C. 1715b.

Dated: July 8, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-21287 Filed 8-4-83; 8:45 am]
BILLING CODE 4210-27-M

24 CFR Part 200

[Docket No. R-83-1100]

Use of Materials Bulletin No. 73a—HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks

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

ACTION: Proposed rule.

SUMMARY: This rule would adopt as a part of HUD's Minimum Property Standards (MPS), a Use of Materials Bulletin (UM) that incorporates certain standards issued by the American National Standards Institute, Inc. for the manufacture of plastic bathtub units, shower receptors and stalls, lavatories, and water closet bowls and tanks. UM 73a revises and supersedes existing UM 73.

The rule also would supplement HUD's building products certification procedures by requiring, for this particular certification program, that certain additional information be included in the label which each manufacturer would affix to the certified product, and would specify the frequency with which plastic bathroom fixtures would be tested in order to be acceptable under the MPS.

DATE: Comments must be received by: September 6, 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 7th 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. Leslie H. Breden, Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, Department of Housing and Urban Development, Washington, D.C. 20410; telephone (202) 755-5929. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: In response to industry requests, HUD has evaluated technical standards prepared by the American National Standards Institute, Inc. (ANSI) for plastic bathtub units, plastic shower receptors and stalls, plastic lavatories and plastic water closet bowls and tanks. As a result of its evaluation, HUD is accepting those standards and is proposing to adopt them as part of its Minimum Property Standards through issuance of UM 73a. In doing so, the Department follows the provisions of 24 CFR 200.935 regarding administrator qualifications and procedures for HUD Building Product Standards and Certification Program and the HUD Technical Suitability of Products Program Handbook 4950.1. In addition, UM 73a would augment the labeling requirements of § 200.935(d)(6) to include the manufacturer's name and a code that identifies the manufacturing plant location. Finally, UM 73a specifies that the frequency of testing under § 200.935(d)(8) would be every twelve months for lavatories and every six months for the other plastic plumbing fixtures described. Because these added requirements only relate to this particular certification program, they are set out in a new § 200.937, not as amendments to existing § 200.935, which governs all certifications under the Minimum Property Standards. Thus, § 200.937 would augment § 200.935; it would not supplant it.

The text of UM 73a is not being reproduced in this rule because its substance is embodied in the new § 200.937, which HUD is proposing to adopt as set forth below. However, a copy of UM 73a is available for public inspection during regular business hours in the Construction Standards Division, Office of Manufactured Housing and Construction Standards, Room 3222, and in the Office of the Rules Docket Clerk, Office of General Counsel, Room 10278, Department of Housing and Urban Development, Washington, D.C. 20410.

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 implements 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 Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulations issued by the President 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 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-based 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 would not have a significant economic impact on a substantial number of small entities. UM 73a adopts product standards that are nationally recognized throughout the affected industry and will not create a burden on manufacturers currently meeting the standards.

This rule was listed as Item H-22-81 under the Office of Housing in the Department's Semiannual Agenda of Regulations published on April 25, 1983, 48 FR 18054, at 18080, pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR Part 200

Administrative practice and procedure, Claims, Equal employment opportunity, Fair housing, Housing standards, Loan programs: Housing and community development, Mortgage insurance, Organization and functions (Government agencies), Reporting and recordkeeping requirements, Minimum Property Standards, Incorporation by reference.

PART 200—[AMENDED]

Accordingly, 24 CFR Part 200 is proposed to be amended by adding a new § 200.937, to read as follows:

§ 200.937 Supplementary specific procedural requirements under HUD Building Product Standards and Certification Program for Plastic Bathtub Units, Plastic Shower Receptors and Stalls, Plastic Lavatories, Plastic Water Closet Bowls and Tanks.

(a) *Applicable Standards.* (1) Plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks shall be designed, assembled and tested in compliance with the following standards, which are incorporated by reference:

ANSI Z124.1—(1981) Plastic Bathtub Units
ANSI Z124.2—(1981) Plastic Shower Receptors and Stalls
ANSI Z124.3—(1981) Plastic Lavatories
ANSI Z124.4—(1981) Plastic Water Closet Bowls and Tanks

(2) These standards have been approved by the Director of the **Federal Register** for incorporation by reference. They are available from the American National Standards Institute, Inc., 1430

Broadway, New York, NY 10018. The standards are also available for inspection at the Office of the Federal Register, 1100 L Street, NW, Room 8401, Washington, DC 20408.

(b) *Labeling.* (1) Under the procedures set forth in paragraph (d)(6) of § 200.935, concerning labeling of a product, the administrator's validation mark and the manufacturer's certification of compliance with the applicable standards are required to be on the certification label issued by the administrator to the manufacturer. In the case of plastic bathtub units, plastic shower receptors and stalls, plastic lavatories, and plastic water closet bowls and tanks, the following additional information shall be included on the certification label:

(i) The manufacturer's statement of conformance to the HUD Building Product Standards and Certification Program;

(ii) The manufacturer's name and the identity and location of the manufacturing plant.

(2) The certification label shall be permanently affixed to each plastic bathroom fixture.

(c) *Periodic tests and quality control inspections.* Under the procedures set forth in paragraph (d)(8) of § 200.935, concerning periodic tests and quality control inspections, the frequency of testing for a product shall be described in the specific building product certification program. In the case of plastic bathtub units, plastic shower receptors and stalls, plastic water closet bowls and tanks, testing and inspection shall be conducted as follows:

(1) At least every six months, beginning with the initial administrator visit, a sample of each certified plastic bathtub unit, plastic shower receptor and stall, plastic water closet bowl and tank shall be selected by the administrator for testing in compliance with the applicable standards in an approved laboratory.

(2) At least once every twelve months, beginning with the initial administrator visit, a sample of each certified lavatory shall be selected by the administrator for testing for compliance with the applicable standards.

(3) The administrator shall visit the manufacturer's facility at least once every six months to assure that the initially accepted quality procedures continue to be followed.

(Sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d); Sec. 211 of the National Housing Act, 12 U.S.C. 1715b)

Dated: June 29, 1983.

Philip Abrams,

Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 83-21288 Filed 8-4-83; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[NC-006; A-4-FRC 2362-1]

Approval and Promulgation of Implementation Plans; North Carolina; Proposed Bubble for E. I. du Pont de Nemours and Company, Kinston

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: On January 28, 1983, the North Carolina Department of Natural Resources and Community Development submitted for parallel processing an alternative emission reduction scheme which would allow E. I. du Pont de Nemours and Company to bubble emissions from thirteen particulate sources at its Kinston facility. Review of this submittal indicates that the bubble meets EPA's criteria, and the Agency is today proposing to approve it.

DATES: To be considered, comments must be submitted on or before September 6, 1983.

ADDRESSES: Written comments should be addressed to Denise Pack of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the materials submitted by North Carolina may be examined during normal business hours at the following locations:

Air Management Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Georgia 30365.

Division of Environmental Management, N.C. Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611.

FOR FURTHER INFORMATION CONTACT: Denise W. Pack, Air Management Branch, EPA Region IV, at the above address, telephone 404/881-3286 (FTS 257-3286).

SUPPLEMENTARY INFORMATION: On January 28, 1983, the North Carolina Department of Natural Resources and Community Development (NRCD) submitted an emission reduction scheme for the E. I. du Pont de Nemours and Company (du Pont) Kinston facility. The application that du Pont submitted to North Carolina on April 21 ,1982, involves the bubbling of particulate emissions from thirteen sources. The following table lists the sources, the current emission rates and the emission rate being proposed under the bubble application.

ALLOWABLE PARTICULATE EMISSION RATES

Source	Modeling No.	Allowable before bubble (lbs/hr)	Allowable after bubble (lbs/hr)	Proposed change (lbs/hr)
Spinning Mill	1	2.05	5.24	+3.19
Do	2	3.11	9.61	+6.49
Product recovery unit	3	16.50	6.51	−10.00
Heated dryer	4	6.74	3.97	−2.77
Do	5	6.74	3.97	−2.77
Do	6	6.74	3.97	−2.77
Do	7	6.74	3.97	−2.77
Do	8	6.74	3.97	−2.77
Do	9	6.74	3.97	−2.77
Do	10	6.74	3.97	−2.77
Do	11	6.74	3.97	−2.77
Do	12	6.74	3.97	−2.77
Do	13	7.47	5.00	−2.47

It is proposed to increase the allowable emission rate of one spinning mill (SM-11) from 2.05 lbs/hr to 5.24 lbs/hr and the allowable emission rate of another spinning mill (SM-12) from 3.11 lbs/hr to 9.61 lbs/hr. Both SM-11 and SM-12 are in violation of the current emission limit as determined by the North Carolina process weight table. The remaining eleven sources will be subject to allowable emission limits more stringent than those currently applied under the process weight table. In essence the proposed du Pont bubble would redistribute the allowable particulate emissions to permit two non-complying sources to increase their allowable limits and thus come into compliance. This is permitted by EPA's Emissions Trading Policy Statement of April 7, 1982 (47 FR 15076).

It should be noted that actual emissions at the facilities generating the emission reduction credits to be used in this trade have been at a lower level historically than the allowable emissions level used as the baseline for calculating those credits. This in turn means that the real emissions increase that this bubble would permit at the two spinning mills would be offset by the amount by which actual emissions are already below allowable emissions at the facilities generating the credit.

This should not cause concern here, however, because the State has submitted an acceptable full-scale modeling analysis (described as Level III in the Policy Statement) showing that the bubble limits will adequately protect the ambient standards for particulate matter. In addition, EPA's Emissions Trading Policy Statement permits the use of allowable emission levels as the

bubble baseline in an attainment area if proper consideration is given to the protection of PSD increment. The du Pont facility is located in an attainment area where the PSD baseline has not yet been triggered. Moreover, the State's submittal indicates that no increase in actual emissions will result from this bubble. Therefore, PSD increment will not be consumed.

EPA's review of the submittal indicates that it satisfies all the requirements of the Emission Trading Policy Statement. EPA is therefore proposing to approve the du Pont bubble application. Public comment is solicited. This comment period is running concurrently with the State's, and final approval can be given only after the bubble has been adopted by the State.

The Office of Management and Budget has exempted this rule from the requirement of Section 3 of Executive Order 12291.

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

List of Subjects in 40 CFR Part 52

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

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: May 2, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-21358 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 228

[LOW-FRI-2400-7]

Ocean Dumping; Proposed Designation of Site

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA today proposes to establish a temporary ocean dumping site in the Gulf of Mexico for the one-time disposal of a damaged platform jacket. This action is necessary to provide a location for the disposal of this jacket since it is currently a hazard to navigation and Department of Interior regulations require that it must eventually be removed. Delay in removal will increase the hazards of disposal because of continued corrosion.

DATE: Comments must be received on or before September 19, 1983.

ADDRESSES: Send comments to: Mr. T. A. Wastler, Chief, Marine Protection Branch (WH-585), EPA, Washington, DC 20460.

The material supporting this proposed designation is available for public inspection at the following locations:

EPA Public Information Reference Unit (PIRU), Room 2404 (rear), 401 M Street Southwest, Washington, DC

and

EPA Region VI, Water Management Division, 1201 Elm Street, Dallas, Texas.

FOR FURTHER INFORMATION CONTACT: Mr. T. A. Wastler, 202/755-0356.

SUPPLEMENTARY INFORMATION: Section 102(c) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 33 U.S.C. 1401 et seq. (hereafter "the Act"), gives the Administrator of EPA the authority to designate sites where ocean dumping may be permitted. On September 19, 1980, the Administrator delegated the authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water. This proposed site designation is being made pursuant to that authority.

The EPA Ocean Dumping Regulations (40 CFR Chapter I), Subchapter H, § 228.4) state that ocean dumping sites will be designated by publication in this Part 228. Section 228.4(b) provides that the Administrator may designate specific locations for temporary use for disposal of small amounts of materials under a special permit only without disposal site designation studies when such materials satisfy the Criteria and the Administrator determines that the quantities to be disposed of at the site will not result in significant impact on the environment. Such designations will be done by promulgation in this Part 228 and will be for a specified period of time and for specified quantities of materials.

The purpose of this notice is to provide the public with an opportunity to comment on the proposed designation, as an EPA Approved Ocean Dumping Site, of a site in the Gulf of Mexico for the one-time disposal of a damaged platform jacket.

EPA Region VI has received a completed application from Chevron U.S.A. Inc. for a special permit to transport a damaged platform jacket from its present location, approximately 80 miles offshore south of Atchafalaya Bay, Louisiana, to another location approximately 44 miles southeast of the present location. The proposed site, which was recommended by the Department of the Interior, Minerals Management Service, is approximately 101 miles off the Louisiana coast in approximately 600 fathoms of water with coordinates as follows:

27d 39'44.665" N. 91d 10'03.059" W.; 27d 39'42.304" N., 91d 07'06.927" W.; 27d 37'05.471" N., 91d 07'09.610" W.; 27d 37'07.828" N., 91d 10'05.672" W.

The site is a square area, three statute miles on the side.

The jacket was installed during July 1980, and was heavily damaged by collision on August 21, 1980, with a tanker. After a thorough review of the damage to the jacket, Chevron concluded that it would not be practical to repair or safe to use. The insurance underwriters concurred with this assessment and declared the jacket a total loss.

Because there is no approved EPA ocean dumping site in the Gulf of Mexico for dumping of this type of material, EPA is proposing to approve a new temporary ocean dumping site for the disposal of this jacket under the sections of the Act and the Regulations stated above.

The jacket consists of approximately 4,780 tons of fabricated structural steel pipe in a truncated pyramid shape approximately 325 feet high with a rectangular base 214 feet by 137 feet and a top 150 feet by 45 feet. Chevron proposes to sever the jacket legs below the Gulf bottom, raise the jacket in one piece and tie off to flotation barges. The barges will be towed to the disposal site where the jacket will be cut loose and allowed to sink.

EPA Region VI has determined that the ocean dumping regulations and criteria have been satisfied and that a special permit as defined at Section 220.3(b) may be issued. An evaluation of some of the factors to be considered in the site designation follows. For a more complete discussion of the ocean dumping site selection criteria considered, interested persons should examine the Special Report for Ocean Dumping Application No. 820D001 which is available for inspection at the addresses listed above.

The dumping of the jacket at the proposed site is not expected to interfere in any way with other activities in the marine environment. The proposed site is located well beyond the normal limits of both

commercial and recreational fishing zones. Since the jacket will be sunk in 600 fathoms of water, it will not present a hazard to surface navigation.

No disturbance to water quality is expected from the dumping of the steel jacket at the proposed disposal site. The composition of the jacket precludes its dissolution in seawater. The jacket will corrode slowly forming mostly iron oxides which are insoluble in water. While the site consists of an area of approximately 5,760 acres, only a small portion of the Gulf bottom will be directly involved in the disposal of the jacket. The site is located beyond the limits of the Texas-Louisiana Shelf above the Louisiana-Texas Slope and Plateau.

No direct or indirect effect on living resources in the Gulf is expected since the proposed site is located beyond the limits of the Continental Shelf in deep water. The nearest recreational beach to the disposal site is located on Isle Dernieres approximately 97.1 miles to the north northeast.

The nature of the jacket proposed to be dumped precludes any mixing of soluble or particulate waste material in any part of the water column by vertical or horizontal currents. There should be no effect on shipping in the Gulf of Mexico from dumping the jacket at the proposed site. The U.S. Coast Guard has recognized that submerged structures with more than 200 feet of water above them do not present a hazard to surface navigation. The jacket will be on the bottom in approximately 3,600 feet of water. There are no known plans at this time to develop mineral resources which may occur at the site. There are no natural or cultural features of historical importance known to exist within the proposed site or its immediate area.

This temporary site designation is being published as proposed rulemaking in accordance with §§ 228.4(b) of the criteria. Management authority of this site will be delegated to the Regional Administrator of EPA Region IV. Interested persons may participate in this proposed rulemaking by submitting written comments within 45 days of the date of this publication to the address given above.

Under the Regulatory Flexibility Act, EPA is required to perform a Regulatory Flexibility Analysis for all rules which may have a significant impact on a substantial number of small entities. EPA has determined that this proposed action will not have a significant impact on small entities since the site designation will only have the effect of providing a disposal option for this damaged platform jacket. Consequently, this proposal does not necessitate preparation of a Regulatory Flexibility Analysis.

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This action will not result in an annual effect on the economy of $100 million or more or cause any of the other effects which would result in its being classified by the Executive Order as a "major" rule. Consequently, this proposed rule does not necessitate preparation of a Regulatory Impact Analysis.

This proposed rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

This proposed rule does not contain any information collection requirements subject to OMB review under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 228

Water pollution control.

(33 U.S.C. Sections 1412 and 1418)

Dated: July 29, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

PART 228—[AMENDED]

In consideration of the foregoing, Subchapter H of Chapter I of Title 40 is proposed to be amended by adding § 228.12(b)(19), an ocean dumping site for Region VI as follows:

§ 228.12 Delegation of management authority for interim ocean dumping sites.

* * * * *

(b) * * *

(19) Gulf of Mexico platform jacket site—Region VI.

Location: 27d 39'44.665" N., 91d 10'03.059" W.; 27d 39'42.304" N., 91d 07'06.927" W.; 27d 37'05.471" N., 91d 07'09.610" W.; 27d 37'07.828" N., 91d 10'05.672" W.

Size: 3 statute miles on the side.

Depth: 600 fathoms.

Primary Use: One-time disposal of damaged platform jacket.

Period of Use: Until the one-time dump of the damaged jacket is concluded; however, the period of use shall not exceed three years from the date of publication of the final rulemaking in this action.

[FR Doc. 83-21359 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 414 and 416

[OW-FRL-2410-2]

Organic Chemicals and Plastics and Synthetic Fibers Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: On March 21, 1983, EPA proposed a regulation under the Clean Water Act to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly owned treatment works from facilities engaged in the production of organic chemicals, plastics, and synthetic fibers (48 FR 11828). On May 31, 1983, EPA extended the period for comment on this proposed regulation from June 19, 1983 to August 3, 1983, (48 FR 24138). The Agency has received additional requests from the organic chemicals and plastics and synthetic fibers industry for additional comment time to allow them to comment fully and to supply analytical data to support their comments EPA is further extending the comment period on this proposed regulation to August 17, 1983.

DATES: Comments on the proposed regulation for the organic chemicals and plastics and synthetic fibers category (48 Fr 11828) must be submitted to EPA by August 17, 1983.

ADDRESSES: Send comments on the proposed regulation to Mr. E. H. Forsht, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Docket Clerk, Organic Chemicals and Plastics and Synthetic Fibers Industry. The supporting information and all comments on this proposal are available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) PM-213. The comments will be added to the record as they are received. The EPA Information Regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: E. H. Forsht, (202) 382-7135 for information concerning extension of the comment period.

SUPPLEMENTARY INFORMATION: On March 21, 1983, EPA proposed a regulation to limit effluent discharges to waters of the United States and the introduction of pollutants into publicly

owned treatment works from facilities engaged in the production of organic chemicals and plastics and synthetic fibers (48 FR 11828). The March 21, 1983 notice stated that comments on the proposal were to be submitted on or before June 19, 1983. In response to numerous requests from the organic chemicals and plastics and synthetic fibers industry for additional time for comment, the Agency published a May 31, 1983 **Federal Register** notice extending the comment period from June 19, 1983, to August 3, 1983.

The Agency has received additional requests from the organic chemicals and plastics synthetic fibers industry for additional comment time to allow them to comment fully and to supply analytical data to support their comments. Given the size and diversity of the industry and the complexity of issues raised by this rulemaking, EPA has determined that it is appropriate to extend the comment period 14 days to allow the public adequate time to review and comment on this proposed regulation. This extension will give all members of the public adequate time to comment fully on this regulation.

Dated: July 28, 1983.

Rebecca W. Hanmer,

Acting Assistant Administrator for Water.

[FR Doc. 83-21321 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

46 CFR Part 540

[Docket No. 83-30]

Security for the Protection of the Public Notice of Intent To Review

AGENCY: Federal Maritime Commission.

ACTION: Intent to Review—Request for Comments.

SUMMARY: This solicits comments for consideration in connection with the Commission's review of its regulations pursuant to section 610 of the Regulatory Flexibility Act (94 Stat. 1164, 1169, Pub. L. 96-354). This review will address the Commission's regulations concerning the Proof of Financial Responsibility to meet Liability Incurred for Death or Injury to Passengers and Other Persons on Voyages and for Indemnification of Passengers for Nonperformance of Transportation (46 CFR Part 540).

DATE: Comments due on or before September 6, 1983.

ADDRESSES: Comments (Original and 15 copies) should be directed to: Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573.

Request for further information should be directed to: Frank L. Bartak, Chief, Office of Vessel Certification, Federal Maritime Commission, 1100 L Street, N.W., Washington, D.C. 20573, (202) 523-5820.

SUPPLEMENTARY INFORMATION: Section 610 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164, 1169, requires the Commission to develop and carry out a ten-year plan for reviewing its regulations. The Commission's plan provides for the review during FY 1983 of Part 540 of Title 46 of the Code of Federal Regulations, 46 CFR Part 540, which implements sections 2 and 3 of Pub. L. 89-777 (46 U.S.C. 817 d and e).

The Regulatory Flexibility Act requires the Commission, in conducting a review of its regulations, to consider: (1) the continued need for the rule; (2) the nature of any complaints or comments concerning the rule; (3) the rule's complexity; (4) the extent to which this rule overlaps, duplicates or conflicts with other federal rules and, to an extent, any state or local government rule; and (5) the length of time since the rule has been evaluated or degree to which technology, economic conditions, or other factors have changed in the area affected by the rule.

The Commission, at this time, is unaware of any need or basis for amending or modifying the requirements of Part 540. However, to facilitate further review under the standards of the Regulatory Flexibility Act, the Commission requests public comment on the requirements of Part 540. Commentators may address any provision contained in this Part and may suggest alternative approaches or otherwise discuss the rules and their rationale. All suggested alternatives should be accompanied by draft language. Should the Commission determine to propose any modifications to Part 540 after receiving comments, it will do so by a separate rulemaking proceeding. A brief summary of Part 540 is set forth below.

Pursuant to the authority of sections 2 and 3 of Pub. L. 89-777 (80 Stat. 1356, 1357, 1358) (46 U.S.C. 817d and 817e); and section 4 of the Administrative Procedure Act (5 U.S.C. 553); the Federal Maritime Commission is authorized to make regulations necessary to determine (1) the financial ability of each owner or character of a vessel having berth or stateroom accommodations for fifty or more passengers, and embarking passengers at United States ports, to meet liability for death or injury to passengers and other persons on voyages to or from United States ports and (2) the financial ability of any person arranging, offering, advertising or providing passage on such vessel to indemnify passengers for nonperformance of transportation.

The regulations with respect to liability for death or injury and for indemnification of passengers for nonperformance of transportation have been in effect since early 1967. Vessel owners, operators and charterers have five methods to establish their financial responsibility: insurance, surety bond, self-insurance, guaranty and escrow account. However, financial responsibility must be established separately to meet the requirements of sections 2 and 3 of the law and the Commission's implementing regulations. An applicant who satisfactorily establishes financial responsibility to meet liability for death or injury is issued a Certificate (Casualty). An applicant who satisfactorily establishes financial responsibility for indemnification of passengers for nonperformance of transportation is issued a Certificate (Performance).

By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-21406 Filed 8-4-83; 8:45 am]

BILLING CODE 6730-01-M

GENERAL SERVICES ADMINISTRATION

Office of Federal Acquisition and Regulatory Policy

48 CFR Ch. I.

Proposed Safeguards Against Anticompetitive Retentions of Title

AGENCY: General Services Administration.

ACTION: Notice for comment.

SUMMARY: The purpose of this notice is to solicit the views of Federal agencies and the private sector on a Department of Justice proposal that a policy statement and contract clause incorporating a safeguard against anticompetitive retentions of title (to inventions resulting from government funded research and development (R&D) contracts) by organizations not subject to Pub. L. 96-517 be included in the Federal Acquisition Regulation. The General Services Administration (GSA) requests the views of all interested parties prior to a decision on inclusion of the proposed coverage in the Federal Acquisition Regulation.

ADDRESS: Send comments to General Services Administration, Office of Acquisition Policy, FAR Project, Room 4010, 18th and F Streets, NW, Washington, DC 20405.

DATES: Comments are due on or before October 4, 1983.

FOR FURTHER INFORMATION CONTACT: Lawrence J. Rizzi, Director, GSA FAR Project, Office of Federal Acquisition and Regulatory Policy (202-696-5180).

SUPPLEMENTARY INFORMATION: (a) The proposed Department of Justice safeguard against anticompetitive retentions of title by organizations not subject to Pub. L. 96-517, as mandated by the President's Executive Memorandum and Fact Sheet of February 18, 1983 is set forth below:

"In cases not subject to Chapter 38 of Title 35 United States Code, a contractor who has retained title to a patented invention discovered during performance of a federally-funded R&D contract, must assign for value all rights it has in the patent to another if the Department of Justice determines, within eighteen months after issuance of the patent, that the effect of the contractor's retention at the time of the retention, in any line of commerce in any section of the country, may be substantially to lessen competition or to tend to create a monoply. The assignment must be made within six months after the contractor is notified of the Department of Justice determination (unless the Department of Justice grants an extension of time) and must be on terms and to a purchaser approved by the Department of Justice.

"If the assignment is not completed within the prescribed time period, all rights the contractor has in the patent shall be assigned to a trustee; the trustee shall be appointed by the Department of Justice for the sole purpose of assigning such rights to another for value on terms and to a purchaser approved by the Department of Justice. Proceeds of the sale, net of reasonable fees and costs of the trustee, shall be transferred to the contractor.

"A patent application for an invention discovered during performance of a federally-funded R&D contract not subject to Chapter 38 of Title 35 United States Code, shall contain a statement indicating that the invention was made with government support. The notification of the patent's issuance that appears in the Official Gazette of the United States Patent and Trademark Office shall also contain that statement."

(b) The Department of Justice explanation of its safeguard against anticompetitive retentions of title by organizations not subject to Pub. L. 96-517 is set forth below:

"On February 18, 1983, the White House issued an Executive Memorandum and accompanying Fact Sheet which was designed to control the allocations of rights in inventions resulting from government funded R&D contracts that are not covered under the provisions of Pub. L. 96-517. That law, enacted in 1980, generally covers the allocation of such rights where the underlying contracts are between the government and small businesses or nonprofit organizations; the Executive Memorandum and Fact Sheet, therefore, essentially cover the allocation of rights in government contracts with large businesses.

"The Fact Sheet directs the Department of Justice to 'develop an appropriate safeguard against anticompetitive retentions of title by organizations not subject to Pub. L. 96-517.' Pursuant to the directive, the Department has developed the safeguard articulated * * * (above). The Department proposes to include the safeguard in the Federal Acquisition Regulations now being developed by GSA, as a statement of general policy in the regulations and as a clause to be included in all federally funded R&D contracts with entities not covered by Pub. L 96-517.

"The safeguard is designed to give the Department of Justice sufficient flexibility to protect the public in those instances where a contractor's retention of title in a federally funded invention would be substantially anticompetitive. In the vast majority of instances it is expected that contractor retention of title would not be anticompetitive; in fact, the Department strongly believes that it is procompetitive generally to allow contractors to commercialize federally funded inventions no matter how valuable the invention. In a typical situations, however, *e.g.*, where the industry is highly concentrated and where the invention is likely to garner significant market share, retention of title by a contractor may be detrimental to consumer welfare. In those instances, the Department would require the contractor to sell its title in the invention.

"To evaluate the competitive effect of retention of title, paragraph 1 of the safeguard uses the standard employed in Section 7 of the Clayton Act. Section 7 prohibits private transfers of patents and other assets if the effect of the transfer 'may be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country.' In this manner, the Department would assess the anticompetitive effect of retentions in the same way that it analyzes private acquisitions under Section 7; this analysis is described in detail in the Department's Merger Guidelines. The Department rather than the contracting agencies would make the determination of competitive effect because of the Department's expertise in this area and because of the importance of creating a uniform body of precedent consistent with Section 7 law.

"The Department has also included provisions in the safeguard to assure that the contractor is not unnecessarily deterred from commercialization of the invention. Specifically, the safeguard provides that any decision by the Attorney General that retention of title is anticompetitive must be made within eighteen months after issuance of a patent. In addition, the safeguard indicates that the focus of the Department's assessment must be on anticompetitive effects 'at the time of the retention'; hence, a contractor would not be penalized for its effective commercialization efforts after retention of title.

"Paragraph 2 of the safeguard authorizes the Department to appoint a trustee to sell the contractor's patent rights for value if the contractor does not do so within six months after the Department determines that the contractor's retention of title is anticompetitive. This procedure is analogous to the procedure the Department uses when a firm is required to divest assets in a Section 7 case. Making the patent available only to a single purchaser would maximize the purchaser's incentive to invest the money necessary to commercialize the invention.

"The Department does not intend routinely to examine every retention of title. Since the Department expects that retention of title will result in competitive harm only in rare instances, it would rely primarily on information received from industry members to ascertain when a retention is significant enough to warrant any examination under the safeguard. To assist industry members in this regard, and otherwise to enable the Department to identify areas of potential concern, paragraph 3 requires a patent application and the abstract appearing in the Patent Office Gazette to indicate whether the invention was discovered during a federally funded R&D contract not subject to Pub. L. 96-517. Such notice will enable the Department or industry members to ascertain which inventions are subject to the safeguard.

"The Department expects its safeguard to be used in all instances where federal agencies allow contractors to retain title. The Department also expects the safeguard to be used by agencies that grant exclusive licenses as opposed to title, pursuant to statutory authorization, unless the authorizing statute in effect proscribes application of the safeguard. Such use appears to be envisioned by paragraph 4 of the Fact Sheet, which states that '[t]o the extent permitted by law, this memorandum is applicable to all statutory programs including those that provide that inventions be made available to the public' and that those agencies 'which continue to operate under statutes which are inconsistent in respects with the Memorandum, are expected to make maximum use of the flexibility available to comply with the provisions and spirit of the memorandum.' "

Roger M. Schwartz,

GSA FAR Project, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 83-21485 Filed 8-4-83; 8:45 am]

BILLING CODE 6820-61-M

Notices

Federal Register
Vol. 48, No. 152
Friday, August 5, 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

Proposed Determinations With Regard to the 1984 Upland Cotton Program

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed determinations.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1984 crop of upland cotton: (a) The loan rate for Strict Low Middling (SLM) one-and-one-sixteenth-inch cotton, micronaire 3.5 through 4.9, at average location in the U.S.; (b) the established (target) price; (c) whether to make advance deficiency payments and the amount thereof; (d) the National Program Acreage (NPA); (e) whether a voluntary reduction percentage should be proclaimed and, if so, the amount of such percentage reduction; (f) whether an Acreage Reduction Program (ARP) should be established and, if so, the percentage of such reduction and the method to be used in establishing acreage bases; (g) whether a Payment-In-Kind (PIK) Program should be established and, if so, the percentage of acreage reduction under the program; (h) whether a cash land diversion program should be established and if so, the extent of such diversion and level of payment; (i) the loan level for seed cotton; and (j) whether offsetting compliance should be required if an ARP is established. These determinations are to be made pursuant to the provisions of the Agricultural Act of of 1949, as amended (hereinafter referred to as the "1949 Act") and the Commodity Credit Corporation Charter Act.

EFFECTIVE DATE: October 4, 1983. In order to be assured of consideration.

ADDRESS: Dr. Howard Williams, Director, Analysis Division, USDA–ASCS, Room 3741 South Building, P.O. Box 2415, Washington, D.C. 20013

FOR FURTHER INFORMATION CONTACT: Charles V. Cunningham, Deputy Director, Analysis Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013 or call (202) 447–7954. The Preliminary Regulatory Impact Analysis describing the options considered in developing these proposed determinations and impact of implementing each option is available on request from the above-named individuals.

SUPPLEMENTARY INFORMATION: This notice has been reveiwed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum No. 1512–1 and has been designated as "major." These determinations have been designated as "major" because they are expected to affect the supply and price of upland cotton during the 1984–85 marketing year, which will, in turn, impact upon producers, processors, exporters, and consumers of cotton and cotton products.

The titles and numbers of the federal assistance programs that this notice applies to are: Title—Cotton Production Stabilization; number 10.052 and 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 Agricultural Stabilization and Conservation Service (ASCS) 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.

Proposed Determinations

A. *Loan Rate for Upland Cotton.* Section 103(g)(1) of the 1949 Act provides that the Secretary shall determine and announce the loan rate for the 1984 crop by November 1, 1983. The loan rate must reflect for Strict Low Middling one-and-one-sixteenth inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States the smaller of (1) 85 percent of the average price (weighted by market and month) quoted in the designated United States spot markets for Strict Low Middling one-and-one-sixteenth inch cottom during the three years of the five-year period ending July 31 in the year in which the loan level is announced, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period (hereinafter referred to as the "spot market calculation"), or (2) 90 percent of the average, for the fifteen-week period beginning July 1 of the year in which the loan level is announced, of the five lowest-priced growths of the growths quoted for Middling one-and-three-thirty-seconds-inch cotton, C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15 through October 15 of the year in which the loan rate is announced between such average Northern European price quotations and quotations in the designated United States spot markets for Strict Low Middling one-and-one-sixteenth-inch cotton (micronaire 3.5 through 4.9)) (hereinafter referred to as the "Northern European calculation"). The loan rate cannot be less than 55 cents per pound. Further, if the Northern European calculation results in a price which is less than the price derived from the spot market calculation, the Secretary may increase the loan level to such level as the Secretary deems appropriate, but not in excess of the level which is determined based upon the spot market calculation.

The spot market calculation cannot be completed until after August 1, 1983. Based upon quotations through April 1983, the spot market calculation is as follows:

(1) Weighted average spot market prices for Strict Low Middling one-and-one-sixteenth-inch upland cotton, micronaire 3.5 through 4.9:

[Cents per pound]

Aug. 1978 through July 1979	61.01
Aug. 1979 through July 1980	68.87
Aug. 1980 through July 1981	63.77
Aug. 1981 through July 1982	57.66
Aug. 1982 through Apr. 1983[1]	60.60

[1] Not completed.

(2) Average of the five years, excluding the highest and lowest years: $61.01+68.87+60.60/3=63.49$ cents/lb.

(3) Loan rate based on U.S. spot market calculations through April 1983: $63.49 \times .85 = 53.97$ cents/lb.

Since the spot market calculation is less than the statutory minimum, the loan rate would be established at the minimum level of 55 cents per pound, the same as the 1983 loan rate.

The Northern European calculation cannot be performed at this time since the 1949 Act provides that the calculation must be based upon market quotations through October 15, 1983. However, since the spot market calculation results in a loan rate that is less than the minimum level of 55 cents per pound, the Northern European calculation is not likely to affect the final loan rate determination. If the Northern European calculation is less than the spot market calculation, the resulting calculation will also be below the minimum and the loan rate will still be 55 cents per pound. If the Northern European calculation is more than the spot market calculation, it will not be used to determine the loan rate.

Comments on the upland cotton loan rate, along with supporting data, are requested from interested persons.

B. *The Established (Target) Price.* Section 103(g)(3) of the 1949 Act provides that the established price for the 1984 crop of upland cotton shall not be less than the higher of (i) 81.0 cents per pound plus any adjustments for changes in production costs or (ii) 120 percent of the loan level determined in accordance with section 103(g)(1) of the 1949 Act. The 1949 Act provides that the minimum price of 81.0 cents per pound may be adjusted in such manner as the Secretary determines to be appropriate to reflect any change in: (1) The average adjusted cost of production per acre for the two crop years immediately preceding the year for which the determination is made (1982–1983) from (2) the average adjusted cost of production per acre for the two crop years immediately preceding the year previous to the one for which the determination is made (1981–1982). The adjusted cost of production for each of such years may be determined by the Secretary on the basis of such information as the Secretary finds necessary and appropriate for the purpose and may include variable costs, machinery ownership costs, and general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop.

In addition, the Department of Agriculture has proposed that Section 103(g)(3)(B) of the 1949 Act be amended to provide that the established price for upland cotton will not be less than 76.0 cents per pound for the 1984 crop of upland cotton rather than the current statutory minimum of 81.0 cents per pound. This amendment to the 1949 Act has been proposed because of the low rate of inflation for the past year. The established (target) price level under consideration for the 1984 upland cotton crop is the minimum statutory level—whether that level is 81.0 cents per pound or a lower statutory minimum level, such as 76.0 cents per pound.

Comments are requested on the level of established (target) price for the 1984 crop of upland cotton.

C. *Advance Deficiency Payments.* Section 107C of the 1949 Act provides that if the Secretary establishes an acreage reduction program for upland cotton and determines that deficiency payments will likely be made for such crop, the Secretary may make available advance deficiency payments to producers who agree to participate in such program. Payments shall be made available to producers in such amounts as the Secretary determines appropriate to encourage adequate participation in the 1984 upland cotton program, except that the payments shall not exceed an amount determined by multiplying: (i) The estimated farm program acreage, by (ii) the farm program payment yield, by (iii) 50 percent of the the projected payment rate, as determined by the Secretary.

In any case in which the deficiency payment which is to be made to a producer for a crop, as finally determined by the Secretary, is less than the amount of the advance dificiency payment paid to the producer, the producer shall refund the difference. If no deficiency payments are to be made to producers, the producers who receive advance payments shall refund the amount of such advance payments. Any refund shall be due at the end of the marketing year.

If a producer fails to comply with the requirements under the acreage reduction program after obtaining any available advance deficiency payment, the producer shall repay immediately the amount of the advance payment plus interest thereon as determined by the Secretary.

Interested persons are requested to comment with respect to the need for, and the amount of, advance deficiency payments.

D. *National Program Acreage.* Section 103(g)(5) of the 1949 Act provides that the Secretary shall proclaim a national program acreage (NPA) for the 1984 crop by November 1, 1983. Such NPA may, however, be revised for the purpose of determining the allocation factor if the Secretary determines it necessary based upon the latest information. Any revision shall be announced as soon as it has been made. The NPA shall be the number of harvested acres the Secretary determines necessary, based on the estimated weighted national average of the farm program payment yields for the 1984 crop, to produce the estimated quantity (less imports) that will be utilized domestically and for export during the 1984–85 marketing year. The Secretary may make such adjustments in the NPA as he determines necessary, taking into consideration the estimated carryover supply, to provide for an adequate but not excessive total supply of cotton for the 1984–85 marketing year. In no event shall the national program acreage be less than 10 million acres. If an acreage reduction program is implemented for the 1984 crop of upland cotton, the NPA determination will not be applicable.

A carryover of 4.0–4.5 million bales is considered to provide an adequate, but not excessive, supply. If required, the likely national program acreage for the 1984 crop of upland cotton is estimated to be:

(a) Estimated domestic consumption, 1984–85 (480 lb. net wt. bales)	5,800,000
(b) Plus estimated exports, 1984–85 (480 lb. net wt. bales)	6,000,000
(c) Minus estimated imports, 1984–85 (480 lb. net wt. bales)	15,000
(d) Minus adjustment to bring stocks to desired level (480 lb. net wt. bales) [1]	700,000
(e) Times 480 lbs. per bale equals desired pounds	5,320,800,000
(f) Divided by estimated national average of farm program yields (lbs./acre)	620
(g) Equal 1984 calculated National Program Acreage (acres)	8,581,935
(h) Statutory minimum National Program Acreage (acres)	10,000,000

[1] The 1984 beginning stock level is estimated to be 5.2 million bales. Therefore, the stock adjustment is 5.2 million bales minus 4.5 million bales equals 0.7 million bales.

In the event a NPA were established for the 1984 crop, 10.0 million acres would be the established NPA since the NPA cannot be less than 10.0 million acres. A NPA was not announced for the 1983 crop of upland cotton since an acreage reduction program was implemented for such crop.

Comments from interested persons on the NPA and appropriate stock adjustment for the 1984 crop of upland cotton, along with appropriate supporting data, are requested.

E. *Voluntary Reduction Percentage.* Section 103(g)(7) of the 1949 Act provides that the individual farm program acreages for the 1984 crop of upland cotton which are eligible for payments shall not be further reduced by application of an allocation factor if the producer reduces the acreage of upland cotton planted for harvest on the farm from the acreage base established for the farm for the 1984 crop of upland cotton by at least the percentage recommended by the Secretary in the proclamation of the national program acreage for the 1984 crop. If an acreage reduction program is implemented for the 1984 crop of upland cotton, the

voluntary reduction percentage shall not be applicable to such crop. If required, the recommended national reduction percentage for the 1984 crop of cotton would be:

(a) 1984 estimated upland cotton acreage base	15,550,000
(b) Minus 1984 NPA	10,000,000
(c) Equals reduction needed from acreage base	5,550,000
(d) Divided by 1984 upland cotton acreage base	15,550,000
(e) Equals 1984 crop reduction percentage	36 percent

Comments from interested persons with respect to the voluntary reduction percentage, if any, are requested.

F. *Whether an Acreage Reduction Program (ARP) Should be Established and, if so, the Percentage of Such Reduction and the Method of Establishing Acreage Bases.* Section 103(g)(9)(A) of the 1949 Act provides that the Secretary may establish a limitation on the acreage planted to upland cotton if the Secretary determines that the total supply of upland cotton will, in the absence of such limitation, be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. Such limitation shall be achieved by applying a uniform percentage reduction to the acreage base for each cotton-producing farm. Producers who knowingly produce cotton in excess of the permitted cotton acreage shall be ineligible for cotton loans and payments with respect to that farm. The acreage base for any farm for the purpose of determining any reduction required to be made for any year as the result of a limitation shall be the acreage planted on the farm to upland cotton for harvest in the crop year immediately preceding the year for which the determination is made or, at the discretion of the Secretary, the average acreage planted to upland cotton for harvest in the two crop years immediately preceding the year for which the determination is made. For the purpose of determining the acreage base, the acreage planted to upland cotton for harvest shall include any acreage which producers were prevented from planting to cotton or other nonconserving crop because of a natural disaster or other condition beyond the control of the producers. The Secretary may make adjustments to reflect crop-rotation practices and other factors as the Secretary determines necessary to establish a fair and equitable base. A number of acres on the farm determined by dividing: (a) The product obtained by multiplying the number of acres required to be withdrawn from the production of upland cotton times the number of acres actually planted to upland cotton, by (b) the number of acres authorized to be planted to upland cotton in accordance with the acreage limitation established by the Secretary, shall be devoted to approved conservation uses in accordance with regulations issued by the Secretary. If an acreage limitation is in effect for any crop, the national program acreage, program allocation factor, and voluntary reduction provisions of section 103(g) of the 1949 Act are not applicable to such crop. The individual farm program acreage shall be the acreage planted on the farm to upland cotton for harvest within the permitted upland cotton acreage established for the farm under the acreage reduction program.

The need for an acreage reduction program in 1984–85 will be determined by weather, supply, and use conditions affecting the 1983 crop. Projections as of May 1983 indicate that stocks on August 1, 1984 will be about 5.2 million bales. High participation in the 1983 acreage reduction and payment in-kind programs is expected to result in planted acreage of about 8.1 million acres. Assuming normal weather conditions, production could total about 8.7 million bales. The total supply, including estimated beginning stocks of 7.9 million bales, would equal 16.6 million bales. However, early season projections frequently prove unreliable due to weather and other developments affecting acreage and yields. The likely range for the 1983–84 supply of upland cotton, based on historical accuracy of estimates, is 15.1–18.1 million bales.

Total disappearance for 1983–84 is anticipated to increase to 11.6 million bales. Thus, ending stocks would be reduced 34 percent to about 5.2 million bales. This reduction in stocks, although substantial, would still place the carryover above the desired range of 4.0–4.5 million bales.

The projected beginning stock level, a large national acreage base of 15.5 million acres, and a target price above expected market prices are factors which indicate that a program or combination of programs to reduce acreage will be needed again in 1983–84. However, further developments in weather conditions, market trends, and projections of supply and use could affect the suitability of various options for production adjustment. Thus, options considered at the final determination stage will depend upon circumstances in existence at that time.

Interested persons are encouraged to comment on the need for an acreage reduction program for the 1984-crop of upland cotton and the appropriate percentage of any such reduction. Interested persons are also encouraged to comment on the method for establishing upland cotton acreage bases for the 1984 crop of upland cotton. In addition, comments are requested as to whether producers who desire to participate in the upland cotton program should be required to execute binding contracts at the time of enrollment in the program. Presently, a producer desiring to participate in the program signs an intention to participate and later provides a certification with respect to the applicable acreage in order to receive program benefits. If, at the time of program enrollment, a producer was required to execute a formal contract, it would help prevent dropouts of the announced programs.

G. *Whether a Payment-In-Kind Program should be authorized and, if so, What Percentage.* Section 103(g) of the 1949 Act authorizes the Secretary to make land diversion payments to producers of upland cotton if the Secretary determines that the payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. The Commodity Credit Corporation Charter Act (15 U.S.C. 714 *et seq.*) gives the Corporation broad authority to support the price of agricultural commodities, stabilize agricultural commodity markets and removes and dispose of agricultural surpluses.

The production adjustment programs originally announced for the 1983 crop of upland cotton provided for a reduction of up to 25 percent from the farm acreage base. The acreage reduction program called for a 20 percent reduction while producers could reduce up to an additional 5 percent under the cash land diversion program.

Even so, the supply of upland cotton still greatly exceeded demand, thus creating an undesirable surplus. Accordingly, the Department determined that the diversion of additional acreage from the production fo 1983-crop upland cotton was necessary and that participating producers would receive payment in kind compensation. This acreage which was diverted under the payment in kind program was in addition to that acreage which the producer agreed to take out of

production in accordance with the previously announced acreage reduction and cash land diversion programs for the 1983 crops.

With respect to the 1983 payment in kind program for upland cotton, a producer could enter into a contract with the Commodity Credit Corporation to divert from production not less than 10 percent nor more than 30 percent of the upland cotton acreage base established for the farm. In addition, producers could submit whole base bids for a contract to divert from production 100 percent of the farm acreage base. The bids which were submitted were based upon the percentage of the farm's upland cotton yield which the producer was willing to accept as payment in kind compensation. The number of whole base bids which were accepted for the 1983 upland cotton crop in each county was limited so that the total upland cotton acreage taken out of production under the payment in kind and acreage reduction programs would not exceed 45 percent of the combined upland cotton acreage bases in that county.

With respect to contracts which were entered into by producers under the payment in kind program for the diversion of between 10 and 30 percent of the upland cotton acreage base established for the farm, the quantity of upland cotton which the producer was eligible to receive as payment in kind compensation was equal to the acreage which was diverted multiplied by the farm's cotton yield multiplied by 80 percent. With regard to contracts which were entered into by producers under the program involving whole base bids, the quality of upland cotton received as payment in kind compensation was determined in the same manner as the 10–30 percent contracts, except that the bid percentage was substituted for the 80 percent factor.

If the producer elected to participate in the payment in kind program for upland cotton and the producer had an outstanding quantity of upland cotton pledged as collateral for the loan program, the producer was required to redeem a quantity of such loan collateral equal to that quantity of upland cotton which the producer was entitled to receive as payment in kind. The producer wuld then sell that quantity of upland cotton which has been redeemed to CCC for payment in kind purposes. The quantity of cotton purchased by CCC in this manner would be made available to the producer as payment in kind. To the extent that a producer has no price support loan collateral which could be made available to CCC for payment in kind purposes, the producer would receive payment in kind compensation from warehouses designated by CCC.

Interested parties are invited to comment on the need for a PIK Program in 1984 as well as the various program provisions. Comments should include supporting data.

H. *Whether a Cash Land Diversion Program Should be Established and, if so, the Extent of Such Diversion and the Level of Payments.* Section 103(g)(9)(B) of the 1949 Act provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not an acreage limitation for upland cotton is in effect, if the Secretary determines that such land diversion payments are necessary to assist in adjusting the total national acreage to desirable goals. Such land diversion payments shall be made to producers who devote to conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with producers. The amounts payable to producers under land diversion contracts may be determined through the submission of bids for such contracts by producers or in such manner as the Secretary determines appropriate. In the past, land diversion payments have been made based upon an offer rate system (i.e., a specific rate per pound times the farm program payment yield.)

Interested persons are encouraged to address the need for a land diversion program and the appropriate terms and conditions.

I. *Loan Level for Upland Seed Cotton.* Section 103(g)(18) of the 1949 Act provides that in order to assist producers in the orderly ginning and marketing of their cotton production, the Secretary shall make recourse loans available to such producers on seed cotton in accordance with authority vested in the Secretary under the Commodity Credit Corporation Charter Act. Consideration is being given to the level at which loans should be made available for seed cotton under the 1984 program.

The loan level which is presently being considered for seed cotton is 100 percent of the loan level which is applicable for that location for lint cotton adjusted to a lint basis.

Comments from interested persons are requested on the appropriate loan level for seed cotton and the method of adjustment to a lint basis for the purpose of determining loan value.

J. *Whether to Require Offsetting Compliance if an Acreage Reduction Program is Established.* Section 103(g)(14) of the 1949 Act provides that the Secretary may issue such regulations as the Secretary determines to be necessary to carry out the upland cotton program. In some prior crop years, the Secretary has promulgated regulations providing for offsetting compliance requirements. If offsetting compliance is required, operators and owners of farms would have to ensure that all of the farms in which they had an interest were either in compliance with the program requirements or the acreages of upland cotton planted for harvest on each of such farms did not exceed the upland cotton acreage bases which were established for such farms.

Offsetting compliance was not in effect for the 1983 crop. Interested persons are encouraged to comment on the need for offsetting compliance for the 1984-crop of upland cotton if an acreage reduction program is established.

Consideration will be given to any data, views and recommendations that may be received relating to the above items.

(Secs. 4, 5, 62 State. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 103(g)(1), 107C and 401, 66 Stat. 758, as amended, 95 Stat. 1234, as amended, 96 Stat. 766, 63 Stat. 1054, as amended (7 U.S.C. 1441, 1444, 1445B–2, 1421))

Signed at Washington, D.C. on August 1, 1983.

Everett Rank,

Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 83-21300 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-05-M

Forest Service

Uinta National Forest Grazing Advisory Board; Meeting

The Uinta National Forest Grazing Advisory Board will meet at 9:30 a.m. on Thursday, September 1, 1983, at the Pleasant Grove Ranger District, 390 North 100 East, Pleasant Grove, UT 84062.

The purpose of this meeting is to have a field review of the current allotment management plans and the planning and utilization of the Range Betterment Fund.

The meeting will be open to the public. Those who participate will need to supply their own transportation. Persons who wish to attend should notify Ward F. Savage, Uinta National Forest Supervisor's Office, P.O. Box 1428, Provo, UT 84601, telephone (801) 377–5780. Written statements may be

filed with the Board before and after the meeting.

Dated: July 29, 1983.

Don T. Nebeker,

Forest Supervisor.

[FR Doc. 83-21276 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

KAMO Electric Cooperative, Inc.; Environmental Statement

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Significant Impact (FONSI) with respect to an anticipated request for financing assistance to KAMO Electric Cooperative, Inc., (KAMO) of Vinita, Oklahoma, for a 38 percent ownership interest (186 MW) in Grand River Dam Authority's (GRDA) GRDA Unit No. 2. The plant site is located in Mayes County, Oklahoma.

FOR FURTHER INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) and KAMO's Borrower's Environmental Report (BER) may be reviewed in the Office of the Chief, Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382–1915, or at the office of KAMO Electric Cooperative, Inc. Power (Dean Sanger, Manager), P.O. Box 577, Vinita, Oklahoma 74301, telephone (918) 256–5551, during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with an anticipated request for financing assistance from KAMO, has reviewed the BER submitted by KAMO, the Environmental Impact Assessment (EIA) and FONSI issued by the Environmental Protection Agency (EPA) in April 1982 and other documents. As a result of this review, REA has determined that these documents represent an accurate assessment of the environmental impact of the entire project. The Project consists of one 490 MW (net) coal-fired steam electic generting unit which is being built adjacent to an operating unit (GRDA No. 1) of the same size. Most of the required ancillary facilities were constructed with Unit No 1. Transmission facilities will consist of a 72.4 km (45 mi) 345 kV line from the GRDA Unit No. 2 switchyard to the Flint Creek Substation located near Siloam Springs, Arkansas. KAMO will not have an ownership interest in the transmission facilities.

REA finds that the power plant project and proposed transmission line will have no effect on cultural resources, threatened and endangered species, wetlands or floodplains and no significant adverse impact on important farmland. Approximately 87.8 ha (217 a) of important farmland could be temporarily impacted during line construction and less than 0.2 ha (0.4 a) of important farmland will be removed from production due to placement of pole structures. The environmental effects will be minimal.

REA has determined that there is a demonstrated and significant need for the Project and related transmission facilities and that there are no practicable alternative actions that would reduce the small amount of important farmland to be converted and temporarily encroached upon.

Alternatives examined include maintaining existing power purchase contracts with GRDA (no action), participation in the GRDA Project, energy conservation, purchased power from other utilities and construction of generation facilities by KAMO. After reviewing these alternatives, REA determined that the proposed action is an acceptable alternative because it best meets KAMO's needs with a minimum of adverse impacts. Based on KAMO's BER and the FONSI issued by EPA (Region 6), REA prepared an EA concerning the proposed action and its impacts. REA's FONSI concluded that any financing assistance for participation in the Project would not be a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20–21:320–21, dated January 21, 1980, KAMO advertised and requested comments on the environmental aspects of the proposed action in local newspapers in Benton County, Arkansas, and Adair, Cherokee, Craig, Delaware, and Mayes Counties, Oklahoma. No comments were received.

This program is listed in the Catalog of Federal Domestic Assistance as 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: July 26, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-21024 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-15-M

Soil Conservation Service

Back Swamp Watershed, South Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Back Swamp Watershed, Lee County, South Carolina.

FOR FURTHER INFORMATION CONTACT: Billy R. Abercrombie, State Conservationist, Soil Conservation Service, 1835 Assembly Street, Room 950, Columbia, South Carolina 29201, Telephone 803–765–5681.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional or national impacts on the environment. As a result of these findings, Billy R. Abercrombie, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The project concerns enlargement of about 10 miles of stream channels to improve drainage outlets and reduce flooding. The work will involve ephemeral streams and require the clearing of about 70 acres. Numerous road culverts will be modified to be compatible with the planned channels.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Billy R. Abercrombie.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904. Watershed Protection and Flood Prevention Program)

Dated: July 28, 1983.

Billy R. Abercrombie,

State Conservationist.

[FR Doc. 83-21200 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-16-M

Dead Colt Creek Recreation Area RC&D Measure, North Dakota; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Dead Colt Creek Water-Based Recreation Development RC&D Measure, Ransom County, North Dakota.

FOR FURTHER INFORMATION CONTACT: Mr. J. Michael Nethery, State Conservationist, Soil Conservation Service, P.O. Box 1458, Bismarck, North Dakota 58502, telephone (701)255-4011, extension 421.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. J. Michael Nethery, State Conservatjonist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for the installation of water-based recreation facilities near Lisbon, located in Ransom County. The planned works include basic recreation facilities to be installed in two separate areas on the north side of the reservoir. Planned facilities include access roads, fencing, gravel parking, comfort stations, bath change house, boat ramp, picnic facilities, water and electrical facilities, swimming beach, windbreaks and shade trees, grass seeding, sign, gates, bulletin board, camping area development and a maintenance building.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. J. Michael Nethery.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program. State and local review procedures for Federal and federally assisted programs and projects are applicable)

Dated: July 27, 1983.

J. Michael Nethery,

State Conservationist.

[FR Doc.83-21214 Filed 8-4-83; 8:45 am]

BILLING CODE 3401-16-M

Upper Yocona River Subwatershed, Mississippi; Availability of Record of Decision

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of availability of a record of decision.

SUMMARY: A. E. Sullivan, responsible Federal official for projects administered under the provisions of Pub. L. 78-534, 58 Stat. 905, in the State of Mississippi, is hereby providing notification that a record of decision to proceed with the installation of the Upper Yocona River project is available. Single copies of this record of decision may be obtained from A. E. Sullivan at the address shown below.

FOR FURTHER INFORMATION CONTACT: A. E. Sullivan, State Conservationist, Soil Conservation Service, Suite 1321, Federal Building, 100 West Capitol Street, Jackson, Mississippi 39269, telephone 601-960-5205.

(Catalog of Federal Domestic Assistance Program No. 10.904, Flood Control Act. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: July 26, 1983.

A. E. Sullivan,

State Conservationist

[FR Doc. 83-20965 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-16-M

Edenton-Chowan Schools, RC&D Measure, North Carolina; Finding of No Significant Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Edenton-Chowan Schools, RC&D Measure, Chowan County, North Carolina.

FOR FURTHER INFORMATION CONTACT: Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919)-755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns a plan for reducing flooding and for improving drainage on four school grounds. The planned works of improvement include installing catch basins, pipes and sub-surface drainage tubing. Grading and shaping will be done to improve surface drainage and to eliminate ponding. All disturbed areas will be seeded with adapted permanent vegetation.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation

and Development Program. Office of Management and Budget Circular A-95 regarding State and Local clearinghouse review of Federal and federally assisted programs and projects is applicable)

Dated: July 27, 1983.

Coy A. Garrett,

State Conservationist.

[FR Doc. 83-21288 Filed 8-4-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

[A-427-089]

Anhydrous Sodium Metasilicate From France; Preliminary Results of Administrative Review of Antidumping Duty Order

AGENCY: International Trade Administration; Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Antidumping Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the antidumping duty order on anhydrous sodium metasilicate from France. The review covers the one known exporter of this merchandise to the United States and the period January 1, 1982 through December 31, 1982. The review indicates the existence of no dumping margins for the period.

As a result of the review, the Department has preliminarily determined not to assess dumping duties on entries with purchase dates during the period of review nor to require cash deposits of estimated antidumping duties on future entries.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Joseph A. Fargo or Robert J. Marenick, Office of Compliance, International Trade Administration, U. S. Department of Commerce, Washington, D.C. 20230,telephone: (202) 377-2923/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 8, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 44594) the final results of its last administrative review of the antidumping duty order on anhydrous sodium metasilicate from France (46 FR 1667-68, January 7, 1981) and announced its intent to conduct the next administrative review by the end of January 1984. As required by section 751 of the Tarriff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of anhydrous sodium metasilicate, a crystalline silicate (NA_2SiO_3) which is alkaline and readily soluble in water. Applications include waste paper de-inking, ore flotation, bleach stabilization, clay processing, medium or heavy duty cleaning, and compounding into other detergent formulations. Anhydrous sodium metasilicate is currrently classifiable under item 421.3400 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of French anhydrous sodium metasilicate to the United States, Rhone-Poulenc, S.A., and the period January 1, 1982 through December 31, 1982.

United States Price

In calculating United States Price the Department used purchase price, as defined in section 772 of the Tariff Act, since all sales were made to unrelated purchasers in the United States prior to the date of importation. Purchase price was based on the duty-paid delivered packed price with deductions, where applicable, for U.S. and foreign inland freight, ocean freight, marine insurance, customs duties, customs brokerage charges, and wharfage. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the delivered packed price with adjustments, where applicable, for a trade discount, foreign inland freight, and differences in packing costs. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no dumping margins exist for the period January 1, 1982 through December 31,1982.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments of hearing.

The Department shall instruct the Customs Service not to assess dumping duties on entries with purchase dates during the period of review.

Further, the Department shall not require a cash deposit of estimated antidumping duties, as provided for in section 353.48 (b) of the Commerce Regulations, on shipments of French anhydrous sodium metasilicate entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751 (a) (1) of the Tariff Act (19 U.S.C. 1675 (a) (1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 27, 1983.

[FR Doc. 83-21285 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-25-M

[A-479-063]

Animal Glue and Inedible Gelatin From Yugoslavia; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On April 18, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on animal glue and inedible gelatin from Yugoslavia. The review covers the one known exporter of this merchandise to the United States, Kemija-Impex, and the period December 1, 1981 through November 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results.

We received no comments. Based on our analysis, the final results of the review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Linda L. Pasden or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

SUPPLEMENTARY INFORMATION:

Background

On December 22, 1977, the Treasury Department published in the **Federal Register** (42 FR 64116–7) a dumping finding with respect to animal glue and inedible gelatin from Yougoslavia. On April 18, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 16526) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of animal glue and inedible gelatin, of which there are two principal types, hide glue and bone glue. Animal glue is an organic colloid of protein derivation. There is no significant difference between animal glue and inedible gelatin. Animal glues are odorless, dry, hard, hornlike materials. They are used as general purpose adhesives in industries producing abrasives, paper containers, book and magazine bindings, and leather goods. They are also used as sizing agents and as colloids in emulsions and cleaning compounds. Animal glue and inedible gelatin are currently classifiable under items 455.4000 and 455.4200 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of Yugoslavian animal glue and inedible gelatin to the United States, Kemija-Impex, and the period December 1, 1981 through November 30, 1982. There were no known shipments of this merchandise to the United States during the period and there are no known unliquidated entries.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no written comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review.

As provided for in § 353.48 (b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 9.7 percent, based on the most recent margin calculated for the firm, shall be required on any shipment of Yugoslavian animal glue and inedible gelatin entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately its next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751 (a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1)) and § 353.53 the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 29, 1983.

[FR Doc. 83–21284 Filed 8–4–83; 8:45 am]

BILLING CODE 3510–25–M

[A–427–010]

Certain Stainless Steel Sheet and Strip Products From France; Amendment to Antidumping Duty Order

AGENCY: International Trade Administration; Commerce.

ACTION: Amendment to Antidumping Duty Order.

SUMMARY: On June 22, 1983, the Department of Commerce published an antidumping duty order on certain stainless steel sheet and strip products from France (48 FR 28520). The summary stated that "a cash deposit or bond of estimated antidumping duties must be made on all such entries, and withdrawals from warehouse, for consumption made on or after the date of publication of this antidumping duty order." The "Supplementary Information" section stated that "On or after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated Customs duties on this merchandise, a cash deposit or bond equal to the estimated antidumping duty margins." In both places, the words "or bond" should be deleted.

It should be noted, however, that on July 11, 1983, we published a notice of "Allowance of Security in Lieu of Estimated Duty Pending Early Determination of Antidumping Duty" (48 FR 31687–88) for products covered by the above–mentioned order that were manufactured by Union Siderurgique du Nord et de l'Est de la France ("Usinor"). Notwithstanding this amendment to the antidumping duty order, the Customs Service will continue to waive cash deposits of estimated antidumping duties and accept bonds or other security for entries of certain stainless steel sheet and strip products manufactured by Usinor entered, or withdrawn from warehouse, for consumption on or after July 11, 1983, and on or before September 20,1983.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Philip Gallas, Maureen Flannery, or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5255.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 27, 1983.

[FR Doc. 83–21281 Filed 8–4–83; 8:45 am]

BILLING CODE 3510–25–M

[A–247–003–001]

Portland Cement, Other Than White, Nonstaining Portland Cement, From the Dominican Republic; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On April 20, 1983, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on portland cement, other than white, nonstanding portland cement, from the Dominican Republic. The review covers the one known exporter of this merchandise to the United States and the period June 1, 1981 through May 31, 1982.

Interested parties were given an opportunity to submit oral or written comments on the preliminary results. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or John Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–5253.

SUPPLEMENTARY INFORMATION:

Background

On May 4, 1963, the Treasury Department published in the **Federal Register** (28 FR 4507–8) an antidumping finding with respect to portland cement, other than white, nonstaining portland cement, from the Dominican Republic. On April 20, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 16931–2) the preliminary results of its last administrative review of the finding. The Department has now completed that administrative review.

Scope of the Review.

Imports covered by the review are shipments of portland cement, other than white, nonstaining portland cement. Such merchandise is curently classifiable under items 511.1420 and 511.1440 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of portland cement, other than white, nonstaining portland cement, from the Dominican Republic to the United States, Fabrica Dominicana de Cemento, C. por A., and the period June 1, 1981 through May 31, 1982.

Final Results of the Review

Interested parties were invited to comment on the preliminary results. The Department received no comments. Based on our analysis, the final results of our review are the same as those presented in the preliminary results of review, and we determine that a margin of 10.33 percent exists for the period June 1, 1981 through May 31, 1982.

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the period of review. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for in § 353.48 (b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 10.33 percent shall be required on all shipments of portland cement, other than white, nonstaining portland cement, from the Dominican Republic entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751 (a) (1) of the Tariff Act of 1930 (19 U.S.C. 1675 (a) (1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 27, 1983.

[FR Doc. 83–21282 Filed 8–4 83; 8:45 am]

BILLING CODE 3510–25–M

Pressure Sensitive Plastic Tape From Italy; Final Results of Administrative Review of Antidumping Finding

[A–475–059]

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On October 5, 1982, the Department of Commerce published the preliminary results of its administrative review and tentative determination to revoke in part the antidumping finding on pressure sensitive plastic tape from Italy. The review covers 7 of the 13 known manufacturers and/or exporters of this merchandise to the United States and varying time periods through September 30, 1980.

We invited interested parties to submit oral or written comments on the preliminary results. At the request of one exporter, we held a public hearing on March 23, 1983.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Brian Kelly or David Chapman, Office of Compliance, International Trade Administration, U. S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377–3058/5255.

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1977, the Treasury Department published in the **Federal Register** a dumping finding with respect to pressure sensitive plastic tape from Italy (42 FR 56110). On October 5, 1982, the Department of Commerce ("the Department") published in the **Federal Register** (47 FR 43993) the preliminary results of its administrative review of the finding and tentative determination to revoke in part. The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of pressure sensitive plastic tape measuring over 1⅝ inches in width and not exceeding 4 mils in thickness, currently classifiable under items 790.5530, 790.5545, and 790.5555 of the Tariff Schedules of the United States Annotated.

The review covers 7 of the 13 known manufacturers and/or exporters of this merchandise to the United States and various periods from February 18, 1977 through September 30, 1980. We are deferring our review of the following six other firms pending receipt of supplemental information: N.A.R. S.p.A. (included in the preliminary results,) S.I.C.A.D. S.p.A., Vibac, S.p.A., Nastri Adesivi Stampati, Varetto S.R.L., and Vifan S.p.A.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. At the request of one manufacturer, Manuli Autoadesivi S.p.A., the Department held a public hearing on March 23, 1983.

Comment 1: The petitioner, Minnesota Mining and Manufacturing Co. ("3M") argues that Manuli has consistently failed to comply with § 353.28(a) of the Commerce Regulations regarding submission of non-confidential summaries of submitted confidential information. The petitioner contends that Manuli has never corrected such deficiencies and that the pattern of non-compliance has prevented the fair and adequate disclosure of information to interested parties intended by Congress and the Department. Section 353.28(b) of the Commerce Regulations requires the Department not to consider information not submitted in proper form. In place of that material, the Department should use for assessment and cash deposit the best information otherwise available, which is the highest margin found for a Manuli sale during the less-than-fair-value investigation. The Department should enforce its regulations and not allow Manuli to file after the hearing adequate non-confidential summaries further delaying the proceeding.

Department's Position: Because of numerous administrative and procedural delays in this review, we allowed the late submission of proper non-confidential summaries and gave interested parties a subsequent opportunity for comment. In future reviews in this case the Department will

not use a submission if the company does not provide a timely non-confidential summary that fully complies with section 353.28 of the Commerce Regulations.

Comment 2: Manuli argues that it has been disadvantaged relative to other exporters because the Department used a computer to analyze only its data. Because of the Department's restrictions on release of computerized information, Manuli was not provided with copies of the Department's computer program or with the program's output. Using the Department's sample calculation methodology, Manuli cannot duplicate the Department's calculated margin percent. The Department should make full disclosure of its calculations to Manuli so that Manuli may make meaningful comment.

Department's Position: We provided adequately detailed worksheets to Manuli after we received this comment.

Comment 3: Manuli claims that it is improper and unfair to exclude from this review consideration of its exporter's sales price transactions during the reviewed period.

Department's Position: Minuli is correct that we could have reviewed such sales. We are deferring such sales until the next review in order not to delay further completion of the current review. We do not believe that Manuli is in fact disadvantaged by our approach.

Comment 4: Manuli and its importer, Wilton Corporation, argue that semi-finished products (jumbo rolls) sold to the United States should not be compared with finished products (slit rolls) sold in the home market, but rather with sales of jumbo rolls sold in the home market. The difference in merchandise due to slitting is much greater than any differences in the jumbo rolls sold in the two markets.

Department's Position: We revised the purchase price comparisons to ensure that all sales of jumbo rolls to the U.S. were compared with sales of similar jumbo rolls in Italy and made appropriate adjustments for differences in merchandise.

Comment 5: To the extent that the Department has not compared Manuli's sales to U.S. wholesalers with sales at the same level of trade in Italy, Manuli and Wilton argue that the Department should take into consideration all the higher selling expenses in Italy due to higher distribution costs in sales to end-users.

Department's Position: Manuli failed to provide adequate quantification of its claim for a level of trade adjustment.

Comment 6: Manuli's exports of jumbo rolls and of slit rolls with polypropylene backing should not be subjected to dumping duties at all because the original investigations were limited to slit rolls of PVC backed tape. Additionally, even if included in the investigations, jumbo rolls should not be considered within the scope because they are sold to a different kind of purchaser than slit rolls.

Department's Position: The dumping finding covers sales of Italian pressure sensitive plastic tape measuring over 1⅜ inches in width and not exceeding 4 mils in thichness, as clearly stated in the antidumping finding. the heading of the 3M petition initiating the investigation cited "pressure sensitive U.P.V.C. backed box sealing tape from Italy." However, the text of the petition described the tape as "film backed packing tape," including polyester backed tape, polyolefin (primarily oriented polypropylene) backed tape, and U.P.V.C. unplasticized polyvinyl chloride) backed tape. The **ederal Register** notice initiating the investigation referred to "pressure sensitive plastic tape," broader category than U.P.V.C. backed tape. It is apparent that during the course of the fair value investigation the phrase "pressure sensitive plastic tape" signified not only industrial packaging tape but also tape for home or office use and jumbo rolls. Accordingly the Treasury Department revised the scope to put minimum but not maximum limitations on the size of the covered merchandise. Treasury deliberately made this decision based on the belief that the finding could easily be avoided by a manufacturer shipping jumbo rolls to an importer that in turn would slit the rolls.

We also note that a contemporaneous investigation involving pressure sensitive plastic tape from West Germany explicitly involved U.S. sales of jumbo rolls, yet the definition of the covered merchandise was the same as here.

Comment 7: Manuli should not be subject to any dumping determination or dumping duties because it has been denied due process of law. Commerce delays in the administrative reviews of the finding have thwarted Manuli's speedy receipt of judicial review of the underlying dumping finding and have unjustly increased Manuli's exposure and expense in its trade in the U.S. Commerce's piecemeal and random examination of this current review period, rather than the earlier period of February 1977 through March 1979, is contrary to congressional intent and deprives Manuli of the opportunity to establish by this time a basis for: (1) Changed circumstances, (2) termination, (3) lower margins, if any at all, with resultant refunds of deposits, and (4) prompt administrative and judicial review.

Department's Position: We do not accept Manuli's argument that it should not be subject to dumping duties or any dumping determination because of delays in the administrative reviews of the finding. There is no foundation in the law or regulations for Manuli to claim exemption from dumping duties on these grounds. Manuli has not been denied due process of law. The Department has considered its written and oral comments and, where it has thought the comments had merit, has modified these final results. We do not accept Manuli's argument that it should not be subject to dumping duties or any dumping determination because of the particular period reviewed. Congress intended that the administering authority begin annual administrative reviews in 1980 and expected that reviews would generally cover the most recent one-year period.

Comment 8: Manuli protests the Department's use of a best information rate of 9.2 percent on some U.S. sales. Manuli contends that it did not fail to provide the cost of production information requested by the Department on certain tape sold in Italy. The cost of production provided for the tape shipped to the United States is the same as for that tape sold in Italy.

Department's Position: We used the best information rate of 9.2 percent for six sales because Manuli did not report sales of colored jumbo rolls in the home market, not because of missing cost data.

Comment 9: An exporter and its importer, SMAC S.p.A. and Precision Tape Co., Inc., contend that, if 3M does not manufacture polypropylene backed tape, such tape should not be subject to the finding.

Department's Position: We consider polypropylene backed tape to be within the scope of the finding on pressure sensitive plastic tape. See Comment 6.

Comment 10: SMAC and Precision Tape believe that the Department should ascertain the petitioner's gross sales and profits on tape covered by the finding since the finding went into effect in 1977.

Department's Position: The Department is not responsible for gathering domestic injury data for foreign companies subject to dumping findings or antidumping duty orders.

Comment 11: SMAC and Precision Tape believe that the Department erred in the amount of U.S. customs duties it deducted in its calculation of purchase price, and that price comparisons should be made on the basis of square meters rather than rolls.

Department's Position: The Department converted all prices to a per square meter basis before comparison. The figure cited in the SMAC/Precision Tape brief for U.S. customs duties is actually a composite figure for U.S. customs duties, U.S. freight, insurance and handling. We calculated all four underlying figures by dividing the actual charges by the total square meters of tape in a shipment. The Department did not deduct estimated antidumping duties from U.S. price.

Comment 12: SMAC believes that the Department should allow a downward adjustment to its home market price of about 3 percent because PVC tape sold in the home maket is printable, and therefore more costly, than the unprintable PVC and polypropylene tape SMAC sells to the U.S. SMAC would like the Department to verify the validity of the requested adjustment.

Department's Position: SMAC did not quantify the alleged difference in merchandise. Lacking such quantification, we made no adjustment.

Comment 13: SMAC claims that the Department should make an additional 3 percent downward adjustment to home market prices for differences in circumstances of sale.

Department's Position: Again, SMAC failed to quantify adequately this claim. We therefore made no adjustment.

Comment 14: SMAC objects to the Department's practice of using the Federal Reserve Board quarterly rates of exchange as the conversion rates for foreign market value, and claims that the invoice date from SMAC to Precision should be used as the date of sale for currency conversion.

Department's Position: Section 522 of the Tariff Act of 1930 establishes that the quarterly exchange rate certified by the Federal Reserve Bank of New York is to be used for currency conversion purposes. Section 353.56 of the Commerce Regulations requires the use of section 522 in antidumping proceedings. Section 522 establishes that the rate is to remain the same for the entire quarter unless there is a fluctuation in the rate exceeding five percent during the quarter. We generally use the order confirmation date as date of sale in establishing foreign market value. Where SMAC failed to provide order confirmation dates, we used export dates to approximate dates of sale.

Final Results of the Review

Based on our analysis of the comments received and correction of various clerical errors, we determine that the following margins exist:

Manufacturer/exporter	Time period	Margin (percent)
Autoadesivitalia, S.p.A.	05/11/78-09/30/80	0.00
Boston, S.p.A.	01/01/79-09/30/80	8.53
Comet S.A.R.A., S.p.A.	07/01/78/-09/30/80	2.79
Cosmonastri, S.p.A.	02/18/77-09/30/80	12.66
Manuli Autoadesivi, S.p.A.	04/01/79-09/30/80	0.39
Nazionale Imballaggi	02/18/77-09/30/80	12.66
S.M.A.C., S.p.A.	09/01/79-09/30/80	12.66

The Department shall determine, and the U.S. Customs Service shall assess, dumping duties on all appropriate entries made with purchase dates during the time periods involved. Individual differences between United States price and foreign market value may vary from the percentages stated above. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, as provided for in § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties based on the above margins shall be required on all shipments of Italian pressure sensitive plastic tape from these firms entered, or withdrawn from warehouse, for consumption on or after the date of pulication of this notice. The Department waives the deposit requirement for Manuli Autoadesivi, S.P.A., since the margin for this firm is *de minimis* for deposit purposes. For future entries from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after September 30, 1980 and who is unrelated to any covered firm, a cash deposit of 12.66 percent shall be required.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review. The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 29,1983.

[FR Doc. 83-21283 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-25-M

[A-122-006]

Steel Jacks From Canada; Final Results of Administrative Review of Antidumping Finding

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Antidumping Finding.

SUMMARY: On October 13, 1981, the Department of Commerce published the preliminary results of its administrative review of the antidumping finding of steel jacks from Canada. The review covers the one exporter covered by the finding, J. C. Hallman Manufacturing Company Limited, and the period January 1, 1977 through August 31, 1980.

Interested parties were given an opportunity to submit oral or written comments of the preliminary results. At the request of the exporter, the Department held a public hearing on November 17, 1981. Based on our review of the comments received, we have changed the margin from that presented in our preliminary results of review

EFFECTIVE DATE: August 5,1983.

FOR FURTHER INFORMATION CONTACT: Amy Dale or Robert Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: (202) 377-2923/5255

SUPPLEMENTARY INFORMATION:

Background

On September 13, 1966, the Treasury Department published in the **Federal Register** (31 FR 11974) a dumping finding with respect to steel jacks from Canada, manufactured by J. C. Hallman Manufacturing Company Limited. On October 13, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 50401-02) the preliminary results of its first administrative review of the finding. The Department has completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of steel jacks, currently classifiable under item number 664.1057 of the Tariff Schedules of the United States Annotated. J. C. Hallman Manufacturing Company Limited is the only manufacturer subject to the finding. The Department stated in the preliminary results that "parts" were not within the scope of the finding. After a subsequent examination of "parts" exported to the United States by Hallman, we now conclude that they

constitute unassembled jacks; therefore, they are within the scope of the finding. The review covers the period from January 1, 1977 through August 31, 1980.

Analysis of Comments Received

Interested parties were invited to comment on the preliminary results. At the request of Hallman, the Department held a public hearing on November 17, 1981.

Comment 1: At the hearing, the petitioner, Bloomfield Manufacturing Co., argued that parts of steel jacks were within the scope of the finding. Hallman rebutted, arguing that parts were not investigated during the original fair value investigation.

Department's Position: The Treasury Department did not, and the Department does not, necessarily investigate, during a fair value investigation, all of the goods within the "class of kind" of merchandise covered by a finding or order. See "Final Results of Administrative Review of Antidumping Finding" on large power transformers from France (47 FR 10268–69) Hallman's sample of its parts shipments, submitted after the hearing, in fact constitutes an unassembled jack, and such parts are therefore within the scope of the finding.

Comment 2: Hallman argued that an importer, the A. H. Bottorff Company, verbally ordered jacks from Hallman, each time placing a new order at the time of delivery of an earlier order. Hallman submitted affidavits, physical inventory tickets for jacks, and a personal notebook of the plant manager to corroborate this practice. Hallman requested that we consider the invoice date of the prior shipment as the purchase date for each succeeding shipment.

Department's Position: We disagree. We examined sample copies of Special Customs Invoices (Customs Form 5515) for selected shipments. The forms show an order date for each delivery that is later than the prior delivery date. The forms are signed legal documents provided by exporters to importers for presentation to the United States Customs Service at the time of entry. The purchase dates shown on the forms better represent actual dates of purchase than the other data proffered to corroborate Hallman's claim.

Comment 3: Hallman requested a second administrative hearing if the Department changes its position and rules that steel jack components are within the scope of the finding.

Department's Position: This issue was discussed at length at the first hearing. We believe that a second hearing in this review is inappropriate.

Comment 4: Hallman requested that the Department analyze sales data for a later period than that covered by the preliminary results and include the later period in these final results. Hallman asserted that review of the later period would show no margins and that revocation of the finding would be appropriate.

Department's Position: Hallman's arguments do not justify altering the regular course of reviewing the later period in the next administrative review.

Comment 5: Hallman claims it is not appropriate for the Department to compare U.S. sales invoices 41B, 54B, and 59B to the immediately preceding Canadian sale to a Canadian catalog sales firm. The Canadian catalog company required a firm price quotation from Hallman several months in advance of the six month period during which its catalog prices were in effect. Because of that requirement, on occasion, this customer was given a price increase in advance of the price increase given to other Canadian and U.S. customers.

Department's Position: In reviewing Hallman's sales to the Canadian catalog firm, the Department found that in general the price quoted to that firm was the same as to other customers. The Department found no pattern of Hallman quoting higher prices earlier to the catalog firm. Where applicable, the Department has continued to compare U.S. sales with the immediately preceding sale to the catalog sales firm.

Comment 6: Hallman requested an adjustment for differences in level of trade. Hallman claims that A. H. Bottorff conducted business as a wholesaler while Hallman's Canadian customers were retailers. Hallman submitted an estimate of the amount of appropriate adjustment for level of trade. Hallman argued that this data should be used rather than the Department's use of unadjusted sales prices to Canadian customers.

Department's Position: Hallman stated in its questionnaire response that it sold from a price list in both markets. The list was based on the quantity purchased regardless of the levels of purchaser. The Department therefore chose for comparison transactions of comparable quantities in both the U.S. and Canadian markets. Any adjustment for level of trade would be inappropriate.

Final Results of the Review: Based on our analysis of the comments received and on our analysis of the sales of unassembled steel jacks, we have changed the margin for Hallman. We determine that a weighted-average margin of 5.10 percent exists for the period January 1, 1977 through August 31, 1980.

The Department shall determine, and the U.S. Customs Service shall assess, antidumping duties on all appropriate entries with purchase dates during the period of review. Individual differences between United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 5.10 percent shall be required on all shipments of Canadian steel jacks, both assembled and unassembled, manufactured by J. C. Hallman Manufacturing Co., Ltd., entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice.

This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

The Department intends to begin immediately the next administrative review. The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53 of the Commerce Regulations (19 CFR 353.53).

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

July 27, 1983.

[FR Doc. 83-21280 Filed 8-4-83 8:45 am]

BILLING CODE 3510-25-M

[C-469-038]

Unwrought Zinc From Spain; Final Results of Administrative Review Countervailing Duty Order

AGENCY: International Trade Administration, of Commerce.

ACTION: Notice of Final Results of Administrative Review of Countervailing Duty Order.

SUMMARY: On November 27, 1981, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on unwrought zinc from Spain. The review covers the period January 1, 1980 through December 31, 1980.

We gave interested parties an opportunity to comment on our preliminary results. After review of all comments received, the final assessment rates are the same as those presented in the preliminary results of review.

Because of an increase in 1982 in the benchmark commercial interest rate in Spain, we have changed the cash deposit of estimated countervailing duties, required on future entries, from that proposed in the preliminary results.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Josephine Russo or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On November 27, 1981, the Department of Commerce ("the Department") published in the **Federal Register** (46 FR 57948) the preliminary results of its administrative review of the countervailing duty order on unwrought zinc from Spain (41 FR 18587; April 8, 1977). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of unwrought zinc, other than alloys of zinc, from Spain. Such merchandise is currently classifiable under item 626.0200 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980, and two programs: (1) A rebate upon exportation of indirect taxes under the Desgravacion Fiscal a la Exportacion ("the DFE"); and (2) an operating capital loans program ("capital circulante").

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received written comments from the petitioner, St. Joe Minerals Corporation, and the two known exporters to the United States, Asturiana de Zinc, S.A. and Espanola de Zinc, S.A.

Comment 1: The exporters argue that, to calculate the DFE overrebate, the Department should include the amount of indirect taxes applicable to all of the electricity used in transferring electrons to form zinc, because that portion of electricity is physically incorporated into the manufacturing *process*. Any amount which is lost in the manufacturing process is "necessary waste."

Department's Position: We only allow the rebate of indirect taxes borne by those inputs which are physically incorporated in the final product. Annex 1.1 of part 355 of the Commerce Regulations makes clear, by deeming catalysts as not incorporated, that the test focuses on the final product, not the manufacturing process. Although a minimum number of electrons are present in the final product, the exporters were unable to provide evidence itemizing that portion of electricity serving as necessary waste in incorporating electrons to form zinc.

Comment 2: The exporters contend that the commercial benchmark used by the Department is too high. They contest the Department's 2.5 percent addition to the average of the monthly prime rates for one-year loans because "any exporter that could obtain any significant amount of financing under the operating capital loans program would have been able to obtain normal commercial credit at a rate no higher than prime." Alternatively, the exporters suggest that the Department use the published rate for loans "of one to three years" as the commercial benchmark.

Department's Position: Since the preferential loans are given under a broad, national lending program, we have used a national commercial interest rate as our benchmark. Additionally, because the operating capital loans program is not directed toward a particular group of exporters, we have used an average commercial rate (composed of prime plus 2.5 percent), and not a rate available to borrowers of better-than-average creditworthiness. Finally, any one-to-three year rate is inappropriate because the operating capital loans were granted for less than one year.

Comment 3: The exporters maintain that the duty deposit rate should be updated to reflect the current status of Spain's phase-out of the operating capital loans programs, citing a 1982 regulation reducing maximum eligibility to 15 percent, effective January 1, 1983, and to 9 percent, effective January 1, 1984.

Department's Position: It is our policy to include in setting the duty deposit rate timely corroborated reports of government actions in effect, subsequent to the review period, that affect the size of the benefits on future entries. Therefore, we have incorporated the January 1, 1983 eligibility change in setting our deposit rate.

Comment 4: The exporters suggest that the duty deposit rate reflect the reduction in the benefit under the operating capital loans program due to the devaluation of the peseta subsequent to the review period and an increase in the volume of zinc exports in 1981. Because the level of eligibility under the program is based in part on the peseta value of the previous year's exports, the exporters maintain that the amount of loans available as a percentage of the total value of exports in any year is less than the legal limit.

Department's Position: In this instance, the exporters are asking us to predict the future value of zinc exports based on incomplete and unreviewed data for 1981. The Department views such forecasting as inappropriate. We cannot make such an assumption for the remainder of 1983 and the beginning of 1984 based on any increase in 1981 exports when compared to 1980.

Comment 5: St. Joe Minerals claims that it was denied access to critical information relied upon by the Department in this administrative review. Specifically, it contests the unavailability of the entire "Structure of Costs" study used by the Spanish government in determining the level of indirect tax incidence and the rates of rebate associated with the DFE. This limited St. Joe's ability to challenge our finding of linkage. St. Joe further contends that it was denied technical information provided by the exporters during verification concerning the calculation of the electricity physically incorporated into the final product and considered allowable by the Department.

Department's Position: The Department has accepted the methodology and data base used by the Spanish government in estimating the tax incidence and setting the rebate under the DFE. (See *Certain Stainless Steel Products from Spain*, 47 FR 51433, November 15, 1982.) In this regard, we have provided petitioner with all documents germane to our analysis of the study and our reasons for finding linkage with regard to zinc.

We believe that the record is clear regarding the existence of a Spanish input-output table and how it was used to estimate the industry tax incidence of the Spanish cascade tax system. The Department possesses portions of the table relevant to various products under review. The entire table is publicly available in the United States at the Library of Congress. Since the pages in the possession of the Department are mathematically linked to all other parts of the table, the Department does not consider physical possession of the entire document necessary for a finding of linkage.

Regarding the calculation of electricity physically incorporated into the final product, the Department allowed only the theoretical minimum number of electrons present in one molecule of zinc after electrolysis. We did provide petitioner with a detailed memorandum of the formula used by the exporters in arriving at the theoretical amount of electricity for our calculations. The petitioner provided no comments which would have led us to solicit further clarification. The factual information in the memorandum is corroborable through basic chemistry textbooks. Because the petitioner has not provided any evidence to refute the data, we have assumed in our calculations the use of the minimum amount of electricity in our determination of the level of overrebate.

Comment 6: St. Joe argues that the Department failed to investigate the funding of the Juan de la Cierva Program even though the Department had sufficient time to do so after publication of the preliminary results of review.

Department's Position: The Department will not investigate new allegations of subsidy practices submitted after the publication of the preliminary results of review. Such a policy would require a complete supplemental review process including questionnaires, responses, possible verification of responses, and an additional opportunity for comment by interested parties before the Department could issue its final results. However, the Department will consider such allegations in its subsequent review if the petitioner renews those allegations.

Final Results of the Review

After consideration of all comments received, we determine the aggregate net subsidy to be 2.05 percent *ad valorem* during 1980. The Department will instruct the Customs Service to assess countervailing duties of 2.05 percent of the f.o.b. invoice price on all shipments of unwrought zinc entered, or withdrawn from warehouse, for consumption on or after January 1, 1980 and exported on or before December 31, 1980.

The provisions of T.D. 78–166 (43 FR 25814) or T.D. 79–21 (44 FR 3476) and section 303(a)(5) of the Tariff Act, prior to the enactment of the Trade Agreements Act of 1979, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties on unliquidated entries of unwrought zinc which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 78–166 or T.D. 79–21.

Further, as provided for by section 751(a)(1) of the Tariff Act, the Department intends to instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 1.4 percent of the f.o.b. invoice price on all shipments of this merchandise entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now beginning the next administrative review of the order.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 29, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-21278 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-25-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of final results of administrative review of countervailing duty order.

SUMMARY: On May 31, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1980 through September 30, 1981.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: August 5, 1983.

FOR FURTHER INFORMATION CONTACT: Bernard Carreau or Joseph Black, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On May 31, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 24183) the preliminary results of its administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 60486, January 17, 1979). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Swedish regular viscose rayon staple fiber and high-wet modulus ("modal") viscose rayon staple fiber. Such merchandise is currently classifiable under items 309.4320 and 309.4325 of the Tariff Schedules of the United States Annotated. The review covers the period October 1, 1980 through September 30, 1981, and the following programs: (1) Capital loans/grants and (2) elderly employment compensation.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine the net subsidy to be 7.32 percent *ad valorem* for both modal and regular viscose rayon staple fiber for the period of review. The Department will instruct the Customs Service to assess countervailing duties of 7.32 percent of the f.o.b. invoice price on any shipments exported on or after October 1, 1980 and entered, or withdrawn from warehouse, for consumption on or before October 29, 1980.

On October 30, 1980, the International Trade Commission ("the ITC") notified the Department that the Swedish government had requested an injury determination for this order under section 104(b) of the Trade Agreements Act of 1979. On March 15, 1983, the ITC notified the Department of its determination that an industry in the United States would be materially injured or threatened with material injury if the order were revoked. As a result, the Department will instruct the Customs Service to assess countervailing duties, in the amount of the prevailing deposit rates at the time of entry, on all unliquidated entries of this merchandise entered, or withdrawn

from warehouse, for consumption on or after October 30, 1980 and on or before March 15, 1983. These rates are zero percent of the f.o.b. invoice price of regular fiber, and 8.6 percent of the f.o.b. invoice price of modal fiber, for the period October 30 1980 through December 9, 1981; and 3.44 percent of the f.o.b. invoice price of regular fiber, and 40.37 percent of the f.o.b. invoice price of modal fiber, for the period December 10, 1981 through March 15, 1983.

Further, as provided by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service t collect a cash deposit of estimated countervailing duties of 10.40 percent of the f.o.b. invoice price on any shipments of modal or regular viscose rayon staple fiber from Sweden entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice. This deposit requirement shall remain in effect until publication of the final results of the next administrative review. The Department is now beginning the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information during the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: July 29, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-21279 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Coastal Zone Management Programs; Federal Consistency Appeal by Exxon Company U.S.A. From California Coastal Commission Objection

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On July 22, 1983, the Secretary of Commerce received an appeal by the Exxon Company, U.S.A. (Exxon) from an objection by the California Coastal Commission to Exxon's certification that Option A (Offshore Oil Treating) of its Outer Continental Shelf Oil and Gas Development and Production Plan for the Santa Ynez Unit in the Santa Barbara Channel is consistent with the California Coastal Management Program. This appeal has been filed pursuant to Section 307(c)(3) (A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3) (A) and (B), and implementing regulations at 15 CFR 930 Subpart H.

Interested persons are advised that they may submit comments to the Secretary of Commerce (Secretary) on the issues raised in this appeal within 30 days from the date of publication of this notice. Comments should be sent to: Peter L. Tweedt, Director, Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, 3300 Whitehaven Street NW., Washington, D.C. 20235.

Copies of comments should also be sent to the following persons:

1. Shelby Moore, Exxon Company U.S.A., 225 West Hillcrest Drive, Thousand Oaks, CA 91359.

2. Tim Eichenberg, California Coastal Commission, 631 Howard St., San Francisco, CA 94105.

3. William Grant, Minerals Management Service, Pacific OCS Region, 1340 W. 6th St., Los Angeles, CA 90017.

Comments should address whether Exxon's Option A (Offshore Oil Treating) complies with the regulatory criteria, as set forth in 15 CFR 930.121 and 930.122, to be considered by the Secretary in deciding whether to override the objection of the California Coastal Commission under Section 307(c)(3) (A) and (B) of tne CZMA.

The Office of Ocean and Coastal Resource Management (OCRM) will hold a public hearing in Santa Barbara for the purpose of receiving additional comments from interested persons and organizations on the issues raised by this appeal. When a decision on the date and location of the public hearing has been made, a notice will be published pursuant to 15 CFR 930.129.

Access to Exxon's Notice of Appeal and accompanying public information, and to the public information contained in comments submitted by Federal and State agencies, will be available to the public at the following State and Federal offices during normal working hours:

1. California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, California 94105.

2. Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration, Department of Commerce, Room 328A, 330 Whitehaven Street NW., Washington, D.C. 20235.

A copy of Exxon's notice of appeal and supporting information is also available at the Santa Barbara Public Library, 40 E. Anapamu, Santa Barbara, California 93101; and the Minerals Management Service, Pacific OCS Region, Public Information Room, 1340 W. 6th St., Los Angeles, California 90017.

FOR FURTHER INFORMATION CONTACT: Nan Evans, Senior Policy Analyst, Office of Ocean and Coastal Resource Management (202–634–4249); or David Drake, Attorney Advisor, Office of the General Counsel for Ocean Services (202–254–7512).

SUPPLEMENTARY INFORMATION: Exxon is the operator for the development of crude oil and gas reserves in the 19 leases on the Santa Ynez Unit on the Federal Outer Continental Shelf (OCS) in the Santa Barbara Channel. Production from the Santa Ynez Unit was initiated on April 1, 1981, from the existing Hondo A platform. In order to recover additional reserves from the Hondo field and to develop two nearby fields, Exxon has proposed the installation of three to four new platforms, an offshore oil and gas pipeline system connecting all of the platforms, and two oil and gas production and treating options (offshore oil treatment, onshore gas treatment—Option A; onshore oil and gas treatment—Option B). Crude oil transportation, under the offshore oil treatment option, would be by marine vessel from the existing Offshore Storage and Treating (OS&T) vessel to refineries in the Gulf of Mexico area. Crude oil transportation, under the onshore option, would be by marine vessels from a modernized nearshore marine terminal. Exxon estimates that primary recovery by the proposed development will be approximately 300 to 400 million barrels of crude oil and 600 and 700 billion standard cubic feet of natural gas over a period of 25 to 35 years.

On June 23, 1983, the California Coastal Commission (CCC) rejected Exxon's Option A for offshore storage and treatment of the produced oil and transfer of the treated oil to tankers for shipment to refineries and for the construction of platforms and pipelines under that option. The CCC concurred with the offshore production portion of Exxon's Development and Production Plan, Option B (i.e., the platforms and pipeline gathering system). Exxon has agreed to withdraw, for the present, its consistency certification for the

associated onshore facilities under Option B, including oil and gas treatment facilities, a marine terminal, and pipelines in State waters. The CCC understands that Exxon will re-submit a consistency certification for these facilities after completion of the environmental impact statement process and at the time Exxon applies for the necessary state and local permits.

Exxon appealed to the Secretary of Commerce on July 22, 1983, to override the objections of the CCC to Option A: the offshore storage and treatment option. NOAA regulations, at 15 CFR Part 930 Subpart H, authorize the Secretary to find that a federal license or permit activity described in detail in an OCS plan, which has been found by a state to be inconsistent with the federally approved coastal zone management program, can be federally approved if the activity meets one of two tests. To meet the first test, four criteria must be satisfied: (a) The activity furthers one or more of the competing national objectives or purposes contained in Section 302 or 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweigh its constribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the state management program. To meet the second test, the Secretary must find that a national defense or other national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

If the Secretary does not find that the activity meets either of these two tests, the Federal agency shall not approve the activity.

[Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration]

Dated: July 27, 1983.

K. E. Taggart,

Assistant Administrator, National Ocean Service.

[FR Doc. 83-20837 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-08-M

Marine Mammal Permit Applications; Receipt of Modification Request to Permit No. 408; Aquarium of Niagara Falls

Notice is hereby given that the Aquarium of Niagara Falls, 701 Whirlpool Street, Niagara Falls, New York 14301, has requested a modification of Permit No. 408 issued on March 23, 1983 (48 FR 13068), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 408 authorizes the taking of three (3) Atlantic bottlenose dolphins *(Tursiops truncatus)* not less that 6'6" in length of either sex for public display.

The Permit Holder is requesting to take an additional Atlantic bottlenose dolphin as a replacement for an animal which died during capture operations. The animal will be taken by the means, in the area, and for the purposes set forth in the original permit application.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: August 1, 1983.

R. B. Brumsted,

Acting Chief, Protected Species, National Marine Fisheries Service.

[FR Doc. 83-21376 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit Applications; Modification No. 2 to Permit No. 346, National Zoological Park

On May 10, 1983, Notice was published in the **Federal Register** (48 FR 21624) that a modification requst to Permit No. 346 had been received from the National Zoological Park. Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Scentific Research Permit No. 346 issued to the National Zoological Park, Smithsonian Institution, Washington, D.C., on July 16, 1981, is modified to include the additional take of 80 California sea lions by capture and release.

Accordingly, Section A–1 is amended to read: "A–1—Up to four hundred ten (410) California sea lions *(Zalophus californianus)* of any age and either sex may be taken as described in the application and documents submitted in the modification."

Section B–2 is amended to read: "B–2—The Permit Holder shall suspend activities if two animals die or show other evidence of adverse impacts, such as injury or failure to re-establish mother/pup bonds, and shall provide a report to the Regional Director-Southwest Region and the Assistant Administrator for Fisheries describing the incidents and any proposed changes to reduce or eliminate further adverse effects. Authorization from the Regional Director is required to continue activities."

Section B–3 is amended to read: "B–3—The Holder shall submit a report by December 31 of each year the Permit is valid describing the activities that have been conducted under this Permit. The report shall include the number, age, and sex of animals taken, dates and locations of taking, a description of activities conducted, including monitoring of impacts, and the effects of the activities on the animals."

Section B–6 is added: "B–6—Collection of marine mammals found dead in the study area shall be done under the supervision of the Regional Director, Southwest Region, National Marine Fisheries Service."

These modifications became effective on July 29, 1983.

The Permit is modified and documentation pertaining to modifications are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.;

Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930; and

Regional Director, Sountwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 29, 1983.

Richard B. Roe,

Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 83-21377 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit Applications; Notice of Receipt of Application for Permit, Kenneth C. Balcomb III, et al.

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations, Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Mr. Kenneth C. Balcomb III (P33C).

b. Address: 1359 Smuggler's Cove Road, Friday Harbor, Washington 98250.

2. Type of Permit: Scientific Research/ Scientific Purposes.

3. Name and Number of Animals: Killer whales (*Orcinus orca*), unspecified number; Humpback whales (*Megaptera novaeangliae*), unspecified number.

4. Type of Take: Potential harassment during photography for reidentification and census studies.

5. Location of Activity: Puget Sound, Washington, Shielakof Strait, Prince William Sound and Southeast Alaska and Hawaiian Islands.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.

Regional Director, Alaska Region, National Marine Fisheries Service, P.O. Box 1668, Juneau, Alaska;

Regional Director, Northwest Region, National Marine Fisheries Service, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: August 1, 1983.

R. B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-21378 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-22-M

Marine Mammal Permit Applications; Receipt of Application for Permit, Dr. William M. Hamner

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217–222).

1. Applicant:

a. Name: Dr. William M. Hamner (P293A).

b. Address: Department of Biology, University of California at Los Angeles, Los Angeles, California 90024.

2. Type of Permit: Scientific Research and Scientific Purposes.

3. Name and Number of Animals:

Blue whale *(Balaenoptera musculus)*, Unspecified
Sei whale *(Balaenoptera borealis)*, Unspecified
Fin whale *(Balaenoptera physalus)*, Unspecified
Minke whale *(Balaenoptera acutorostrata)*, Unspecified
Humpback whale *(Megaptera novaeangliae)*, Unspecified
Killer whale *(Orcinus orca)*, Unspecified
Crabeater seal *(Lobodon carcinophagus)*, Unspecified
Kerguelen fur seal *(Arctocephalus gazella)*, Unspecified
Leopard seal *(Hydrurga leptonyx)*, Unspecified
Ross seal *(Ommatophoca rossii)*, Unspecified
Weddell seal *(Leptonychotes weddelli)*, Unspecified
Southern elephant seal *(Mirounga leonina)*, Unspecified
Southern right whale *(Balaena australis)*, Unspecified

4. Type of Take: Potential harassment while conducting krill research

5. Location of Activity: Antarctic waters.

6. Period of Activity: 3 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731.

Dated: July 28, 1983.

Robert B. Brumsted,

Acting Chief, Protected Species Division, National Marine Fisheries Service.

[FR Doc. 83-21379 Filed 8-4-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Additions to Procurement List.

SUMMARY: This action adds to Procurement List 1983 services to be provided by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: August 5, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: On December 10, 1982, April 15, 1983, April 29, 1983, and May 13, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published notices (47 FR 55512, 48 FR 16313, 43 FR 19456, and 48 FR 21625) of proposed additions to Procurement List 1983, November 18, 1982 (47 FR 52101):

After consideration of the relevant matter presented, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c, 85 Stat. 77.

I certify that the following actions will not have a significant impact on a substantial number of small entities. The major factors considered were:

a. The actions will not result in any additional reporting, recordkeeping or other compliance requirements.

b. The actions will not have a serious economic impact on any contractors for the services listed.

c. The actions will result in authorizing small entities to provide services procured by the Government.

Accordingly, the following services are hereby added to Procurement List 1983:

SIC 0782

Grounds Maintenance
Area 12 "NOSTRA", Naval Weapons Station, Yorktown, Virginia

SIC 7349

Janitorial Service
Federal Warehouse, 2760 NW Yeon Avenue, Portland, Oregon
Janitorial/Custodial
Naval and Marine Corps Reserve Center, Newport News, Virginia
Janitorial Service
Federal Building, 500 W. 12th Street, Vancouver, Washington

SIC 7369

Commissary Shelf Stocking and Custodial Services
Homestead Air Force Base, Florida

SIC 7641

Furniture Rehabilitation
Oklahoma City, Oklahoma plus 25-mile radius, including FAA and Tinker AFB

C. W. Fletcher,

Executive Director.

[FR Doc. 83-21338 Filed 8-4-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Proposed Additions and Deletions

AGENCY: Committee for Purchase From the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to and Deletions From Procurement List.

SUMMARY: The Committee has received proposals to add to and delete from Procurement List 1983 commodities and services provided by workshops for the blind and other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: September 7, 1983.

ADDRESS: Committee for Purchase From the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557–1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 74(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 5831

Amplifier Subassembly
5831–00–087–3408

Class 7210

Bed Sheets, Non-Woven, Disposable
7210–00–498–0512
7210–00–139–6376

Class 7920

Squeegee
7920–00–577–4747
7920–00–577–4748
7920–00–577–4744
7920–00–577–4745
7920–00–577–4746
Squeegee Blade
7920–00–577–4749
7920–00–577–4950
7920–00–577–4751
7920–00–577–4754
7920–00–577–4755
7920–00–577–4756

SIC 0782

Grounds Maintenance
Marine Corps Air Station, Yuma, Arizona

SIC 9199

Administrative Services
Environmental Protection Agency, 345 Courtland Street, NE, Atlanta, Georgia

Deletions

It is proposed to delete the following services from Procurement List 1983, November 18, 1982 (47 FR 52101):

SIC 7369

Commissary Shelf Stocking
Rough and Ready Isle, Stockton, California
Commissary Shelf Stocking
Puget Sound Naval Shipyard, Bremerton, Washington

C. W. Fletcher,

Executive Director.

[FR Doc. 83-21339 Filed 8-4-83; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Thursday, 1 September 1983.

Time: 0830–1700 hours (Open).

Place: U.S. Army Academy of Health Sciences, Fort Sam Houston, Texas.

Agenda: The Army Science Board Ad Hoc Subgroup on Combat Medical Support will meet for briefings to cover the following topics: Medical Support Systems in the Combat Zone; Impact of Conventional/Chemical Warfare on Medical Suppport; Medical Force Structure; Aidman Training; Lessons Learned in Recent Conflicts; Self-Aid/Buddy Aid; and Auxiliary Aidman. An executive session will wind up the meeting.

This meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. In order to be able to accommodate prospective attendees, Maria P. Winters, the ASB Acting Administrative Officer, must be notified no later than 29 August 1983. For further information, call (202) 695–3039 or 697–9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 83–21293 Filed 8–4–83; 8:45 am]

BILLING CODE 3710–08–M

Army Science Board; Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: Wednesday, 21 September 1983.

Time: 0800–1500 hours (Closed).

Place: The Pentagon, Washington, D.C.

Agenda: The Army Science Board Ad Hoc Subgroup on the Army Decontamination Program will meet for classified presentations and discussions on the following: the Threat briefing, the RDT briefing, and to discuss final study recommendations. This meeting will be closed to the public in accordance with Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and Title 5, U.S.C. App. 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The Army Science Board's Acting Administrative Officer, Maria P. Winter, may be contacted for further information at (202) 695–3039 or 679–9703.

Maria P. Winters,

Acting Administrative Officer.

[FR Doc. 83–21294 Filed 8–4–83; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 82–CERT–021, as Amended]

Bethlehem Steel Corp.; Amended Certification of the Use of Natural Gas to Displace Fuel Oil

On November 17, 1982, Bethlehem Steel Corp., Bethlehem, Pa., was granted a certificate of an eligible use of natural gas to displace fuel oil by the Administrator of the Economic Regulatory Administration (ERA) (Docket No. 82–CERT–021). The certification was for the eligible use of 4,000 Mcf per day of natural gas purchased from Phillips Production Co. for use by Bethlehem Steel Corp. at its Bethlehem Plant in Bethlehem, Pa. The volume of natural gas was estimated to displace the use of approximately 26,700 gallons per day of No. 6 fuel oil (1.0 percent sulfur). The transporter and distributor were Columbia Gas Transmission Corp. and UGI Corp., respectively. That certificate will expire on November 16, 1983.

On June 21, 1983, Bethlehem Steel Corp. filed an application for amendment to the existing certification to add Industrial Energy Services Co., Pittsburgh, Pa., as an eligible seller at the above facility, pursuant to 10 CFR Part 595 (44 FR 47920 August 16, 1979). All other aspects to the November 17, 1982 certification remain unchanged. Notice of that application for amendment was published in the **Federal Register** (48 FR 32624, July 18, 1983) and an opportunity for public comment was provided for a period of ten (10) calendar days from the date of publication. No comments were received.

The ERA has carefully reviewed Bethlehem Steel Corp.'s application for amendment to its existing certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that Bethlehem Steel Corp.'s application for amendment to its existing certification satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amendment to the existing certification to be effective upon issuance and to expire with the original certificate on November 16, 1983. An amended certification has been transmitted to the Federal Energy Regulatory Commission. More detailed information, including a copy of the application for amendment, transmittal letter and the actual amended certification, is available for public inspection at the Fuels Conversion Division Docket Room, Room GA–093, RG–42, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on August 1, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–21335 Filed 8–4–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–250 et al.]

Chrysler Corp. et al.; Applications for Certification of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). End-users who have the capability to use natural gas in place of fuel oil at any of their facilities can arrange for direct purchases and transportation of the gas to those facilities under the Federal Energy Regulatory Commission's (FERC) fuel oil displacement program. The ERA certification is required by the FERC as a precondition to interstate transportation of fuel oil displacement gas in accordance with the procedures in 18 CFR Part 284, Subpart F.

Pertinent information regarding these applications is listed below, while more detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

1. 83–CERT–250.

Applicant: Chrysler Corp., Kokomo, Ind.

Date Filed: July 5, 1983.

Facility Location: Kokomo, Ind.

Gas Volume: 511,000 Mcf per year.

Oil Displaced: 3,500,000 gallons of No. 6 fuel oil (1.0% sulfur).

Eligible Seller: KOGAF Enterprises, Inc., Kokomo, Ind.

Transporter: Panhandle Eastern Pipeline Co., Houston, Tex.; Kokomo Gas and Fuel Co., Kokomo, Ind.

2. 83–CERT–270.

Applicant: Dana Corp., Spicer Transmission Div., Toledo, Ohio.

Date Filed: July 21, 1983.

Facility Location: Toledo, Ohio.

Gas Volume: 265,050 Mcf per year.

Oil Displaced: 42,850 barrels of No. 6 fuel oil (less than 1.0% sulfur).

Eligible Seller: John Mason, Millsburg, Ohio.

Transporter: Columbia Gas Transmission Corp., Charleston, W. Va.; Columbia Gas of Ohio, Columbus, Ohio.

3. 83–CERT–271.

Applicant: A. E. Staley Manufacturing Co., Decatur, Ill.

Date Filed: July 21, 1983.

Facility Location: Galesburg, Ill.

Gas Volume: 60,000 Mcf per year.

Oil Displaced: 400,000 gallons of No. 2 fuel oil (0.5% sulfur).

Eligible Seller: Michigan-Consolidated Gas Co., Detroit, Mich.

Transporter: Michigan-Wisconsin Pipeline Co., Detroit, Mich.; Illinois Power Co., Decatur, Ill.

4. 83–CERT–272.

Applicant: Inmont Corp., Clifton, N.J.

Date Filed: July 21, 1983.

Facility Location: Cincinnati, Ohio.

Gas Volume: 85,000 Mcf per year.

Oil Displaced: 595,000 gallons of No. 2 fuel oil (0.02% sulfur).

Eligible Seller: Exxon U.S.A. Houston, Tex.; Ohio Gas Marketing Co., Newark, Ohio; Texas Gas Corp., Owensboro, Ky.

Transporter: Columbia Gas Transmission Corp., Charleston, W. Va.; Texas Gas Transmission, Owensboro, Ky.; The Cincinnati Gas & Electric Co., Cincinnati, Ohio; The Union Light, Heat and Power Co., Covington, Ky.

5. 83–CERT–273.

Applicant: Sharon Steel Corp., Sharon, Pa.

Date Filed: July 21, 1983.

Facility Location: Sharon, Pa.

Gas Volume: 306,000 Mcf per year.

Oil Displaced: 2,050,200 gallons of No. 6 fuel oil (2.5% sulfur).

Eligible Seller: Stratigraphic Resources, Westport, Conn.

Transporter: National Fuel Gas Supply Corp., Oil City, Pa.; National Fuel Gas Distribution Corp., Buffalo, N.Y.

To provide the public with as much opportunity to participate in this proceeding as is practicable under the circumstances, we are inviting any person wishing to comment concerning any of these applications to submit comments in writing to the Economic Regulatory Administration, Office of Fuels Programs, Fuels Conversion Division, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, Attention: Richard A. Ransom, within ten calendar days of the date of publication of this notice in the **Federal Register**. The docket number of the case should be printed on the outside of the envelope.

An opportunity to make an oral presentation of data, views, and arguments either against or in support of any of the above applications may be requested by any interested person in writing within the ten-day comment period. The request should state the person's interest and, if appropriate, why the person is a proper representative of a group or class of persons that has such an interest. The request should include a summary of the proposed oral presentation and a statement as to why an oral presentation is necessary.

If ERA determines that an oral presentation is necessary in a particular case, further notice will be given to the applicant and any person filing comments in that case and will be published in the **Federal Register**.

Issued in Washington, D.C., on July 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83–21334 Filed 8–4–83; 8:45 am]

BILLING CODE 6450–01–M

Intercoastal Operating Company; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of Proposed Remedial Order which was issued to Intercoastal Operating Company, 2807 Buffalo Speedway, Houston, Texas 77027, I.O.C. Production, Inc., 2807 Buffalo Speedway, Houston, Texas 77027, John C. O'Leary, 19 River Hollow Lane, Houston, Texas, 77027, W. R. Dean, 2 River Hollow Lane, Houston, Texas, 77027, Joe N. Pratt, 1706–A North Navarro, Victoria, Texas, 77901, Karen Sue Royce (Kuper), 2515 Locke Lane, Houston, Texas 77019, J. H. Gilley, Jr., 601–A Country Club Lane, Victoria, Texas L. E. Lewis, 3609 Parader, Dallas, Texas 75228, and AMOCO Production Company, P.O. Box 1701, Houston, Texas 77001. This Proposed Remedial Order alleges pricing violations in the amount of $1,055,285.76 plus interest in connection with the sale of crude oil at prices in excess of those permitted by 10 CFR Part 212, Subpart D during the time period September 1, 1973 through September 30, 1980.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from James A. Martin, Manager, Litigation Support Group, Economic Regulatory Administration, Department of Energy, 1341 West Mockinbird Lane, Suite 200–E, Dallas, Texas 75247, or by calling (214) 767–7407. Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, Federal Building, Room 3304, 12th & Pennsylvania Ave., NW., Washington, D.C. 20461, in accordance with 10 CFR 205.193.

Issued in Dallas, Texas, on the 22nd day of July, 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83–21337 Filed 8–4–83; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 83–CERT–175 et al.]

Xtek, Inc., et al; Certification of Eligible Use of Natural Gas to Displace Fuel Oil

The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) has received the following applications for certification of an eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of these applications, along with pertinent information contained in the applications, was published in the **Federal Register** and an opportunity for public comment was provided for a period on ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application on file and available for inspection at the ERA Fuels Conversion Division Docket Room, RG–42, Room GA–093, Forrestal Building, 1000 Independence Avenue, SW., Washington, D.C. 20585, from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

Applicant and facility	Date filed	Docket No.	FR notice of application
Xtek, Inc., Cincinnati Plant, Cincinnati, Ohio	June 3, 1983	83–CERT–175	48 FR 32625 July 18, 1983.
Diamond Shamrock Corp. Cincinnati Plant, Cincinnati, Ohio	June 9, 1983	83–CERT–187	Do.
Gulf States Utilities Co., Roy S. Nelson Plant Westlake, La., Willow Glen Plant, Baton Rouge, La.	June 20, 1983	83–CERT–209	Do.
Queen City Terminals, Inc., Cincinnati Plant, Cincinnati, Ohio	June 21, 1983	83–CERT–217	Do.
St. Luke's Hospital, Bethlehem, Pa	do	83–CERT–216	Do.
Maryland Cup Corp., Owings Mills Plant, Owings Mills, Md	do	83–CERT–219	Do.
A.E. Staley Manufacturing Co., Frankfort Plant Frankfort, Ind	do	83–CERT–220	Do.
Ralston Purina Co., Dunkirk Plant, Dunkirk, N.Y	June 22, 1983	83–CERT–221	Do.
Model Service Laundry Corp., Cincinnati Plant, Cincinnati, Ohio	do	83–CERT–222	Do.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on July 29, 1983.

Robert L. Davies,

Deputy Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-21336 Filed 8-4-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. CI68-311-001, et al.]

Cities Service Oil and Gas Corporation, et al.; Applications To Amend Certificates To Establish Entitlement to Section 109 Price[1]

August 1, 1983.

Take notice that each of the Applicants listed herein has either filed a petition to amend certificate pursuant to Section 7 of the Natural Gas Act or a notice of change in rate which is being treated as a petition to amend certificate to establish Applicant's right to collect the section 109 price consistent with the court order issued in *Tenneco Exploration Ltd.* v. *FERC*, 649 F. 2d 376, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before August 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft	Pressure base
CI68-311-001, July 25,1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102	Texas Eastern Transmission Corporation.	(1)	
CI68-1302-002, July 25, 1983	Conoco, Inc., P.O. Box 2197, Houston, Texas 77252	Michigan Wisconsin Pipe Line Company.	(1)	
CI68-1322-002, July 25, 1983	Cities Service Oil and Gas Corporation, P.O. Box 300, Tulsa, Oklahoma 74102	do	(1)	
CI71-207-001, July 25, 1983	do	Transcontinental Gas Pipe Line Corporation.	(1)	
CI78-672-001	do	Transwestern Pipeline Company.	(1)	
CI80-3-003, June 20, 1983	Conoco Inc., P.O. Box 2197, Houston, Texas 77252	Transcontinental Gas Pipe Line Corporation.	(1)	
CI81-312-001, June 17, 1983	do	Columbia Gas Transmission Corporation.	(1)	
CI82-342-002, May 27, 1983	Getty Oil Company, P.O. Box 1404, Houston, Texas 77001	Texas Eastern Transmission Corporation.	(1)	

[1] Applicant proposes to amend certificate to establish Applicant's entitlement to collect Section 109 price consistent with court order issued in *Tenneco Exploration Ltd.* v. *FERC*, 649 F.2d 376.

Filing Code: A—Initial Service. B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc. 83-21308 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI83-304-000]

Columbia Gas Transmission Corp; Petition for Declaratory Order

August 1, 1983

Take notice that on July 12, 1983, Columbia Gas Transmission Corporation (Columbia), Post Office Box 1273, Charleston, West Virginia, 25325, filed a petition for declaratory order pursuant to Rules 203, 207 and 217 of the Commission's Rules of Practice and Procedure, requesting a summary order declaring that the deliberate withholding of Natural Gas Act (NGA) jurisdictional gas from sale in order to maximize sale of higher priced Natural Gas Policy Act (NGPA) regulated gas is at variance with Court decisions and violates the NGA.

Columbia recounts that due to a combination of mild weather and the state of the national economy its gas requirements, beginning in 1982 and continuing into 1983, were reduced drastically. Columbia claims further that it was forced accordingly to reduce its gas purchases from its producer-sellers. Columbia states also that certain producers, in reducing the gas supplied to Columbia withheld only NGA regulated gas and met their reduced requirement to Columbia with higher priced NGPA reglated gas.

Columbia states that it notified the producers who are withholding NGA gas while supplying it with NGPA gas that it would only pay for the gas at a rate which reflect a reduction in both the NGA and NGPA regulated gas. The producers so notified are listed in the attached Appendix.

Columbia asserts that a declaratory order is necessary (1) to settle a dispute between Columbia and its producers regarding the rights and obligations of those producers under the NGA; and (2) to enable Columbia to provide adequate service to its customers at the lowest reasonable cost.

Any person desiring to be heard or to make any protest with reference to said petition should on or before August 22, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commision will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Appendix

American Petrofina Company of Texas, Post Office Box 2159, Dallas, Texas 75221
Clark Resources, Inc., Post Office Box 7508, Tulsa, Oklahoma 74105
Case-Pomeroy Oil Corporation, Post Office Box 1511, Midland, Texas 79702
Canso Oil & Gas, Inc., c/o United Canso Oil & Gas, Inc., Box 2544, M.P.O., Calgary, Alberta, Canada T2P 2M7
Callery Properties, Inc., c/o Mobile Oil Corporation, Post Office Box 900, Dallas, Texas 75221
Coleve, Post Office Box 1350, Houston, Texas 77001
Natresco, Inc., Post Office Box 1521, Houston, Texas 77001
Felmont Oil Corporation, P.O. Box 2266, Midland, Texas 79701
Quintana Petroleum Corporation, Post Office Box 3331, Houston, Texas 77001
Crystal Oil Company, Post Office Box 21101, Shreveport, Louisiana 71120
Petri-Lewis Funds, Inc., 1600 Broadway, Denver, CO 80202, (letter returned remailed:)
Petro-Lewis Funds, Inc., 717 17th Street, Denver, CO 80201
Coltexo Corporation, Post Office Box 300, Tulsa, Oklahoma 74102
Northern Michigan Exploration Company, Post Office Box 1150, Jackson, MI 49204
Franks Petroleum, Inc., Post Office Box 7665, Shreveport, LA 71107
Forest Oil Corporation, 1500 Colorado National Building, Denver, Colorado 80220
Tenneco Oil Company, P.O. Box 2511, Houston, Texas 77002.
Phillips Petroleum Company, Gas & Gas Liquids Dept., Bartlesville, Oklahoma 74004
Oxy Petroleum, Inc., 5000 Stockdale Highway, Bakersfield, California 93309
Pelto Oil Company, Post Office Box 100124, Houston, Texas 77212
Curt Weaver, 724 National Bank of Commerce Bldg., New Orleans, Louisiana 70012
ALMINEX U.S.A. Inc., c/o Canadian Superior Oil Ltd., Three Calgary Place, 355 Fourth Avenue, SW, Calgary, Alberta, Canada T2P OJ3
Chevron U.S.A. Inc., Exploration Land & Production Accounting, P.O. Box J, Concord, Calfornia 94524
McMoran Exploration Company, P.O. Box 6800, Metairie, Louisiana 70009.
Texas International Petroleum, Suite 300, 3535 Northwest Forty-Eighth Street, Oklahoma City, OK 73112
The Superior Oil Company, P.O. Box 1521, Houston, TX 77001
Texasgulf, Inc., 1100 Milam Building, Houston, TX 77002
Koch Industries, Inc., Post Office Box 2256, Wichita, Kansas 67201
ICI Delaware, Inc., Concord Pike & New Murphy Road, Wilmington, Delaware 19897
Petro-Lewis Corporation, Post Office Box 2259, Denver, CO 80201
Robert Mosbacher, 1300 Main Street, Capital National Building, 21st Floor, Houston, Texas 77002
Monsanto Company, 1300 Post Oak Tower, 5051 Westheimer, Houston, Texas 77056
James R. Moffett, c/o Production Management Corp., 1141 Whitney Avenue, Gretna, LA 70053
Mono Power Company, Post Office Box 800, Rocewead, CA 91779
Mobil Oil Corporation, Nine Greenway Plaza East, Suite 2700, Houston Texas 77046
Mid-Gulf Exploration Company, 2299 Two Shell Plaza, Houston, Texas 77002
CNG Producing Company, One Canal place, Suite 3100, New Orleans, Louisiana 70130
Mid-Continent Supply Company, c/o Production Management Corp., 405 Greatna Boulevard, Gretna, LA 70053
Mesa Petroleum Co., Post Office Box 2009, Amarillo, Texas 79189
M. L. Mayfield, 1717 C & I Building, Houston, Texas 77002
Odeco Oil & Gas Company, Post Office Box 61780, New Orleans, Louisiana 70112
Jay Simmons Trust, 2620 Republic Bank Building, Dallas, Texas 75201
The Northwestern Mutual Life Insurance Company, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202
Earl P. Burke, Jr., et al, c/o Pel-Tex Oil Company, Inc., Post Office Box 4416, Houston, Texas 77210
Cabot Corporation, 921 Main, Suite 900, Houston, Texas 77002
Reeves Producing Company, Post Office Box 1968, Houma, LA 70361
H. W. Bass & Sons, Inc., 1150 Mercantile Dallas Building, Dallas Texas 75201
Arco Oil & Gas Company, Post Office Box 2819, Dallas, Texas 75221
Amoco Production Company, Post Office Box 50879, New Orleans, LA 70150
Home Petroleum Corporation, One Denver Place, Dept. 133, 999 18th Street, Suite 601, Denver, Colorado 80202
Sun Exploration and Production Company, Post Office Box 340180, Dallas, Texas 75221
Texaco, Inc., P.O. Box 60252, New Orleans, Louisiana 70160
Texas Gas Exploration, 1100 Louisiana, Suite 3300, Houston, Texas 77002
TXO Production Corporation, 2700 Fidelity Union Tower, Dallas, Texas 75201
General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206
Getty Oil Company, Post Office Box 1404, Houston, Texas 77001
Texas Eastern Exploration Co., P.O. Box 2521, Houston, TX 77001
Tesoro Petroleum Corporation, 8700 Tesoro Dr., San Antonio, Texas 78286
Union Texas Petroleum Corporation, P.O. Box 2120, Houston, Texas 77001
Union Oil Company of California, 900 Executive Plaza West, 4635 Southwest Freeway, Houston, Texas 77027
Louisiana Land and Exploration, Post Office Box 60350, New Orleans, Louisiana 70160
W. W. F. Oil Corporation, P.O. Box 1514, Lafayette, LA 70505
James H. Kepper, Jr., Kepper, Moulin & Kepper, 515 Hibernia Bldg., New Orleans, LA 70112

Exxon Corporation, Post Office Box 2180, Houston, Texas 77001

[FR Doc. 83-21309 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST81-78-282-001]

East Ohio Gas Co.; Extension Reports

August 1, 1983

The companies listed below have filed extension reports pursuant to Section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. A "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before September 1, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214).

All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date
ST81-282-001 The East Ohio Gas Co., 1717 East Ninth Street, Cleveland, OH 44114[1]	Bay State Gas Co	2/17/83	G(HT)	5/14/83
ST81-415-001 Louisiana Resources Co., P.O. Box 3102, Tulsa, OK 74101[1]	Faustina Pipe Line Co	7/14/83	C	8/16/83
ST82-11-001 Northwest Pipeline Corp., P.O. Box 1526, Salt Lake City, UT 84110[1]	Utah Gas Service Co	7/8/83	B	10/1/83
ST82-22-001 Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001[1]	United Gas Pipe Line Co	7/15/83	G	10/16/83
ST82-28-001 Michigan Wisconsin Pipe Line Co., One Woodward Avenue, Detroit, MI 48226[1]	Monterey Pipeline Co	7/8/83	B	10/5/83
ST82-49-001 Houston Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Texas Gas Transmission Corp	7/12/83	C	10/13/83
ST82-58-001 Houston Pipe Line Co., 1200 Travis, Box 1188, Houston, TX 77001	Tennessee Gas Pipeline Co	7/12/83	C	10/19/83
ST82-66-001 Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Panhandle Eastern Pipe Line Co	7/11/83	G	11/3/83
ST82-164-001 Seagull Energy Corp., 1100 Louisiana, Suite 2000, Houston, TX 77002	El Paso Natural Gas Co	7/11/83	C	10/8/83

[1] These extension reports were filed after the date specified by the Commission's regulations, and shall be the subject of a further Commission order.

Note: The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.

[FR Doc. 83-21310 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2058-000]

Application

Donald W. Davis;

August 1, 1983.

The filing individual submits the following:

Take notice that on July 19, 1983, Donald W. Davis filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Trustee, Northeast Utilities
Director, Allied Corporation

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21311 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-632-000]

Duke Power Co.; Filing

August 1, 1983.

The filing company submits the following:

Take notice that on July 18, 1983, Duke Power Company (Duke Power) tendered for filing a supplement to the Company's Electric Power Contract with the Commission of Public Works of The City of Laurens. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 244.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following increase in contract demand: Delivery Point No. 3 from 16,500 KW to 18,000 KW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue from twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of September 19, 1983.

According to Duke Power, copies of the filing were mailed to the Commission of Public Works of the City of Laurens and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington,

D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21312 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5965-999, 6810, 6811, 6809, 6591, 6245, 5865, 6246, 6434, 6267, 6442, 6175, 6433, 6206, 6435, 6230, 6231, 6702, 7079, 7299, 7300, 7301, 7246, and 7311]

Firmin O. Gotzinger, Rattlesnake Creek, Salmon River Basin; Availability of Transcripts

August 1, 1983.

On July 12, 13, and 14, 1983 the Federal Energy Regulatory Commission staff conducted public sessions on Hydroelectric development in the Salmon River Basin. These sessions were held in Boise, Idaho to provide interested agencies and individuals an opportunity to comment upon four draft papers prepared by Staff. These papers are entitled: "Salmon River Basin Guidelines for Resource Studies by Applicants", "Draft Annotated Outline, Comprehensive Salmon River Basin Study", "Draft Methodology for Assessing the Cumulative Effects of Hydroelectric development on the Salmon River Basin," and a "Draft A-B-C Approach to Classifying Hydropower Projects."

The public sessions were recorded. FERC Staff has made copies of the transcription available for public inspection, at the following locations:

(1) Boise Public Library & Information Center, Reference Department, 715 Capitol Blvd., Boise, Idaho 83702.

(2) Riggins Public Library, Riggins, Idaho

Any question concerning this notice should be directed to Dr. Carl N. Shuster, Jr. at 202-376-1976 or Richard A. Azzaro at 202-357-8493.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21313 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-628-000]

Kansas Gas and Electric Co.; Tariff Change

August 1, 1983

Take notice the Kansas Gas and Electric Company (KG&E) on July 15, 1983, tendered for filing proposed changes in its FERC Electric Service Tariff Nos. 93, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 128, 133, 134, 135, 144, 145, 147, 149, 150, 151, 152, 153, 154, and 155. KG&E also proposes to cancel FERC Electric Service Tariff No. 148. The proposed changes would increase revenues from Applicant's jurisdictional customers' sales and service by $4,111,178 based on the twelve month period ended June 30, 1984.

KG&E states that it needs additional wholesale revenues because present wholesale rates do not reflect expenses and capital costs related to Jeffrey Energy Center No. 3. Additionally, KG&E's current wholesale rates do not provide a return on its investment in pollution control facilities under construction nor on its investment in other construction work in progress to the extent permitted by FERC Order No. 298 in Docket No. RM81-38.

Copies of the filing were served upon the public utility's jurisdictional customers and the State Corporation Commission of Kansas.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Paragraphs 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before August 19, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21314 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-630-000]

Long Island Lighting Co.; Filing

August 1, 1983

The filing Company submits the following:

Take notice that on July 18, 1983, Long Island Lighting Company, (LILCO) tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the Power Authority of the State of New York to the three municipal electric utilities on Long Island: the Villages of Greenport, Rockville Centre and Freeport. The proposed changes would increase revenues from such service by $154,975.00 based on the 12-month period ending May 31, 1983.

LILCO proposes to increase the rates in order to recover the increase in the cost of service.

LILCO requests an effective date of June 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Power Authority of the State of New York, Brookhaven National Laboratory and the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21315 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-631-000]

Long Island Lighting Co.; Filing

August 1, 1983.

The filing Company submits the following:

Take notice that on July 18, 1983, Long Island Lighting Company (LILCO) tendered for filing proposed changes in its FERC Rate Schedule 32, pursuant to which LILCO transmits power and energy from the Power Authority of the State of New York to Brookhaven National Laboratory in Upton, New York. The proposed changes would increase revenues from such service by

$71,000.48 based on the 12-month period ending May 31, 1983.

LILCO proposes to increase the rates in order to recover the increase in the cost of service.

LILCO requests an effective date of June 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Copies of this filing were served upon the Power Authority of the State of New York, Brookhaven National Laboratory and the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21316 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ZF83-355-000]

Power Systems Engineering, Inc.; Application for Commission Certification of Qualifying Status of a Cogeneration Facility

August 1, 1983.

On July 20, 1983, Power Systems Engineering, Inc. (Applicant), of P.O. Box 19398, Houston, Texas 77224, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 8280 Sheldon Road, Houston, Harris County, Texas. The primary energy source for the facility will be natural gas. The maximum electrical generating capacity of the facility will be 480,500 kilowatts. The facility will also produce approximately 1,000,000 pounds per hour of process steam for sale to Arco Chemical Company. The facility will consist of five combustion turbine generators, five waste heat recovery boilers, and one steam turbine generator. Installation of the facility will begin no later than January 1, 1984.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedures. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21317 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-635-000]

Texas Utilities Electric Co.; Filing

August 1, 1983.

The filing Company submits the following:

Take notice that on July 20, 1983, Texas Utilities Electric Company ("TUEC"), submitted for filing a tariff for transmission service to, from, and over certain D.C. asynchronous interconnections between the Electric Reliability Council of Texas and the Southwest Power Pool.

The rate schedule was filed pursuant to the Commission's orders which were issued on October 28, 1981, November 5, 1981, January 28, 1982, and January 27, 1983, in *Central Power & Light Company, et al.*, Docket Nos. EL79-8-000 and E-9558.

The TUEC's electric utility operating companies identified in the Commission's orders are Dallas Power & Light Company, Texas Power & Light Company, Texas Electric Service Company and Texas Power & Light Company. The approved merger of these utility companies with TEUC makes it necessary that any transmission service to, from and over the D.C. asynchronous interconnections through the Texas Utilities Company System will be provided by TEUC.

The rate for transmission service under the Tariff has been calculated to be $1.35/kw on a monthly basis. This proposed rate level reflects a cost of common equity of 17.5% to TEUC. The TEUC is unable to predict revenues for the proposed service.

Texas Electric Utilities Company requests an effective date as of the in-service date of the first of the two D.C. synchronous interconnections being constructed.

The Company also requests a waiver of the Commission's filing requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21318 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-627-000]

Vermont Electric Power Co., Inc.; Filing

August 1, 1983.

The filing Company submits the following:

Take notice that on July 14, 1983, the Vermont Electric Power Company (VELCO) tendered for filing documents affecting Rate Schedule No. 234.

VELCO states that the purpose of the new and revised Exhibits A is to reflect the sale of surplus energy purchased by VELCO from Niagara Mohawk Power Corporation under their Rate Schedule No. 124.

VELCO requests an effective date of February 1, 1983, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 15, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will

not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary

FR Doc. 83-21319 Filed 8-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. ER80-592-000, et al.; Docket Nos. ER80-616-001, ER80-618-001, ER80-684-000, ER80-666-001, ER80-668-000, ER80-782-001, and ER80-667-000]

Wisconsin Power and Light Co.; Refund Report

August 1, 1983.

Take notice that on July 19, 1983, Wisconsin Power & Light Company, ("WP&L"), submitted for filing a refund report in compliance with the Commission letter order of May 27, 1983 which approved WP&L's offer of settlement.

Wisconsin Power & Light Company states that the revenue amounts, collected under the suspended rates in excess of the settlement rates, were mailed to each affected customer on July 12, 1983. The refund included interest.

Wisconsin Power & Light also states that no refunds were made under Docket No. ER80-667-000 because there were no transactions subject to this proceeding.

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 11, 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. 83-21320 Filed 8-4-83; 8:45 am]
BILLING CODE 6717-01-M

[Project No. 7114-001]

Alaska Power Authority, Application Filed With the Commission and Notice of Intent to Prepare Environmental Impact Statement

August 1, 1983.

Take notice that the following hydroelectric application has been filed with the Federal Energy Regulatory Commission and is available for public inspection:

a. Type of Application: License Major.

b. Project No: 7114-000.

c. Date Filed: February 28, 1983.

d. Applicant: Alaska Power Authority.

e. Name of Project: Susitna.

f. Location: On the Susitna River between Anchorage and Fairbanks, Alaska.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)-825(r).

h. Contact Person: Robert A. Mohn, Project Manager, Alaska Power Authority, 34 West 5th Avenue, Anchorage, Alaska 99501 with a copy to: D. Jane Drennan, Pillsbury, Madison & Sutro, Suite 900, 1050 Seventeenth Street, N.W., Washington, D.C. 20036.

i. Comment Date: October 11, 1983.

j. Description of Project: The proposed project would consist of two developments with a total installed capacity of 1,620 MW and would provide an average of 6910 GWh of energy annually when completed in the year of 2002.

The upstream Watana Development would include an 885 foot-high earthfill dam with a crest length of 4,100 feet forming a 48 mile-long reservoir with a surface area of 38,000 acres and a usable storage capacity of 3.7 million acre-feet at normal maximum water surface elevation 2,185 feet. Two chute spillways would be provided on the right abutment. A concrete, gated intake structure on the right abutment would lead to six 17 foot-diameter penstocks terminating in an underground powerhouse containing six 170 MW generating units. The first four units would come on line in January 1994, followed in July 1994 by the final two units. The Watana Development would produce an average annual energy output of 3460 GWh.

The Devil Canyon Development would include a 645 foot-high, double-curved, concrete thin arch dam forming a 26 mile-long reservoir with a surface area of 7,800 acres and a usable storage capacity of 350,000 acre-feet at normal maximum water surface elevation 1,455 feet. A 245 foot-high, rock-fill saddle dam would be located on the left abutment. A spillway would be provided on each abutment. A concrete, gated intake structure on the right abutment would lead to four 20 foot-diameter penstocks terminating in an underground powerhouse containing four 150 MW generating units. The Devil Canyon Development would become operational in 2002 and would produce an average annual energy output of 3450 GWh.

Two 26 mile-long, 345 kV transmission lines would be constructed from Watana to Devil Canyon. From Devil Canyon, two 195 mile-long, 345 kV transmission lines would extend to Anchorage. An access road would be constructed from the Denali Highway south to Watana and then west to Devil Canyon. A 6,000 foot-long airstrip and a permanent town for operation and maintenance personnel would be constructed at Watana. The Susitna Hydroelectric Project is estimated to cost 5.1 billion dollars (January 1982 dollars).

k. Purpose of Project: Energy will be sold to various Railbelt utilities.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C.

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 notice.

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 Producedure, 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 NE., Washington, D.C. 20426. An additional copy must be sent to: William C. Wakefield, II, Susitna Project Manager, Office of Electric Power Regulation, Federal Energy Regulatory Commission, Room 302 RB at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each represenative of the Applicant specified in the particular application.

Notice of Intent to Prepare Environmental Impact Statement—The Commission's staff has determined that issuance of a license for the proposed hydroelectric project would constitute a major federal action significantly affecting the quality of the human environment. The staff therefore intends to prepare an environmental impact statement in accordance with the National Environmental Policy Act. Possible alternatives to the proposed action will be addressed.

Alaska Coastal Management Program—The Division of Policy and Development and Planning, State of Alaska, is reviewing this project for consistency with the approved Alaska Coastal Management Program (ACMP). Comments concerning the ACMP should be sent to: State Clearinghouse, Office of the Governor, Pouch AW, Juneau, AK 99811.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21305 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EC83-16-000]

Central Vermont Public Service Corp.; Application

August 1, 1983

Take notice that on July 18, 1983 Central Vermont Public Service Corporation ("Central Vermont") filed an application seeking authority to acquire a $2,500,000 note from Connecticut Valley Electric Company, Inc. ("Connecticut Valley").

Central Vermont is incorporated under the laws of the State of Vermont with its principal business office at Rutland, Vermont, and is engaged in the purchase, production, transmission, distribution and sale of electric energy in 174 towns in Vermont. Central Vermont is qualified as a foreign corporation in the States of New Hampshire, New York, Connecticut, Maine and Massachusetts.

Connecticut Valley is a wholly owned subsidiary of Central Vermont. It is incorporated under the laws of New Hampshire with its principal business office in Claremont, New Hampshire. It is engaged in the purchase, distribution and sale of electric energy in the Counties of Sullivan and Grafton, New Hampshire.

Connecticut Valley is proposing to issue a note for $2,500,000 to Central Vermont at 9½ percent interest for a period of 20 years. The note is being issued as part of a recapitalization program of Connecticut Valley which will bring Connecticut Valley's debt/equity ratios in line with those of its parent company, Central Vermont.

Any person desiring to be heard or to make any protest with reference to said application should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, on or before August 18, 1983, petitions to intervene or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). 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. Persons wishing to become parties to a proceeding or participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21306 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-633-000]

Central Vermont Public Service Corp.; Filing

August 1, 1983.

The filing Company submits the following:

Take notice that on July 18, 1983, Central Vermont Public Service Corporation (CVPS) tendered for filing, as an initial rate schedule, a System Power Sales Agreement (the Agreement) between the Public Service Company of New Hampshire (PSNH) and CVPS. The Agreement, dated May 1, 1983, provides for CVPS to sell energy from its system and PSNH expects to purchase such energy.

CVPS states that the Agreement provides that the parties will determine prior to 11:00 a.m. of the day preceding the commencement of a transaction during the term of the Agreement whether it is economically advantageous to the parties that a sale, pursuant to the Agreement, take place during that day. Based on the expectations of achieving overall economic benefits for both parties, CVPS and PSNH will determine whether or not to initiate a transaction.

During the hours when the Agreement is in effect, PSNH will buy system power from CVPS. PSNH will pay CVPS for its system power at a rate which shall be an hourly charge on a dollar per megawatt hour basis and an hourly energy reservation charge on a dollar per megawatt hour basis.

CVPS requests an effective date of May 1, 1983, and therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Public Service Company of New Hampshire, the New Hampshire Public Utilities Commission and the Vermont Public Service Board.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21307 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER79-182-006, and ER80-106-003]

Commonwealth Edison Co.; Compliance Filing

August 2, 1983.

Take notice that on July 26, 1983, Commonwealth Edison ("ComEd"), submitted for filing, Revised FERC Electric Tariffs, "Rate 78A, Wholesale Service—Full Requirements

Customers—Prospective" and "Rate 78B, Wholesale Service—Partial Requirements Customers—Prospective". The filing was submitted in compliance with Opinion No. 165 which was issued on May 12, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 11, 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. 83-21345 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-114-000]

Florida Gas Transmission Co.; Tariff Filing

August 2, 1983.

Take notice that on July 25, 1983, Florida Gas Transmission Company (FGT) tendered for filing First Revised Sheet Nos. 124, 179, 263, 282, 329, 393 and 421 to its FERC Gas Tariff, Original Volume No. 3. These tariff sheets reflect the changes in fuel charges due to high load factor conditions.

Copies of the filing were served upon FTG's jurisdictional customers and the Florida Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21346 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-45-001 (PGA83-3)]

Inter-City Minnesota Pipelines Ltd., Inc.; PGA Filing and Request for Waiver of Regulations

August 2, 1983.

Take notice that on July 26, 1983, Inter-City Minnesota Pipelines Ltd., Inc. (Minnesota Pipelines) tendered for filing Substitute Nineteenth Revised Sheet No. 4 to Original Volume No. 1 of Minnesota Piplines' FERC Gas Tariff. Minnesota Pipelines has requested that the sheet be suspended only for such time as is necessary to allow an effective date of August 1, 1983 for the rate set out therein.

Minnesota Pipelines represents that Substitute Nineteenth Revised Sheet No. 4 will effect the incentive prices established by the National Energy Board of Canada for sales to Minnesota Pipelines under National Energy Board licenses GL-28 and 29. The impact of the change is to reduce by $1.00/MMBtu the purchased gas price for GL-28 purchases and by 55 cents/MMBtu purchases under GL-29. The reduction and tendered tariff sheet are effective until November 1, 1983.

Minnesota Pipelines requests that the Commission waive § 154.38(d)(4)(iv)(a) of its regulations that prescribes that Minnesota Pipelines shall make only a single PGA filing effective November 1 and also that notice provisions in the regulations and Minnesota Pipelines' tariff be waived to allow an effective date of May 1 for the proposed rates.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-24347 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-115-000]

Mississippi River Transmission Corp.; Tariff Revision

August 2, 1983.

Take notice that on July 26, 1983, Mississippi River Transmission Corporation (MRT) tendered for filing Eleventh Revised Sheet No. 27H to its FERC Gas Tariff, First Revised Volume No. 1 An effective date of July 1, 1983, is proposed.

MRT states that the purpose of the instant filing is to comply with a provision in a Commission letter order dated July 8, 1983, directing MRT to clarify the Purchased Gas Cost Adjustment clause of its gas tariff to provide that the Account 806 entries used in the gas cost calculation reflect only nonconcurrent exchange transactions recorded therein.

MRT states that copies of its filing have been served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before August 12, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 82-21349 Filed 8-4-82; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-2-26-000]

Natural Gas Pipeline Company of America, Change in Rates

August 2, 1983.

Take notice that on July 21, 1983 Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective September 1, 1983.

Fourth Substitute Fiftieth Revised Sheet No. 5
Eighth Revised Sheet No. 5C
Eighth Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under the PGA and incremental pricing sections of its tariff and Article XI of the Stipulation and Agreement in Docket No. RP82–62 which was approved by the Commission on July 20, 1983. The overall effect of the filed for adjustments is to decrease Natural's DMQ–1 commodity rate by 4.18¢ and to increase Natural's DNQ–1 demand rate by $.02. Appropriate adjustments were also made to Natural's other sales rate schedules. These adjustments reflect an annualized revenue increase due to higher gas costs of $48.6 million. This increase is offset by a decrease in the deferred account recovery rate and the advance payment tracking rate. The effect over the next six-month deferred account recovery period is a net revenue decrease of $20.6 million. the $20.6 million revenue decrease is comprised of a $28.1 million increase due to higher gas costs offset by a $47.4 million decrease due to the reduced deferred account recovery rate and a $1.3 million decrease due to the advance payment rate reduction.

Sheet Nos. 5C and 5D reflect no projected incremental pricing surcharges (MSAC) for the six month period beginning September 1, 1983.

Natural requests any additional waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on September 1, 1983.

A copy of this filing has been mailed the Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before *Aug. 12, 1983.* Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–21350 Filed 8–4–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER81–187–000]

Public Service Company of the New Mexico; Compliance

August 2, 1983.

Take notice that on July 12, 1983, Public Service Company of New Mexico, ("PNM"), submitted for filing a revised cost of service and revised rate schedules for service to the City of Gallup, New Mexico pursuant to Ordering Paragraph E of the Commission's Opinion No. 164.

PNM states that it will modify this compliance filing if the Commission modifies its order concerning PNM's and Gallup's applications for rehearing.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 12, 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. 83–21351 Filed 8–4–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER80–573–000]

Southwestern Public Service Co.; Filing

August 2, 1983.

Take notice that on July 25, 1983, Southwestern Public Service Company, ("SPSC"), submitted for filing a compliance filing of its revised tariffs and revised cost-of-service.

The Compliance Filing was made pursuant to a Commission Opinion No. 162, which was issued on March 23, 1983 and further clarified by a Commission order on June 22, 1983.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 12, 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. 83–21352 Filed 8–4–83; 8:45 am]

BILLING CODE 6717–01

[Docket Nos. CP83–374–000 and CP83–378–000]

Texas Gas Transmission Corp.; Informal Conference

August 2, 1983.

On July 15, 1983 in Docket No. CP83–374–000 and on July 14, 1983 in Docket No. CP83–378–000, Texas Gas Transmission Corporation (Texas Gas) filed pursuant to Section 7 of the Natural Gas Act for certificates of public convenience and necessity authorizing the sale and transportation of natural gas. Texas Gas proposes a direct sale of natural gas to certain industrial consumers whose industrial facilities are located in the market area of the Cincinnati Gas and Electric Company (Cincinnati Gas). Each industrial consumer identified in the applications formerly purchased natural gas from Cincinnati Gas. The application indicates that the industrial consumers have reduced or suspended their purchases of natural gas and are currently using fuel oil. Texas Gas seeks authorization for a term extending through December 31, 1983.

Take notice that on August 16, 1983 at 10 a.m. an informal conference will be held at the offices of the Federal Energy Regulatory Commission, 825 N. Capitol St. NE, Washington, D.C. 20426. The informal conference is open to the public, however attendance at the conference will not confer party status on attendees. Any person wishing to become a party to this proceeding must file a Motion To Intervene in accordance with the Commission's Rules of Practice and Procedure.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–21353 Filed 8–4–83; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER83–430–002]

Virginia Electric and Power Co.; Compliance

August 2, 1983.

Take notice that on July 1, 1983, Virginia Electric and Power Company ("VEPCO"), submitted for filing its revised rates and supporting cost data, pursuant to a May 27, 1983, Commission Order in Docket No. ER83–430, 23 FERC ¶61,289.

VEPCO states that Schedules RC, RC-Interruptible, RS and RS–A have been revised to reflect the effect of the Commission's summary exclusion from the rate base of the cancellation costs associated with North Anna Unit 3 and

the correction of the interest synchronization.

Additionally, the revised rates exclude the rate base effect of the construction work in progress (CWIP), except CWIP related to pollution control and fuel conversion facilities.

The revised rates shall become effective on October 31, 1983.

VEPCO is also requesting that the rates contained in a CWIP companion filing be substituted for the above filed rates.

Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before August 11, 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. 83-21354 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-175-001]

James A. Drake, Miller's Plant Farm Foliage and Chrysanthemum Division of Dustin, Oklahoma, Inc.; Small Power Production and Cogeneration Facilities; Application for Commission Certification of Qualifying Status

August 2, 1983.

On March 17, 1983, James A. Drake, *et al.*, Route #2, Box 82-J, Seminole, Oklahoma 74868, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility is under construction in Hughes County, Oklahoma at the site of a current greenhouse operation. It will consist of a 100 kilowatt spark ignition engine from which heat will be recovered for use in air and soil temperature controlled growing houses. The primary energy source to the facility will be natural gas.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-21348 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Issuance of Decisions and Orders; Week of June 6 Through June 10, 1983

During the week of June 6 though June 10, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Remedial Order

Condor Operating Company, June 6, 1983, BRO-1287

Condor Operating Company objected to a Proposed Remedial Order which the Southwest District of the Economic Regulatory Administration (ERA) issued to the firm on July 18, 1980. In the Proposed Remedial Order, the ERA found that during the period September 1973 through August 1976, Condor sold crude oil from three properties at prices exceeding the applicable ceiling prices under the Mandatory Petroleum Price Regulations, 10 CFR, Part 212, Subpart D. After considering Condor's objections, the DOE concluded that the Proposed Remedial Order, with modifications to the remedial provisions, should be issued as a final order. The important issues discussed in the Decision and Order include (i) whether separate reservoirs can be considered separate "properties" for purposes of classifying oil under the DOE regulations; and (ii) whether an operator is a proper recipient of a Proposed Remedial Order.

Requests for Exception

City of Long Beach, California, June 6, 1983, BXE-0341

The City of Long Beach, California requested an extension of exception relief granted by the Office of Hearings and Appeals in *City of Long Beach, California*, 4 DOE ¶81,086 (1979) which permitted the City to sell certain quantities of crude oil produced from the Fault Block II Unit at upper tier prices for the period July 1, 1979 through December 31, 1979. In considering the request the DOE determined that an economic incentive to continue crude oil production activities was necessary to prevent the loss of a significant granting of otherwise recoverable crude oil. However, the DOE noted that a calculational error had been made in the previous Decision which resulted in the City receiving $963,459 in excessive exception relief. The DOE ordered that the City deposit $963,459 into an interest-bearing escrow account to be used to compensate those parties injured by the calculational error. The important issues discussed in the Decision include (i) reliance and estoppel claims against the federal government, and (ii) identification of those parties who bore the costs of the excessive exception relief.

Dow chemical, U.S.A., June 9, 1983, BEE-1680

Dow Chemical, U.S.A., filed an Application for Exception from the provisions of 10 CFR 211.69 (the clean-up rule) in which the firm requested that the Economic Regulatory Administration (ERA) accept amended entitlements reports (Form ERA-49) that Dow submitted to the ERA on March 31, 1981 and which pertain to periods prior to the reporting period established in the clean-up rule. In considering Dow's request, the DOE found that Dow's March 31, 1981 submission of amended reports was governed by the clean-up rule rather than the reporting provisions of 10 CFR 211.67(j), and that the ERA acted reasonably and within its authority when it refused to accept Dow's submission for inclusion in the January entitlements notice or the entitlements clean-up list. Furthermore, Dow's case was distinguished from prior cases granted. The DOE concluded that Dow failed to show that application of 10 CFR 211.69 in its case would impose a serious hardship or gross inequity on the firm. Accordingly, exception relief was denied.

Piedmont Petroleum Company, June 9, 1983, HEE-0045

Piedmont Petroleum Company filed an Application for Exception in which the firm sought to be relieved of the obligation to file Form EIA-9A, the "No. 2 Distillate Price Monitoring Report." In considering the request, the DOE found that the firm did not establish that it was particularly adversely affected by the reporting requirement. Accordingly, exception relief was denied.

Wyoming Energy Conservation Office, June 7, 1983, HEE-0035

On June 28, 1982 the Wyoming Energy Conservation Office (Wyoming) filed an Application for Exception from the provisions of 10 CFR 455.83(a)(2) in which the State sought permission to use more than five percent of the total funds allotted to the State for Cycle IV of the Institutional Conservation Program in order to defray administrative costs associated with the running of the Program. In considering the request, the DOE found that exception relief was necessary because the State's current grant for administrative expenses was less than 19 percent of the State's total projected administrative expenses, the State had implemented costcutting measures, and a disproportionate amount of the State's administrative costs were fixed. Accordingly, exception relief was granted.

Request for Stay

Gulf Oil Corporation, June 10, 1983, HRS-0036, HRT-0036

Gulf Oil Corporation requested a stay of its obligation to file a Notice of Objection to a Proposed Remedial Order issued to the firm by the Economic Regulatory Administration. The firm also requested a temporary stay pending a decision on the stay request. The DOE determined that the request should be denied. Gulf had claimed that it was already litigating before the Federal Energy Regulatory Commission an appeal of a previous denial of an Application for Exception involving the same underlying subject matter. The firm claimed that the burden of litigating the two proceedings justified the stay. The DOE determined that Gulf had not shown the existence of compelling reasons or unusual circumstances to overcome the public interest in a speedy resolution of enforcement proceedings.

Motions for Discovery

Atlantic Richfield Company, June 10, 1983, HRH-0055, HRS-0033, HRD-0055

On June 7, 1982, Atlantic Richfield Company (Arco) filed motions for Discovery, Stay and an Evidentiary Hearing in connection with a Proposed Remedial Order issued to the firm on Novermber 27, 1981. In its Motion to Stay Compliance with requirements of 10 CFR 205.199, Arco sought relief from those provisions with respect to its request for an evidentiary hearing. The DOE found that Arco had not established that it was impossible for the firm to comply with the provisions of 10 CFR 205.199 and, therefore, the Motion for Stay should be denied. With respect to Arco's Motion for Evidentary Hearing, the DOE found that two of the facts which Arco sought to establish involved issues of law, not fact. The DOE concluded that Arco's Motion for Evidentiary Hearing did not satisfy the standards for granting an evidentiary hearing and, therefore, should be denied. Similarly, the DOE denied Arco's Motion for Discovery because the firm had not shown that contemporaneous construction discovery regarding DOE regulations was necessary. The DOE further found that discovery on certain issues would not result in evidence relevant and material to the proceeding and, therefore, should be denied.

Pester Derby Oil Company, June 6, 1983, BRD-1329

Pester Derby Oil Company filed a Motion for Discovery in connection with a Statement of Objections to a Proposed Remedial Order issued to the firm by the Central Enforcement District of the Economic Regulatory Administration. In the PRO, the ERA alleged that Pester violated the pricing regulations in its retail sale of gasoline and No. 2 fuel oil. The ERA alleged that during the audit period Pester increased its prices whenever the firm's supplier announced an increase in the price to be charged to Pester. The ERA stated that the regulations only permitted a seller to include in its calculation of increased product costs the quantities of product that were physically in the seller's inventory and held for sale. Because the product was not in Pester's inventory at the time of each price increase, the ERA found that the firm improperly increased its prices on the basis of increased costs that it had not yet incurred. The ERA also alleged: (1) That Pester had not justified its increases in prices that the firm claimed reflected its increased non-product costs; (2) that the firm improperly imputed a May 15, 1973 selling price for self-service gasoline from stations that did not sell that product on that date; and (3) that the firm improperly imputed as May 15, 1973 selling price for a blended grade of gasoline that had not been sold on that date. In its Motion for Discovery, Pester sought extensive discovery regarding the ERA's audit methodology in general and also regarding specific findings such as the determination that the firm's non-product cost increases were negligible, the choice of the date for concluding the audit, the imputation of a May 15, 1973 selling price for the new blended grade of gasoline, the methodology for determining comparability between certain new stations and certain existing stations for the purpose of establishing May 15, 1973 selling prices for those stations. The firm also sought discovery of the administrative records and contemporaneous constructions of: (1) the non-product cost increase amendments to the reseller-retailer price rule promulgated at 39 F.R. 809 and 39 Fed. 7795; (2) the term "on a dollar-for-dollar basis" as contained in the reseller-retailer price rule at 6 CFR 150.359 and 10 CFR 212.93(a); (3) the term "increased costs of the item" contained in the reseller/retailer price rule at 6 CFR 150.359(c)(1); (4) the term "overcharge" as contained in the Economic Stabilization Act of 1970; and (5) the phrase "increased cost of a particular product not recouped after November 1, 1973" as contained in 6 CFR 150.359(c)(5). In addition, the firm sought documents generated in connection with the issuance and subsequent aplication of Ruling 1975-14. The DOE determined that the Motion for Discovery should be granted in part and that the remainder should be denied. Specifically, the request for documents regarding the agency's methodology for determining comparability between certain new stations and certain existing stations was granted. In denying the remainder of Pester's request for audit-related discovery, the DOE found that the workpapers provided to the firm clearly revealed the ERA's methodology and that the firm had not brought forth sufficient evidence to raise an issue as to the accuracy of the ERA's calculations. In denying the requested administrative record discovery, the DOE found that Pester had not shown a need for documents revealing the conduct of the rulemakers in promulgating the regulations in question and had not shown that such discovery was needed in order to pursue its challenge to the procedural validity of Ruling 1975-14. In denying the requested contemporaneous construction discovery, the DOE determined that the regulations had always required firms to justify their prive increase resulting from a non-product cost increase and that Pester had not shown why the DOE should look beyond official pronouncements in adjudicating the validity of the justification requirements. The firm also failed to make the requisite showing of confusion and contradiction on the part of the agency in its requests for contemporaneous constructions of the remaining regulatory terms in question.

Motion for Evidentiary Hearing

County Fuel Company, Inc., June 9, 1983, HRH-0010

County Fuel Company, Inc. (County Fuel) filed a Motion for Evidentiary Hearing in conjunction with an enforcement proceeding pending against the firm involving alleged overcharges in sales of motor gasoline. In its Motion for Evidentiary Hearing, the firm sought to present the oral testimony of two witnesses to set forth County Fuel's alternative findings of fact to those made in the Proposed Remedial Order (PRO). In denying the firm's Motion, the OHA determined that the information which County Fuel wished to present was not relevant to the underlying legal issue involved in the PRO proceeding. In addition, the OHA found that the type of mathematical and accounting information that the firm wished to present could more clearly be submitted in the form of written documentation. The request for an evidentiary hearing was also denied because County Fuel failed to identify the witnesses "as specifically as possible," in contrast to the DOE regulation. The motion was therefore denied.

Interlocutory Order

Economic Regulatory Administration/Engineered Operating Company, June 6, 1983 HRZ-0150

The Economic Regulatory Administration (ERA) filed a Motion to join Mr. J. W. Akin as a party to an enforcement proceeding pending before the Office of Hearings and Appeals, *Engineered Operating Co.*, Case No. HRO-0068 (filed September 9, 1982). Mr. Akin and Engineered objected to the motion, asserting that the DOE regulations required the ERA to issue a new PRO to Mr. Akin, and that Mr. Akin's joinder at this stage of the proceeding violates due process. The OHA granted the ERA's motion, finding that it was more administratively efficient to join Mr. Akin under section 205.199G than to issue him a new PRO. The OHA also found that joinder at this stage of the proceeding did not violate due process.

Implementation of Second Stage Refund Procedures

Palo Pinto Oil & Gas, June 9, 1983, HQF-0014

Pursuant to Subpart V of the DOE regulations, the DOE implemented special refund procedures for the purpose of distributing $529,000 obtained through a consent order entered into by the DOE and Palo Pinto Oil & Gas. After processing all first stage refund claims submitted by users of products produced by Palo Pinto which could establish injury, $266,904 of the consent order funds remained in the escrow account. The Controller of the State of California, joined by the Attorneys General of Alabama, Illinois, Michigan, and Pennsylvania, and the New York State Energy Office (collectively referred to as California) filed a proposal for dividing the remainder of the Palo Pinto fund.

In the proposal, California recommends that the DOE divide the monies among the 50 states, territories, and possessions of the United States according to each jurisdiction's proportionate share of nationwide Gulf gasoline consumption. California proposes that funds received by each jurisdiction be allocated to energy-related programs which benefit citizens who have borne the impact of the alleged overcharges.

In considering the proposal, the DOE concluded that state governments, by funding energy-related programs, will provide effective and efficient restitution to injured consumers who were not identifiable in the first stage of the refund proceeding. The DOE further found that it is appropriate to apportion the consent order monies among state and territorial governments according to the percentage of national Gulf gasoline distribution in each jurisdiction. In this manner, refund shares will be proportionate to the level of injury sustained by end-users within each jurisdiction. The DOE determined that upon submission by each state of a plan which will provide appropriate restitutionary benefits to consumers within its jurisdiction, the amount apportioned will be disbursed.

Refund Applications

Williams Chemical Company, June 6, 1983, RF13-15

Williams Chemical Company filed an Application for Refund seeking a portion of the fund obtained by the DOE through a consent order entered into with OKC Corporation. Williams is an independent reseller-retailer of petroleum products that purchased motor gasoline and diesel fuel from OKC during the period covered by the consent order. In analyzing the Williams refund application, the DOE noted that a demonstration of the existence of unrecouped product cost "banks" is a necessary prerequisite to establishing eligibility for a refund based on a purchase level exceeding 50,000 gallons per month of a covered product. The DOE found that since Williams failed to submit properly calculated banks in support of its refund request, the applicant had not made a sufficient demonstration of injury due to OKC's pricing practice to warrent a refund in excess of the threshold level. The DOE therefore limited William's refund to the threshold level and granted the firm's refund request in part.

Standard Oil Company (Indiana)/Art's Standard Service, et al., June 10, 1983, RF21-8402 et al.

The DOE issued a Decision and Order concerning 64 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 64 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $61,961.

Standard Oil Company (Indiana)/Garfield Standard et al., June 6, 1983, RF21-2467 et al.

The DOE issued a Decision and Order concerning 64 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these Applications, the DOE concluded that each of the 64 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $61,961.

Standard Oil Company (Indiana)/Hamilton Standard Service et al., June 10, 1983, RF21-4102 et al.

The DOE issued a Decision and Order concerning 61 Applications for Refund filed by wholesalers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 61 applicants should receive a refund based upon the total volume of their Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $75,212.

Standard Oil Company (Indiana) Purkey's Standard, et al. June 10, 1983, RF21-3539 et al.

The DOE issued a Decision and Order concerning 140 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 140 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $139,400.

Standard Oil Company (Indiana) /R.P. Genisio, et al., June 7, 1983, RF21-132 et al.

The DOE issued a Decision and Order concerning 51 Applications for Refund filed by consumers of Amoco middle distillates. All of these consumers elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 51 applicants should receive a refund based upon the volume of its Amoco middle distillate purchases less any volumes for which Amoco had already made direct payments to an applicant pursuant to the Amoco Consent Order and less any volumes purchased during periods not covered by the Consent Order. The refunds granted in this proceeding total $21,260.

Standard Oil Company (Indiana) /Rider's Standard Service, et al., June 8, 1983, RF21-878 et al.

The DOE issued a Decision and Order concerning 131 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 131 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding total $110,902.

Dismissals

The following submissions were dismissed:

Company Name	Case No.
ATCO, Inc.	RF21-8874.
Benton Amoco	RF21-6815.
Blue Ridge Mall Standard	RF21-10164.
C & C Oil Corporation	RF21-7407.
Cabrillo Arco	HRO-0052.
Fischer Oil Company	RF21-10724.
Garret Freightlines, Inc.	RF21-4536.
Leo Mink	RF21-8635.
Miller Farm Home Oil Service	RF21-8880.
Munford, Inc.	RF21-7417.
Newell Oil Co., Inc.	RF21-11002.
North State Motor Lines, Inc.	RF21-2336.
Rau Cartage, Inc.	RF21-5906.
Tom's Standard Service	RF21-10422.

The following Amoco Refund Applications were dismissed on the grounds that the firm had already received a refund directly from Amoco:

Company Name	Case No
Fruehauf Corporation	RF21-6383.
Garrett Freightlines, Inc.	RF21-4537.
Interstate Power Company	RF21-5987.
M. & J. R. Hakes, Inc.	RF21-6242.
W.S.M. Opryland U.S.A.	RF21-6242.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 29, 1983.

Thomas O. Wieker,

Deputy Director, Office of Hearings and Appeals.

[FR Doc. 83-21332 Filed 8-4-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of June 13 Through June 17, 1983

During the week of June 13 through June 17, 1983 the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of hearings and Appeals of the Department of Energy. The following

summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 29, 1983.

Thomas L. Wieker,

Acting Director, Office of Hearings and Appeals.

Appeals

Robert E. Atwell, Jr., June 16, 1983, HFA-0150

Robert E. Atwell, Jr. filed an Appeal from a denial by the Albuquerque Operations Office of a Request for Information which Atwell had submitted under the Freedom of Information and Privacy Acts. In considering the Appeal, the DOE determined that the Appeal should be remanded to the Albuquerque Office and a new determination issued to Atwell. Important issues that were considered in the Decision and Order were: (i) whether the Albuquerque Office should have provided the withheld material to the Office of Hearings and Appeals for review and (ii) whether the Albuquerque Office should have performed a document-by-document examination of the withheld material.

Enver Masud, June 15, 1983, HFA-0145

Enver Masud filed an Appeal from a denial by the Director of Personnel of the DOE of a Request for Information which the firm had submitted under the Freedom of Information Act the (FOIA). In considering the Appeal, the DOE found that the DOE's search for documents responsive to Masud's request was adequate and that no responsive documents exist.

Remedial Order

Alandale Enterprises, Inc., d.b.a. Indian Point Boat Dock, June, 13, 1983, BRO-1543

Alandale Enterprises, Inc. d/b/a Indian Point Boat Dock (Alandale) objected to a Proposed Remedial Order (PRO) which the Central Enforcement District of the Economic Regulatory Administration (ERA) issued to the firm on July 31, 1980. In the PRO, the ERA found that Alandale had sold motor gasoline to retail customers at prices in excess of the firm's maximum lawful selling prices, and that the firm should be required to make refunds to correct for its violations. The DOE concluded that the PRO should be issued as a final order. The important issues discussed in the Decisión and Order include (i) whether a firm's operational circumstances as marina exempt it from the DOE regulations, and (ii) the appropriateness of payment to the United States Treasury as an equitable remedy for violation of the pricing regulations.

ERA/James Clowson Chevron, ERA/Entrada Arco, ERA/Lee Garrett Union, June 15, 1983, HRW-0020, Hrw-0021, Hrw-0022

The ERA filed motions to modify and issue as final orders ten Proposed Remedial Orders issued to motor gasoline retail outlets. None of the recipients of the PRO's had filed a Notice of Objections or Statement of Objections with the Office of Hearings and Appeals. The DOE granted the ERA request that the PRO's be modified to require that interest be assessed at the rate of one percent per month, which reflects the current agency interest policy for overcharges by motor gasoline retailers. The DOE futher found that the PRO's should be modified to require that the refunds be deposited into an escrow account for ultimate disposition pursuant to a Petition for implementation of Special Refund Procedures, as set forth in 10 CFR Part 205, Subpart V. The PRO's as modified, were issued as final Remedial Orders.

Interlocutory Order

Texaco, Inc., June 16, 1983, HRZ-0151, HRR-0057

Texaco, Inc. sought an order deeming the Office of Special Counsel to have admitted certain matters set forth in the firm's Statement of Factual Objections to a Proposed Remedial Order that OSC had issued to the firm on May 1, 1979. The Office of Hearings and Appeals issued an order deeming OSC to have admitted the majority of matters set forth in Texaco's motion but directed Texaco to make future admission requests with greater specificity than the motion under consideration. OHA also considered a Texaco motion for reconsideration of a prior admissions order, and granted the request in part.

Supplemental Order

Glen Martin Heller, June 13, 1983, HCX-0011

Glen Martin Heller objected to a Proposed Remedial Order issued by the Economic Regulatory Administration. Those objections were not sustained, and a Remedial Order was issued to Heller on July 10, 1979. Heller sought administrative review of that Remedial Order by the Federal Energy Regulatory Commission. In light of a decision by the Temporary Emergency Court of Appeals during the pendency of the review petition that required reversal of the Remedial Order, the FERC remanded the Remedial Order to the Office of Hearings and Appeals found that Heller had violated the mandatory petroleum price regulations and that the approval of exception relief while the remedial order proceeding was pending did not absolve Heller of all violations of the price regulations. The OHA concluded that in view of the exception relief approved for him, Heller should be ordered to remit $54,347.98 plus interest to the DOE.

Refund Applications

Ada Resources, Inc./C & H Transportation Co., Inc., June 15, 1983, RF24-1

The DOE issued a Decision and Order concerning refund applications filed by four applicants who purchased less than 50,000 gallons per month covered product from Ada Resources, Inc. In considering the refund applications, the DOE determined that the firms were adversely affected by Ada's alleged overcharges and were eligible for a portion of the consent order funds. Accordingly, those applications were granted.

Standard Oil Company (Indiana)/State of Michigan Attorney General, June 16, 1983, RF21-7013

The DOE issues a Decision and Order concerning an Application for Refund filed by the State of Michigan Attorney General (Michigan) on behalf of 166 Michigan State governmental entities who were consumers of Amoco motor gasoline and middle distillates. Michigan elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering the application, the DOE concluded that Michigan should receive a refund based upon the total volume of the Amoco motor gasoline and middle distillate purchases made by the 166 entities. The refund granted in this proceeding totals $112,146.

Vickers Energy Corporation/Denny Klepper Oil Company, June 16, 1983, RF1-103

The DOE issued a Decision and Order concerning an Application for Refund filed by Denny Klepper Oil Company, a motor gasoline reseller, which sought a portion of the Vickers Energy Corporation consent order fund. Klepper sought a refund based upon purchases of Vickers motor gasoline which exceeded the small claim threshold figure of 50,000 gallons per month, and therefore submitted detailed information concerning its business operations. After analyzing this information, the DOE concluded that Klepper was injured by the alleged overcharges and should receive a refund based upon the volume of its Vickers motor gasoline purchases for which it made a showing of injury. However, Klepper had not submitted an election of remedies statement. Accordingly, the Application for Refund was granted in part, contingent upon the submission of an election of remedies statement.

Dismissals

The following sumbmissions were dismissed:

Name	Case No.
Alvin D. Duning	RF21-7719.
Arnott Oil Co	RF21-5736.
Autore Oil Co Inc	RF21-8210.
Bettis Oil Co	RF21-6532.
Bradley & Boswell, Inc	RF21-8126.
Connors Oil, Inc	RF21-7487.
Edward T. Cotham, Jr	HEG-0028.
Darden Oil CO., Inc	RF21-6497.
Dettmann Oil Co	RF21-7698.
Elshere Bulk Service	RF21-8131.
Enderson Oil Co	RF21-6376.
Interstate Traveller Service	RF21-3794.
J & I Oil Co., Inc	RF21-5684.
Jaguar Petroleum, Inc	HRO-0145.
Khemme Oil Co	RF21-7880.
McGrew Oil Co	RF21-3791.
Merwin Oil Co	RF21-7094.
Meyer Oil Co	RF21-6373.
Mortenson Oil Co. Inc	RF21-7932.
Nicholson Oil, Inc	RF21-6501.
Patterson Oil Co	RF21-6110.
Robinson's Inc	RF21-7521.
Smith Oil Co	RF21-6989.

Name	Case No.
Triple J-Mar Petroleum, Inc	RF21-7192.
Valley Distributing Co. Inc	RF21-6215.
Vanderslice Oil Co	RF21-8201.

The following Amoco Refund Applications were dismissed on the ground that the firm had already received a refund directly from Amoco:

Name	Case No.
Enterprises Transportation	RF21-6384.
Fritzler Oil Co	RF21-8116.
Independent School Dist. 881	RF21-7208.
Indian Trails, Inc	RF21-7058.
Upsala Area Schools #487	RF21-6765.
William Gehring, Inc	RF21-6106.

[FR Doc. 83-21331 Filed 8-4-83; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Decisions and Orders; Week of June 20 through June 24, 1983

During the week of June 20 through June 24, 1983, the decisions and orders summarized below were issued with respect to appeals and applications for exception or other relief filed with the Office of Hearings and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Copies of the full text of these decisions and orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room 1111, New Post Office Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

Dated: July 29, 1983.

Thomas L. Wieker,

Acting Director, Office of Hearings and Appeals.

Appeals

Decision Management Company, Inc., June 20, 1983, *HFA-0148*

Decision Management Company, Inc. filed an Appeal from a partial denial by the manager of the Chicago Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that: (1) Proposals and transmittal letters attached to proposals submitted by firms in competition for a contract remain exempt from disclosure under Exemption 4 prior to the contract award; (2) notes and score sheets of Source Evaluation Board (SEB) members and reports of SEB advisors, which are generated during the deliberative, predecisional evaluation of firms' proposals, are exempt from disclosure pursuant to Exemption 5; and (3) portions of an SEB Report prepared during a DOE procurement and submitted to a Source Selection Official to inform his choice of a contractor which contained no deliberative material or confidential commercial information should be released while remaining portions of the SEB Report were exempt from disclosure pursuant to Exemptions 4 and 5.

Siebe Norton, Inc., June 23, 1983, *HFA-0142*

Siebe Norton, Inc. filed an Appeal from a partial denial by the FOI authorizing Official of the Albuquerque Operations Office of a Request for Information which the firm had submitted under the Freedom of Information Act (the FOIA). In considering the Appeal, the DOE found that the Authorizing Official had correctly withheld portions of the document pursuant to Exemption 4. The DOE further found that the firm which submitted the information no longer objected to the release of a portion of the document and, therefore, it should be released to the public. Accordingly, the Appeal was granted in part.

Requests for Exception

Johnson Oil Company, June 21, 1983, DEE-3708

Johnson Oil Company filed an Application for Exception from the provisions of 10 CFR 211.67 in which the firm sought exception relief from its obligation to purchase entitlements. In considering the request, the DOE found that the firm did not experience any special hardship or gross inequity as a result of the implementation of the DOE Crude Oil Entitlement Program. Accordingly, the exception relief was denied.

Transcontinental Oil Corporation, June 22, 1983, *HEE-0062*

Transcontinental Oil Corporation (Transcontinental) filed an Application for Exception, in which the firm sought to be relieved of its obligation to file Form EIA-23, "Annual Survey of Domestic Oil and Gas Reserves." In considering the request, the DOE found that Transcontinental did not show that in comparison to similar reporting firms it was unfairly burdened by the reporting requirements. Accordingly, exception relief was denied.

Refund Applications

ADA Resources, Inc./Rapid Transit Lines, June 24, 1983, RF24-2

Rapid Transit Lines, Inc. (RTL) filed an Application for Refund seeking a portion of the fund obtained by the DOE through a consent order with Ada Resources, Inc. During the consent order period, RTL operated a bus system with fuel purchased from Ada. In considering the RTL request, the DOE found that although the firm would not be able to return any refunds to its customers, since it no longer operated a bus system, it was nevertheless likely that RTL absorbed the alleged Ada overcharges. The DOE also stated that it would be beyond the scope of a refund proceeding to perform an exhaustive inquiry into the operations of an end user not engaged in the sale or manufacture of petroleum products. The DOE further pointed out that the amount of the requested refund was relatively small. Therefore, the firm was not required to make a detailed showing of injury, and was granted a refund of $1,333.

Standard Oil Company (Indiana)/Burke, Inc. et al., June 24, 1983, RF21-1873 et al.

The DOE issued a Decision and Order concerning 86 Applications for Refund filed by resellers of Amoco middle distillates. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶85,048 (1982). In considering these applications, the DOE concluded that each of the 86 applicants should receive a refund based upon the total volume of their Amoco middle distillate (motor gasoline) purchases. The refunds granted in this proceeding total $31,561.

Standard Oil Company (Indiana)/Dave's Standard Service et al., June 22, 1983, RF21-2409 et al.

The DOE issued a Decision and Order concerning 82 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 82 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $65,915.

Standard Oil Company (Indiana)/Ford Parkway Standard, June 23, 1981, RF21-884

The DOE issued a Decision and Order concerning 84 Applications for Refund filed by retailers of Amoco motor gasoline. All of these firms elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 84 applicants should receive a refund based upon the total volume of its Amoco motor gasoline purchases. The refunds granted in this proceeding totaled $87,833.

Standard Oil Company (Indiana)/Goldfair Safeway, June 24, 1983, RF21-11470

The DOE issued a Decision and Order concerning an Application for Refund filed by Goldfair Safeway, a reseller of Amoco middle distillates. In a previous Decision, *Standard Oil Co. (Indiana/Wegand Oil Company*, 11 DOE ¶ 85,016 (1983), the DOE had determined that Goldfair Safeway should receive a refund based upon its purchase of Amoco middle distillates. However, that Decision erroneously granted the firm a refund for

purchases made after the date when middle distillate products were decontrolled, *viz.*, July, 1, 1976. Since Goldfair Safeway was therefore not eligible for any refund, the DOE ordered the firm to remit the refund amount previously received to the U.S. Treasury.

Standard Oil Company (Indiana)/Story Country Road Dept., et al., June 20, 1983, RF21-1873 *et al.*

The DOE issued a Decision and Order concerning 93 Applications for Refund filed by consumers of Amoco motor gasoline and middle distillates. All of the applicants elected to apply for a refund based upon the presumption of injury and the formulae outlined in *Office of Special Counsel*, 10 DOE ¶ 85,048 (1982). In considering these applications, the DOE concluded that each of the 93 applicants should receive a refund based upon the total volume of their AMoco motor gasoline and middle distillate purchases. The refunds granted in this proceeding total $14,837.

Tenneco Oil Company/Chesapeake Industrial Oil Company Tenneco Oil Company/Southern Fuel Company, June 20, 1983, RF7-107, RF7-108,

The DOE issued a Decision and Order concerning Applications for Refund filed by Chesapeake Industrial Oil Company, Inc. and Southern Fuel Company. Each of these firms is a retailer of middle distillates located in Baltimore, Maryland. Both elected to apply for a refund from the Tenneco Oil Company consent order fund based upon the small claims method outlined in *Office of Special Counsel*, 9 DOE ¶ 82,538 (1982). In considering these applications, the DOE concluded that each of the applicants should receive a refund based upon purchases of Tenneco middle distillates up to the small claims threshold amount (50,000 gallons per month) and granted a refund for each firm of $684 plus a proportionate share of the accrued interest.

Dismissals

The following submissions were dismissed:

Name	Case No.
Dependent Oil Co.	RF21-3343.
Don F. Raymond, Inc.	RF21-10108

The following Amoco Refund Applicants were dismissed on the grounds that the firm had already received a refund directly from Amoco:

Blue Flame Transportation Corp.	RF21-3064.
Housing Authority of Baltimore City	RF21-91.
Independent School District #544	RF21-5703.
Nortran	RF21-6220.
Olmsted County	RF21-8155.

[FR Doc. 83-21333 Filed 8-4-83; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2411-4]

Availability of Environmental Impact Statements Filed July 25 Through July 29, 1983 Pursuant to 40 CFR Part 1506-9

RESPONSIBLE AGENCY: Office of Federal Activities, General Information (202) 382-5075 or 382-5076.

Army Corps of Engineers:
- EIS No. 830402, Draft, COE, TX, Palo Blanco and Cibolo Creeks, Local Flood Protection, Brooks County, Due: Sept. 30, 1983
- EIS No. 830407, Final, COE, AL, Frank Jackson State Park Earth Fill Dam and Reservoir Const., Permit, Due: Sept. 6, 1983

Department of Commerce:
- EIS No. 830406, Draft, NOA, WA, PRO, Grays Harbor Estuary Mgmt. Adoption and Approval, Grays Harbor County, Due: Oct. 4, 1983

Department of the Interior:
- EIS No. 830410, Final, DOI, PRO, Undeveloped Coastal Barriers/Flood Insurance Prohibition, Definition, Due: Oct. 28, 1983

Department of Transportation:
- EIS No. 830405, Draft, FHW, MD, Intercounty Connector/Rockville Facility, Montgomery and Prince Georges Counties, Due: Oct. 20, 1983
- EIS No. 830401.D Suppl, FHW, PA, Mid County Expressway/I-476/LR-1010 Construction, I-76 to I-95, Due: Sept. 30, 1983
- EIS No. 830398, Final, FHW, SEV, MN, WI, Mississippi River Bridge and Approaches Replacement, Due: Sept. 6, 1983
- EIS No. 830399, Final, FHW, IN, U.S. 27 NE Bypass Construction, U.S. 30 to I-69, FT. Wayne, Allen County, Due: Sept. 6, 1983
- EIS No. 830403, Final, FHW, IN, IN-109 Improvements, IN-38 to 53rd Street, Madison County, Due: Sept. 6, 1983

Environmental Protection Agency:
- EIS No. 830409, Final, EPA, MI, Indian Lake-Sister Lakes Wastewater Treatment Facilities, Grant, Due: Sept. 6, 1983

Department of Housing and Urban Development:
- EIS No. 830404, Draft, HUD, TX, Palacio del Sol/Baytes Circle Subdivisions Areawide Study, Cameron County, Due: Sept. 19, 1983
- EIS No. 830400, Final, HUD, TX, Randolph Subregion Areawide Study, Randolph Air Force Base, Due: Sept. 6, 1983

Department of Defense, Air Force:
- EIS No. 830411.DRevised, UAF, NM, Holloman AFB, Reserve Military Operations Area, Supersonic Operations, Due: Sept. 30, 1983
- EIS No. 830412, DRevised, UAF, TX, Holloman AFB, Valentine Military Operations Area, Supersonic Operations, Due: Sept. 19, 1983

Department of Agriculture:
- EIS No. 830408, Final, AFS, VT, Sugarbush Valley Winter Sports Area Expansion, Washington County, Due: Sept. 6, 1983

Amended Notices:
- EIS No. 830397, Draft, FWS, AK, Bristol Bay Region, Cooperative Land Management Plan, Published FR 07/29/83—Review extended, Due: Sept. 20, 1983

William D. Dickerson,

Acting Director, Office of Federal Activities.

Dated: August 2, 1983.

[FR Doc. 83-21344 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

[OW-FRL 2411-2]

Air Pollution; Leather Tanning and Finishing Industry Point Source Category Effluent Limitations Guidelines, Pretreatment Standards, and New Source Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Notice identifying two leather training companies in the City of Tullahoma, Tennessee to which the sulfide pretreatment standards shall not apply as provided by 40 CFR 425.04.

SUMMARY: The Tullahoma Utilities Board operates the Publically Owned Treatment Works (POTW) which accepts pretreated wastewater from two tanneries which are subject to pretreatment standards of 40 CFR Part 425. The Utilities Board was requested by Lannom Manufacturing Company, Inc. and Tennessee Tanning Company, Inc. to waive the categorical standards for the discharge of sulfides into the Tullahoma sewer system. The Board issued a public notice and then held a public hearing on May 3, 1983, to receive comments on the proposed waiver. On May 24, 1983, the Board unaminously approved to waive the EPA sulfide standards for the two tanneries. The Board followed the guidelines as required by 40 CFR 425.04 and showed that the sulfides do not interfere with the operation of the POTW. EPA Region IV has reviewed the process in this waiver action and determined that the sulfide pretreatment standards shall not apply to the following leather tanning companies of Tullahoma, Tennessee:

1. Lannon Manufacturing Company, Inc., West Lincoln Street.

2. Tennessee Tanning Company, Inc., 912 N. Atlantic Street.

This notice of waiver applies only to the sulfide standard. The standards on chromium and pH are applicable to these two companies as indicated in the pretreatment standards for existing sources (PSES) in 40 CFR Part 425.

Dated: July 26, 1983.

Charles R. Jeter,

Regional Administrator.

[FR Doc. 83-21322 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51478; TSH-FRL 2411-1]

Toxic Substances; Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twelve PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-989, 83-990, 83-991 and 83-992, October 22, 1983;

PMN 83-993, 83-994, 83-995, 83-996, 83-997 and 83-998, October 23, 1983;

PMN 83-999, October 24, 1983; and

PMN 83-1000, October 25, 1983.

Written comments by:

PMN 83-989, 83-990, 83-991 and 83-992, September 22, 1983;

PMN 83-993, 83-994, 83-995, 83-996, 83-997, 83-998, September 23, 1983;

PMN 83-999, September 24, 1983; and

PMN 83-1000, September 25, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51478]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460; (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Theodore Jones, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460; (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107.

PMN 83-989

Manufacturer. Confidential.

Chemical. (G) Substituted carboxylated cocoimidazoline.

Use/Production. (G) Textile processing aid, surfactant in cleaning compound. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 ml/kg; Irritation: Skin—Moderate, Eye—Practically non-irritating.

Exposure. Manufacture: dermal, a maximum of 3 workers, up to 2 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. Release to water. Disposal by pretreatment and publicly owned treatment works (POTW).

PMN 83-990

Importer. ICI Americas, Incorporated.

Chemical. (S) 3-aminonaphtalene-1, 5-disulfonic acid, monosodium salt.

Use/Import. (S) Intermediate for dyes and pigments.

Import range: Confidential.

Toxicity Data. Acute oral: 11.4 g/kg.

Exposure. Use: 2-3 hrs/batch, at up to 5 sites.

Environmental Release/Disposal. No data submitted.

PMN 83-991

Importer. Confidential.

Chemical. (G) Substituted, sulfated naphthylazo sodium salt.

Use/Production. (S) Fiber reactive dye for cotton and rayon sportwear. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. Use: Dermal and inhalation, 1 person/shift, 1 hr/shift at a maximum of 20 sites.

Environmental Release/Disposal. Release to water. Disposal by on-site biological treatment system.

PMN 83-992

Manufacturer. Sybron Chemical Division.

Chemical. (G) Co-polymer of styrene and an alkyl methacrylate.

Use/Production. (S) Industrial and commercial primary vehicle in reprographic inks. Prod. range: Confidential.

Toxicity Data. Confidential.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

PMN 83-993

Manufacturer. Confidential.

Chemical. (S) Polymer of: Adipic acid, dipropylene glycol, lauric acid, trimelletic anhydride, trimethylol propane, and triphenyl phosphite.

Use/Production. (S) Coating composition. Prod. range: 45,000-75,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: Dermal, a maximum of 3 workers, up to 6 hrs/da, up to 60 da/yr; Use: A maximum of 4 workers, up to 8 hrs/da, up to 260 da/yr at 10-20 sites.

Environmental Release/Disposal. No release expected.

PMN 83-994

Importer. Confidential.

Chemical. (G) Saturated natural fatty acid choline chloride.

Use/Import. (G) A low level constitutent in an article for industrial, commercial and consumer use. Import range: 5,000-10,500 kg/yr maximum.

Toxicity Data. Acute oral: 50 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Skin sensitization: Non-sensitizer.

Exposure. Confidential.

Environmental Release/Disposal. Less than 1 kg/da released to water. Disposal by POTW.

PMN 83-995

Importer. Confidential.

Chemical. (G) Complex of a substituted oxazoline and a metal-substituted pyrazol.

Use/Import. (S) Light stabilizer for paint. Import range: Confidential.

Toxicity Data. Acute oral: 1,860 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Ames Test: Negative; Skin sensitization: Non-sensitizing.

Exposure. Use: Dermal (spill only).

Environmental Release/Disposal. No data submitted.

PMN 83-996

Manufacturer. Dartco Manufacturing Inc.

Chemical. (S) 1,3-benzenedicarboxylic acid, polymer with 1,4 benzenedicarboxylic acid, [1,1' biphenyl]-4,4'-diol and 4-hydroxybenzoic acid.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: Dermal, a maximum of 3 persons/shift, up to 8 hrs/da.

Environmental Release/Disposal. No release expected.

PMN 83-997

Importer. Marubeni America Corporation.

Chemical. (G) 6-diethylamino-2-(substituted)spiro(xanthene-9,3'-phthalide).

Use/Import. (S) Thermal colour former. Import range: Confidential.

Toxicity Data. Ames Test: Negative; TLm_{48} (Orange medaka)—above 100 parts per million (ppm).

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–998

Importer. Marubeni America Corporation.

Chemical. (G) 6-dibutylamino-2-(substituted)spiro(xanthene-9,3'-phthalide).

Use/Import. (S) Thermal colour former. Import range: Confidential.

Toxicity Data. TLm_{48} (Orange medaka)—above 100 ppm.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

PMN 83–999

Importer. Confidential.

Chemical. (G) Subsituted oxazoline.

Use/Import. (S) Light stabilizer for paint. Import range: Confidential.

Toxicity Data. Acute oral: > 5,000 mg/kg; Irritation: Skin—Moderate, Eye—Non-irritant; Ames Test: Negative.

Exposure. Processing: dermal.

Environmental Release/Disposal. No release expected.

PMN 83–1000

Importer. Marubeni America Corporation.

Chemical. (G) Heptasodium salt of 3,5-bis[4-(7-(2-substituted-phenylazo)-3,6-disulfo-8-hydroxy-1-naphthylamino)-6-chloro-1,3,5-triazin-2-ylamino]benzoic acid.

Use/Import. (S) Cellulose reactive dye. Import range: Confidential.

Toxicity Data. Ames Test: Negative; Acute fish toxicity, TLm_{48}-1,300 ppm (Orange medaka).

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

Dated: August 1, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

[FR Doc. 83-21295 Filed 8-4-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirements Submitted to Office of Management and Budget for Review

July 26, 1983.

On July 26, 1983, the Federal Communications Commission submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511.

Copies of this submission are available from Richard D. Goodfriend, Agency Clearance Officer, (202) 632–7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395–7231.

Title: Section 76.29—Special Temporary Authority Rules in the Cable Television Service.

Action: Extension.

Respondents: Cable Television System Licensees.

Estimated Annual Burden: 300 Responses; 300 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-21304 Filed 8-4-83; 8:45 am]

BILLING CODE 6712-01-M

Advisory Committee for the 1985 ITU World Administrative Radio Conference on the Use of the Geostationary Satellite Orbit and the Planning of the Space Services Utilizing It (Space WARC Advisory Committee); Meeting

July 28, 1983.

Task Group B–1 of Working Group B: Legal Implications.

Chairman: Martin A. Rothblatt, (202) 422–4692.

Date: Friday, August 5, 1983.

Location: GTE Spacenet Corp., 1828 L Street, N.W., Suite 500, Washington, D.C.

Time: 9:00 a.m.–4:00 p.m.

Agenda: (1) Approval of Final Report; (2) Future Activity of Task Group.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-21302 Filed 8-4-83; 8:45 am]

BILLING CODE 6712-01-M

U.S. CCIR Study Group 1 Forms Ad Hoc Committee on ISM Interference Limits; Meeting

July 28, 1983.

Notice is hereby given that an Ad Hoc Committee is being organized for the purpose of assisting in the preparation of a US position on the question of permitted levels of radiation for Industrial, Scientific and Medical (ISM) equipment. This Ad Hoc Committee will operate under the auspices of the US Study Group 1 of the International Radio Consultative Committee (CCIR).

The 1979 World Administrative Radio Conference (79 WARC) adopted Resolution 63 which charged the CCIR with recommending levels for allowable radiation from Industrial Scientific and Medical (ISM) equipments, both inside and outside the frequency bands designated for use by ISM equipment, for the purpose of protecting radiocommunications. It was suggested that particular care be given the aeronautical service.

To respond to Resolution 63, CCIR Study Group 1 established an interim working party CCIR IWP 1/4. All members of the International Telecommunications Union ITU were invited to participate. The USA accepted and named as its representative Mr. Art Wall, Chief, RF Devices Branch, FCC, Washington DC 20554, phone 202–653–8247.

IWP 1/4 has held several meetings in which the USA has actively participated. During the discussions, it became evident that the recommendations being drafted by IWP 1/4 will have a significant impact on USA manufacturers of ISM equipment. It is deemed desirable that a committee with widespread participation by industry be organized to prepare a USA national position on the matter of limits for radiation from ISM equipment.

A meeting of this *Ad Hoc Committee for CCIR IWP 1/4* will be held on August 24, 1983 between 7 and 10 PM in the Jefferson Room at the Hyatt Regency Hotel in Crystal City, Arlington, Virginia. This meeting follows Session 3B on FCC rules re ISM equipment at the 1983 International IEEE Symposium on Electromagnetic Compatibility.

All persons interested in this matter and willing to participate in this work are invited to attend. Prospective attendees are requested to advise Herman Garlan, RF Devices Branch, FCC, Washington, DC 20554, phone 202–653–8247 of their intention to participate. The notice should be in writing and should indicate the participants' name, title, company affiliation, phone (both home and office) and address where mail should be sent. The notice should also include a statement that the writer is willing to participate in the work of the US Ad Hoc Committee for CCIR IWP 1/4.

The agenda for the meeting is:

1. Review of Resolution 63.
2. Work of CCIR IWP 1/4 to date.
3. US participation to date.
4. Future work to be done.

a—Interference Model for ISM interference.

b—factors to be included in Model.

i—signal to be protected.

ii—signal to interference ratio for ISM interference.
iii—propagation law.
iv—building attenuation.
v—probability of interference.
vi—other factors.
5. Assignment of tasks.
6. Next meeting.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-21303 Filed 8-4-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Bank Shares by Bank Holding Companies; First Connecticut Bancorp, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. **First Connecticut Bancorp, Inc.,** Hartford, Connecticut; to acquire 100 percent of the voting shares or assets of The Independent Bank and Trust Company, Willimantic, Connecticut. Comments on this application must be received not later than August 31, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. **Great Lakes Financial Resources, Inc.,** Blue Island, Illinois; to acquire 80 percent of the voting shares or assets of Community Bank of Homewood-Flossmor, Homewood, Illinois. Comments on this application must be received not later than August 31, 1983.

C. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. **TransTexas Bancshares, Inc.,** Beaumont, Texas; to acquire 100 percent of the voting shares or assets of First State Bank, Pflugerville, Texas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Dallas. Comments on this application must be received not later than August 31, 1983.

Board of Governors of the Federal Reserve System, August 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21383 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; PNC Financial Corp., et al.

The organizations identified in this notice have applied, pursuant to section 4(c) (8) of the Bank Holding Company Act (12 U.S.C. 1843(c) (8)) and § 225.4(b) (1) of the Board's Regulation Y (12 CFR 225.4(b) (1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests e hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *PNC Financial Corp.*, Pittsburgh, Pennsylvania (management consulting and data processing activities; throughout the United States): To establish branch offices of its indirect subsidiary L.S. Consulting Corp., Wayne, Pennsylvania, at Glen Rock, New Jersey; Walnut Creek, California; Atlanta, Georgia; Chicago, Illinois and Dallas, Texas, and to engage in providing management consulting advice to nonaffiliated banks and bank-related industry associations as well as certain data processing activities to client financial institutions as permitted in sections 225.4(a) (8) and (12) of Regulation Y to customers throughout the United States. Comments on this application must be received not later than August 31, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; North Dakota): To engage through its subsidiary, Norwest Financial North Dakota, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982), and the offering for sale and selling of travelers checks. These activities would be conducted from a relocated office in Bismarck, North Dakota, serving Bismarck, North Dakota, and nearby communities. Comments on this application must be received not later than August 25, 1983.

2. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Kansas): To engage through its subsidiary, Norwest Financial North Dakota, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982), and the offering for sale and selling of travelers checks. These activities would be conducted from a relocated office in Overland Park, Kansas, serving Kansas City, and Overland Park, Kansas, and other nearby suburbs of Kansas City. Comments on this application must be received not later than August 25, 1983.

3. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities, Texas): To engage through its subsidiary, Norwest Financial North Dakota, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982), and the offering for sale and selling of travelers checks. These activities would be conducted from a relocated office in Waco, Texas, serving Waco, Texas, and nearby communities. Comments on this application must be received not later than August 25, 1983.

4. *Norwest Corporation*, Minneapolis, Minnesota (financing, insurance and travelers checks activities; Kansas): To engage through its subsidiary, Norwest Financial North Dakota, Inc., in the activities of consumer finance, sales finance and commercial finance, the sale of credit life, credit accident and health and property and credit-related casualty insurance related to extensions of credit by that company (such sale of credit-related insurance being a permissible activity under Subparagraph D of Title VI of the Garn-St Germain Depository Institutions Act of 1982), and the offering for sale and selling of travelers checks. These activities would be conducted from a relocated office in Topeka, Kansas, serving Topeka, Kansas, and nearby communities. Comments on this application must be received not later than August 25, 1983.

c. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Frontier Bancorp*, Vista, California (trust activities; California): To engage *de novo* in activities as trustee on deeds of trust obtained by Frontier National Bank, and other financial institutions, as collateral for loans issued by those institutions as permitted by State law. These activities would be conducted in Vista, California and would serve the entire State of California. Comments on this application must be received not later than August 31, 1983.

Board of Governors of the Federal Reserve System, August 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21364 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Midlantic Banks Inc; et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Midlantic Banks Inc.*, Edison, New Jersey, with *Florida Coast Banks Inc.*, Pompano Beach, Florida (fiduciary activities; Florida): To engage through their subsidiary, Florida Coast Midlantic Trust Company, N.A., in activities related to or incidental to the conduct of a trust business including fiduciary, agency, or custodial services, from a representative office in Boca Raton, Florida, serving the western portion of Boca Raton from Linton Boulevard to the Palm Beach/Broward County Line. Comments on this application must be received not later than August 29, 1983.

B. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Norwest Corporation*, Minneapolis, Minnesota (trust company activities; South Dakota): To engage, through its wholly-owned subsidiary, Norwest Capital Management & Trust Co., South Dakota, in trust company activities including, but not limited to activities of a fiduciary, agency or custodian nature in accordance with Regulation Y. These activities will be conducted from offices in Mitchell, South Dakota, serving South Dakota. Comments on this application must be received not later than August 26, 1983.

C. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *BankAmerica Corporation*, San Francisco, California (underwriting insurance activities; expansion of geographic scope; Maine): To continue to engage, through its indirect subsidiary, BA Insurance Company, Inc., a California corporation, in the activity of underwriter, initially as reinsurer, to the extent permitted by relevant state law, for credit-related life insurance and credit-related accident and health insurance which is directly related to extensions of credit by BankAmerica Corporation and its nonbank subsidiaries. The activities of BA Insurance Company, Inc. will be conducted from an existing office located in San Francisco, California and will serve the State of Maine. Comments on this application must be received not later than August 29, 1983.

Board of Governors of the Federal Reserve System, August 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21365 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; CB Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the

address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *CB Bancshares, Inc.*, Fort Valley, Georgia; to become a bank holding company by acquiring 100 percent of the voting shares of The Citizens Bank, Fort Valley, Georgia. Comments on this application must be received not later than August 31, 1983.

2. *Florida Bay Banks, Inc.*, Panama City, Florida; to become a bank holding company by acquiring 80.73 percent or more of the voting shares of Bay Bank and Trust Company, Panama City, Florida. Comments on this application must be received not later than August 31, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Randall Bancshares, Inc.*, Lake Andes, South Dakota; to become a bank holding company by acquiring 100 percent of the voting shares of Andes State Bank, Lake Andes, South Dakota. Comments on this application must be received not later than August 31, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Bright Financial Services, Inc.*, Flora, Indiana; to become a bank holding company by acquiring 100 percent (less directors' qualifying shares) of the voting shares of The Bright National Bank at Flora, Flora, Indiana. Comments on this application must be received not later than August 31, 1983.

D. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Foothill Independent Bancorp*, Glendora, California; to become a bank holding company by acquiring 100 percent of the voting shares of Foothill Independent Bank, Glendora, California. Comments on this application must be received not later than August 31, 1983.

Board of Governors of the Federal Reserve System, August 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21362 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed De Novo Nonbank Activities; Barclays Bank PLC, et al.

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commence *de novo*),directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a settement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (consumer finance and insurance activities; North Carolina): To engage through their subsidiaries, BarclaysAmerican/Financial, Inc. ("BAF"), BarclaysAmerican/Mortgage, Inc. ("BAM") and BarclaysAmerican/Financial Services, Inc. ("BAFS"), in making direct consumer loans, including loans secured by real estate, and purchasing sales finance contracts representing extensions of credit such as would be made or acquired by a consumer finance company, and wholsale financing (floor planning) and acting as agent for the sale of related credit life, credit accident and health and credit property insurance. Because BAC, BAF, BAM and BAFs were engaged in insurance activities, or had received approval to engage in such activities, in North Carolina before May 1, 1982, the insurance restrictions of the Garn St Germain Depository Institutions Act of 1982 do not apply to this office relocation. Credit life and credit accident and health insurance sold as agent may be underwritten or reinsured by the insurance underwriting subsidiaries of BarclaysAmericaCorporation ("BAC"). These activities would be conducted from an office of BAC to be located in Monroe, North Carolina, serving customers in Monroe and surrounding areas in North Carolina. This notification is for the relocation of an existing office located in Monroe, North Carolina. Comments on this application must be received not later than September 1, 1983.

2. *Barclays Bank PLC* and its subsidiary, Barclays Bank International Limited, each a bank holding company whose principal office is in London, England (leasing activities; New Jersey): To engage through their subsidiary, BarclaysAmerican/Leasing, Inc. ("BAL"), in lease financing of personal property by means of leases that meet the standards of § 225.4(a)(6) of Regulation Y. This activity would be conducted from an office of BAL located in Milburn, New Jersey, serving customers in the northeastern region, including New York, New Jersey Connecticut, Maine, Massachusetts, Delaware, Maryland, Ohio and Pennsylvania. This notification is for the relocation of an existing office located in Mountainside, New Jersey. Comments on this application must be received not later than September 1, 1983.

B. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon National Corporation*, Pittsburgh, Pennsylvania (credit related insurance activities; Illinois and Wisconsin): To engage through the Illinois and Wisconsin offices of its subsidiary, Mellon Financial Services Corporation, in the sale of involuntary unemployment insurance in connection with extensions of credit by Applicant's

subsidiaries. Such activities are permissible under Section 4(c)(8) (12 U.S.C. 1843(c)(8)). Such activities would be conducted from offices in Aurora, Chicago, Des Plaines, Downers Grove, Elgin, Freeport, Norridge, Northlake, Oaklawn, Oak Park, Peoria, Rolling Meadows, Schaumburg, Tinley Park, Waukegan and Wheeling, all in Illinois; and in Green Bay, Kenosha, Milwaukee and Racine, Wisconsin, and would serve the entire United States. Comments on this application must be received not later than August 26, 1983.

c. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Central Pacific Corporation*, Bakersfield, California (finance company and servicing activities; California): To engage through its subsidiary, Bankers' Funding Corp., in making, acquiring, selling, packaging and servicing residential and commercial mortgage loans and services incidental thereto. These activities will be conducted from *de novo* offices to be established in Sacramento and San Bernardino, California, serving the Sacramento Metropolitan Area, and Riverside and San Bernardino Counties, California, respectively. Comments on this application must be received not later than September 1, 1983.

2. *Security Pacific Corporation*, Los Angeles, California (financing, servicing and credit-related insurance activities; Alabama, Arizona, California, Florida, Georgia, Louisiana, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia): To engage through its subsidiary, Security Pacific Housing Services, Inc. in making or acquiring, for its own account or for the account of others, and servicing for itself and others, loans and extensions of credit, including making and purchasing conditional sales contracts on mobile homes and manufactured housing, extending credit to dealers secured by mobile home and manufactured housing units purchased by such dealers for inventory, and other extensions of credit such as would be made by a factoring company or a consumer finance company, as well as acting as broker or agent for the sale of credit life, credit accident and health insurance and credit property insurance (except that credit property insurance would not be offered in the States of Florida and Virginia) to the extent such insurance activities are permitted pursuant to Section 601 (A) or (B) of Title VI of the Garn-St Germain Act. The proposed activities would be conducted from offices of Security Pacific Housing Services, Inc. located in San Diego, California; Charlotte, North Carolina; and Dallas, Texas, serving the States of Alabama, Arizona, California, Florida, Georgia, Louisiana, New Mexico, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and Virginia. Comments on this application must be received not later than September 1, 1983.

3. *Security Pacific Corporation*, Los Angeles, California (finance, servicing and leasing activities; Arizona and Colorado): To engage through its subsidiary, Security Pacific Finance Corp. in making or acquiring, for its own account or for others, asset based business loans and other commercial or industrial loans and extensions of credit such as would be made by a factoring rediscount or commercial finance company, servicing, and leasing activities with respect to personal property and equipment and real property. These activities would be conducted from offices of Security Pacific Finance Corp. located in Phoenix, Arizona and Denver, Colorado, serving the United States. Comments on this application must be received not later than September 1, 1983.

Board of Governors of the Federal Reserve System, August 2, 1983.

James McAfee,

Associate Secretary of the Board.

FR Doc. 83-21403 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Fleet Financial Group, Inc.; Proposed Acquisition of Credico Financial, Inc.; Credico Mortgage Corp.; and Colonial American Life Insurance Co.

Fleet Financial Group, Inc., Providence, Rhode Island, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire certain assets of Credico Financial, Inc., Iselin, New Jersey and 100 percent of the outstanding stock of Credico Mortgage Corp., Altamonte Springs, Florida, and Colonial American Life Insurance Company, Metairie, Louisiana.

Applicant states that the proposed subsidiary would engage in consumer finance, limited commercial lending, and insurance underwriting activities. Such underwriting would be conducted through reinsurance of credit life, and credit accident and health insurance which would be offered in connection with extensions of credit by new subsidiaries of Applicant's direct subsidiary, Fleet Financial Corporation. These activities would be performed from 85 offices of Applicant's new subsidiary serving various cities within the states of California, Connecticut, Florida, Georgia, Louisiana, Maryland, Mississippi, New Jersey, Pennsylvania, South Carolina, and Virginia. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Boston.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 1, 1983.

Board of Governors of the Federal Reserve System, August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21290 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Grand Ridge Bancorporation, Inc., and First Arkansas Bankstock Corp.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons

may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Grand Ridge Bancorporation, Inc.*, Grand Ridge, Illinois; to acquire 80 percent or more of the voting shares of Verona Exchange Bank, Verona, Illinois. Comments on this application must be received not later than August 31, 1983.

B. Board of Governors of the Federal Reserve System (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *First Arkansas Bankstock Corporation*, Little Rock, Arkansas; to acquire indirect control of 91.2 percent of the voting shares or assets of First State Bank, Springdale, Arkansas. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of St. Louis. Comments on this application must be received not later than September 1, 1983.

Board of Governors of the Federal Reserve System, August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21307 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Kentucky Bancorporation, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. Federal Reserve Bank of Cleveland (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Kentucky Bancorporation, Inc.*, Alexandria, Kentucky; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First National Bank and Trust Company of Covington, Covington, Kentucky. Comments on this application must be received not later than August 31, 1983.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *One Bancorp of West Virginia, Inc.*, Huntington, West Virginia; to become a bank holding company by acquiring 100 percent of the voting shares of The First Huntington National Bank, Huntington, Bank, Huntington, West Virginia. Comments on this application must be received not later than September 1, 1983.

2. *Palmetto State Bankshares, Inc.*, Hampton, South Carolina; to become a bank holding company by acquiring 100 percent of the voting shares of Palmetto State Bank, Hampton, South Carolina. Comments on this application must be received not later than September 1, 1983.

C. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Peoples Bancorporation, Inc.*, Winfield, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Winfield State Bank, Winfield, Alabama. Comments on this application must be received not later than August 31, 1983.

D. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Tabor Enterprises, Inc.*, Tabor, Iowa; to become a bank holding comany by acquiring 86 percent of the voting shares of First State Bank, Tabor, Iowa. Comments on this application must be received not later than August 31, 1983, 1983.

E. Federal Reserve Bank of Kansas City (Thomas M. Hoeing, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Fremont Bank Corporation*, Canon City, Colorado; to become a bank holding company by acquiring 80 percent or more of the voting shares of Fremont National Bank, Canon City, Colorado. Comments on this application must be received not later than September 1, 1983.

2. *Post Bancorp, Inc.*, Colorado Springs, Colorado; to become a bank holding company by acquiring at least 80 percent of the voting shares of Northern National Bank, Colorado Springs, Colorado. Comments on this application must be received not later than September 1, 1983.

F. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Joaquin Bankshares, Inc.*, Huntington, Texas; to become a bank holding company by acquiring at least 97.8 percent of the voting shares of Texas State Bank, Joaquin, Texas. Comments on this application must be received not later than September 1, 1983.

Board of Governors of the Federal Reserve System, August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21308 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Company; Owen Bancshares, Inc.

Owen Bancshares, Inc., Owenton, Kentucky, has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85 per cent or more of the voting shares of First Farmers Bank and Trust Company, Owenton, Kentucky. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C 1842(c)).

Owen Bancshares, Inc., Owenton, Kentucky, has also applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Owen Insurance Agency, Inc., Owenton, Kentucky.

Applicant states that the proposed subsidiary would engage in the activities of acting as agent in the sale of credit life and credit accident and health insurance. These activities would be performed from officies of Applicant's subsidiary in Owenton, Kentucky, and the geographic area to be served is northeast Kentucky. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the officies of the Board of Governors or at the Federal Reserve Bank of St. Louis.

Any views or requests for hearing should be sumbitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. not later than September 1, 1983.

Board of Governors of the Federal Reserve System, August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21399 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

South Carolina National Corp.; Proposed Acquisition of Berkely Loans, Inc., d.b.a. Money Tree Finance of James Island

South Carolina National Corporation, Columbia, South Carolina, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting assets of the James Island Branch of Berkely Loans, Inc., d.b.a. Money Tree Finance of James Island, James Island, South Carolina.

Appliant states that the proposed subsidiary would engage in the activities of a consumer finance company, including the financing of loans and in offering of credit-related life, accident and property insurance (where the credit does not exceed $10,000). These activities would be performed from offices of Applicant's subsidiary in James Island, South Carolina, and the geographic areas to be served are James Island and surrounding portions of the Charleston, South Carolina metropolitan area. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompained by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Richmond.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than September 1, 1983.

Board of Governors of the Federal Reserve System, August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-21400 Filed 8-4-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-40, Supp. 7]

Federal Travel Regulations

AGENCY: Office of Federal Supply and Services, General Services Administration (GSA).

ACTION: Changes to Federal Travel Regulations.

SUMMARY: GSA has issued Bulletin FPMR A-40, Supplement 7, transmitting changed pages to amend the Federal Travel Regulations (FTR), FPMR 101-7, to implement changes to the overseas tour renewal agreement travel entitlements for employees serving a tour of duty in Alaska or Hawaii. These revisions result from amendments to section 5728 of title 5, United States Code, made by Pub. L. 97-253, September 8, 1982, and Pub. L. 97-346, October 15, 1982.

EFFECTIVE DATE: September 8, 1982.

FOR FURTHER INFORMATION CONTACT: Ms. Rose Ann Grossman, Travel Regulations Branch, (703) 557-1253.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

2. Public Law 97-253, approved September 8, 1982 (Omnibus Budget Reconciliation Act of 1982) and Pub. L. 97-346, approved October 15, 1982, amended 5 U.S.C. 5728 effective September 8, 1982, to preclude the payment of travel and transportation expenses for tour renewal agreement travel of employees stationed in Alaska or Hawaii except when the agency head determines that payment of such expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post in Alaska or Hawaii. The amendments made by these laws allow employees who were serving a tour of duty in Alaska or Hawaii on Spetember 8, 1982, to retain eligibility for tour renewal agreement travel entitlements and to continue to be eligible provided the employee continues to serve consecutive tours of duty within Alaska or within Hawaii.

Explanation of Changes

Paragraph 2-1.5h is amended to reflect the newly enacted statutory provisions governing the payment of tour renewal agreement travel expenses for employees stationed in Alaska or Hawaii.

Accordingly, the Federal Travel Regulations are amended as follows:

Chapter 2—Relocation Allowances

Part 1—Applicability and General Rules

Paragraph 2-1.5h is amended by adding an introductory paragraph and revising subparagraphs 2-1.5h(1) and 2-1.5h(2)(a) to read as follows:

2–1.5. Eligibility and Conditions

* * * * *

h. *Overseas tour renewal agreement travel.* Employees may be eligible to receive allowances for travel and transportation expenses for the purpose of returning home to take leave between tours of duty overseas as provided herein. The provisions of 2–1.5h are applicable to employees serving tours of duty at posts of duty outside the United States. These provisions are also applicable to employees serving tours of duty in Alaska or Hawaii but only under the conditions specified in 2–1.5h(1) (b) and (c), below. (Reference: Pub. L. 97–253 approved September 8, 1982, and Pub. L. 97–346 approved October 15, 1982.)

(1) *Eligibility.* Employees may be eligible to receive allowances for travel and transportation expenses for returning home between tours of duty overseas under criteria set forth below:

(a) *Eligibility requirements for all areas outside the conterminous United States.* In order to be eligible for allowances under 2–1.5h, an employee prior to departure from his/her post of duty outside the conterminous United States must have:

(i) Satisfactorily completed an agreed period of service or the prescribed tour of duty as provided in 2–1.5a(1)(b) for return travel entitlement;

(ii) Entered into a new written agreement as provided in 2–1.5a(1)(b) for another period of service at the same or another post of duty outside the conterminous United States. The agreement shall cover costs incident to the travel to the employee's place of actual residence or alternate location and return and any additional cost paid by the Government as a result of a transfer of the employee to another official station overseas at the time of the tour renewal agreement travel; but as provided in 2–1.5a(1)(b), the agreement will be for 12 months with respect to the transfer costs; and

(iii) Qualified for eligibility status under the provisions of (b) and/or (c), below, if the post of duty involved in located is Alaska or Hawaii.

(b) *Employees stationed in Alaska or Hawaii on September 8, 1982.* An employee whose status on September 8, 1982, was any one of the situations listed in (i), (ii), or (iii), below, involving a post of duty in Alaska or in Hawaii will continue to be eligible to receive allowances for travel and transportation expenses for tour renewal agreement travel provided that the employee continues to serve consecutive tours of duty at posts of duty within Alaska or at posts of duty within Hawaii. Transfers between a post of duty in Alaska and a post of duty in Hawaii will not constitute consecutive tours of duty for purposes of continuing eligibility under the provisions of this subparagraph 2–1.5h(1)(b). On September 8, 1982, the employee must have been:

(i) Serving a current tour of duty in Alaska or Hawaii on that date;

(ii) En route to a post of duty in Alaska or Hawaii under a written agreement to serve a tour of duty; or

(iii) Engaged in tour renewal agreement travel and have entered into a new written agreement to serve another tour of duty in Alaska or in Hawaii.

(c) *Employees assigned, appointed, or transferred to a post of duty in Alaska or Hawaii after September 8, 1982.*

(i) Except for situations described in (b), above, the travel and transportation expenses allowable for tour renewal agreement travel under the provisions of 2–1.5h may not otherwise be authorized for employees assigned, appointed, or transferred to a post of duty in Alaska or Hawaii after September 8, 1982, unless it is determined under regulations prescribed by the agency head that payment of these expenses is necessary for the purpose of recruiting or retaining an employee for service of a tour of duty at a post of duty in Alaska or Hawaii. This authority must be used sparingly and only when required to fulfill agency staffing needs to accomplish the agency's mission. These provisions are intended to insure the availability of well qualified employees or those employees with special skills and knowledge who are not available in the local area, and to fill positions in remote areas. Agency regulations shall prescribe criteria and guidelines to determine the need for payment of tour renewal agreement travel expenses. The agency determination that it is necessary to pay the expenses of tour renewal agreement travel as a recruiting or retention incentive in order to fill a particular position in Alaska or Hawaii shall be reviewed periodically but not less than every five years.

(ii) The payment of travel and transportation expenses for tour renewal agreement travel for recruiting or retention purposes is limited to two round trips beginning within 5 years after the date the employee first begins any period of consecutive tours of duty in Alaska or Hawaii. Employees shall be advised in writing of this limitation.

(d) *Affect on other allowances.* The provisions of (b) and (c), above, do not affect the provisions of 2–1.5g governing overseas assignments and return for employees transferred or new appointees to posts of duty in Alaska and Hawaii.

(2) *Allowable travel and transportation.*

(a) *Destination.* An eligible employee and his/her immediate family shall be allowed expenses for travel from the post of duty outside the conterminous United States to his/her place of actual residence at the time of assignment to a post of duty outside the conterminous United States (referred to as "actual residence" in 2–1.5h). Those expenses shall also be allowed from the place of actual residence upon return to the same or another post of duty outside the conterminous United States; except with respect to Alaska and Hawaii, the return must be to a post of duty located within the same State (Alaska or Hawaii) as the post of duty at which the employee served immediately prior to tour renewal agreement travel (see 2–1.5h(1)(b)).

* * * * *

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Executive Order No. 11609, July 22, 1971; 5 U.S.C. 5707)

Dated: July 15, 1983.

Ray Kline,

Acting Administrative of General Services.

[FR Doc. 83-21148 Filed 8-4-83; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on July 29.

Public Health Service

Alcohol, Drug Abuse, and Mental Health Administration

Subject: Distribution, Activities, Place of Employment, and Patient Characteristics of Psychiatrists—New

Respondents: Psychiatrists in private practice

Subject: Annual Census of Patient Characteristics—State and County Mental Hospitals Inpatient Services (0930–0001)—Reinstatement

Respondents: State and county mental hospitals and state mental health statisticians
OMB Desk Officer: Fay S. Iudicello

Centers for Disease Control

Subject: Epidemic Investigations (0920–0008)—Extension/No Change
Respondents: Individuals or households
OMB Desk Officer: Fay S. Iudicello

Food and Drug Administration

Subject: Prescription Drug Advertising to Consumers Study—New
Respondents: Individuals
Subject: Protection of Human Subjects—(Recordkeeping Requirements for Institutional Review Boards) (0910–0130)—Extension/No Change
Respondents: Biomedical research institutions
OMB Desk Officer: Richard Eisinger

National Institutes of Health

Subject: Fertility Values and Family Growth (Phase II)—New
Respondents: Individuals
Subject: Infant Feeding Practices of Primiparae—New
Respondents: Individuals
OMB Desk Officer: Fay S. Iudicello

Office of the Secretary

Subject: HHS Procurement Solicitations and Contracts—New
Respondents: State and local governments, businesses and non-profit institutions
Subject: Evaluation of National Institute for Drug Abuse Drug Abuse Prevention Media Campaign—New
Respondents: Individuals
OMB Desk Officer: Milo Sunderhauf

Social Security Administration

Subject: Advance Planning Document for a Computerized Child support enforcement system—New
Respondents: State IV–D agencies developing computerized child Support Enforcement Systems
Subject: Maintenance of Information Requirements for a Computerized Child Support Enforcement System—New
Respondents: State IV–D agencies developing a computerized child support enforcement system
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503, ATTN: (name of OMB Desk Officer).

Dated: July 28, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 83-21372 Filed 8-4-83; 8:45 am]
BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 83M-0246]

Contact Lens Corp. of America; Premarket Approval of SOFTACT® II (Polymacon) Hydrophilic Contact Lenses

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of SOFTACT® II (polymacon) Hydrophilic Contact Lenses, sponsored by Contact Lenses Corp. of America, Memphis, TN. The lens are to be manufactured under an agreement with National Patent Development Corp., New Brunswick, NJ, which has authorized Contact Lens Corp. of America to incorporate by reference information contained in the approved premarket approval applications for the Hydron® (polymacon) Hydrophilic Contact Lens. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

DATE: Petitions for administrative review by September 6, 1983.

ADDRESS: Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Charles H. Kyper, National Center for Devices and Radiological Health (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7445.

SUPPLEMENTARY INFORMATION: On January 27, 1983, Contact Lens Corp. of America, Memphis, TN, submitted to FDA an application for premarket approval of SOFTACT® II (polymacon) Hydrophilic Contact Lenses. These lenses range in powers from −20.00 diopters to +20.00 diopters and are indicated for daily wear for the correction of visual acuity in persons with nondiseased eyes who are aphakic or not aphakic and have refractive astigmatism of 1.50 diopters or less. The application included authorization from National Patent Development Corp., New Brunswick, NJ, to incorporate by reference the information contained in its approved premarket approval application for the Hydron® (polymacon) Hydrophilic Contact Lens (Docket No. 79M–0244). The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat, and Dental Devices Panel, and FDA advisory committee, which recommended approval of the application. On July 14, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

Before enactment of the Medical Device Amendments of 1976 (the amendments) (Pub. L. 94–295, 90 Stat. 539–583), soft contact lenses and solutions were regulated as new drugs. Because the amendments broadened the definition of the "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(h)), soft contact lenses and solutions are now regulated as class III devices (premarket approval). As FDA explained in a notice published in the **Federal Register** of December 16, 1977 (42 FR 63472), the amendments provide transitional provisions to ensure continuation of premarket approval requirements for class III devices formerly regulated as new drugs. Furthermore, FDA requires, as a condition to approval, that sponsors of applications for premarket approval of soft contact lenses or solutions comply with the records and reports provisions of Subpart D of Part 310 (21 CFR Part 310) until these provisions are replaced by similar requirements under the amendments.

A summary of the safety and effectiveness data on which FDA's approval is based is on file with the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles H. Kyper (HFK–402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

The labeling of approved contact lenses states that the lenses are to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that FDA approves for use with approved contact lenses. A sponsor who fails to update the restrictive labeling may violate the misbranding provisions of section 502 of the act (21 U.S.C. 352) as well as the Federal Trade Commission Act (15 U.S.C. 41–58), as amended by the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act (Pub. L. 93–637). Furthermore, failure to update restrictive labeling to refer to new solutions that may be used with an approved lens may be grounds for withdrawing approval of the application for the lens under section 515(e)(1)(F) of the act (21 U.S.C. 360e(e)(1)(F)). Accordingly, whenever FDA publishes a notice in the **Federal Register** of the agency's approval of a new solution for use with an approved lens, the sponsor of the lens shall correct its labeling to refer to the new solution at the next printing or at any other time FDA prescribes by letter to the sponsor.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 6, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: August 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–21263 Filed 8–4–83; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 82P–0303]

Downs Surgical, Inc.; "Sugita" Aneurysm Clip; Announcement of Agency Decision of Reclassification Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its decision on a reclassification petition for the "Sugita" aneurysm clip filed by Downs Surgical, Inc., Decatur, GA 30035.

FOR FURTHER INFORMATION CONTACT: A. Doyle Gantt, National Center for Devices and Radiological Health (HFK–430), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, Md 20910, 301–427–7226.

SUPPLEMENTARY INFORMATION: On August 18, 1982, FDS received petition 82P–0303 under section 513(f)(2) of the Federal Food, Drug, and Comestic Act (the act) (21 U.S.C. 360c(f)(2)) requesting that the agency reclassify the "Sugita" aneurysm clip from class III (premarket approval) into class II (performance standards). In the **Federal Register** of April 12, 1983 (48 FR 15721), FDA published the recommendation of the Neurological Device Section of the Respiratory and Nervous System Devices Panel (the Section) that FDA reclassify the device from class III into class II. The agency provided a period of 30 days for interested persons to submit written comments on the recommendation. No comments were received. FDA agrees with the Section's recommendation. In accordance with section 513(f)(2)(C)(i) of the act and 21 CFR 860.134(b)(6) of the regulations, FDA, by order in the form of a letter dated May 18, 1983, and sent to the petitioner, approved the petition and reclassified the device from class III into class II. FDA advises that the "Sugita" aneurysm clip that the agency reclassified into class II in responses to the petition is include in a generic type of device that FDA already has classified into class II in § 882.5200 *Aneurysm clip* (21 CFR 882.5200). Accordingly, FDA announces the agency's decision on reclassification petition 82P–0303.

Dated: August 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83–21264 Filed 8–4–83; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–50379–12]

Alaska Native Claims Selection; Chugach Natives, Inc.

In accordance with departmental regulation 43 Code of Federal Regulations (CFR) 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613 (1976)) (ANCSA) and Section 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2531) (ANILCA), will be issued to Chugach Natives, Inc., for .46 acres. The lands involved are within:

U.S. Survey No. 1116, Federal Addition to Seward, Alaska, Block 9, W½, excluding Administrative Site Reserve A–023920.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the SEWARD PHOENIX LOG upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 CFR, Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the

Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 6, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of ANCSA and State Conveyances.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Land and Water Management, Pouch 7-005, Anchorage, Alaska 99510

Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-21369 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-50379-21]

Alaska Native Claims Selection; Chugach Natives, Inc.

In accordance with departmental regulation 43 Code of Federal Regulations (CFR) 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613 (1976) (ANCSA) and Section 1430 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2531) (ANILCA), will be issued to Chugach Natives, Inc., for 2,000 acres. The lands involved are within:

U.S. Survey No. 440, situate at the head of Orca Bay, District of Alaska.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Cordova Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 CFR, Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 6, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Land and Water Management, Pouch 7-005, Anchorage, Alaska 99510

Chugach Natives, Inc., 903 West Northern Lights Boulevard, Suite 201, Anchorage, Alaska 99503

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-21370 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-50919]

Alaska Native Claims Selection; Cook Inlet Region, Inc.

Notice is hereby given that on July 26, 1983, the below described lands were approved for nomination by Cook Inlet Region, Inc. (CIRI) made pursuant to Section 12(b)(5) of the act of January 2, 1976 (89 Stat. 1151), as amended by Section 606(d)(6) of the Act of January 14, 1983 (96 Stat. 2571), and in accordance with the specific terms, conditions, and procedures set forth in the document entitled Terms and Conditions for Land Consolidation and Management in Cook Inlet Area, as clarified August 31, 1976.

Seward Meridian, Alaska (Surveyed)

T. 25 N., R. 23 W.
Sec. 5, W½
Secs. 6 and 7;
Sec. 8, W½;
Sec. 18, W½.
Containing approximately 2,216 acres.

T. 26 N., R. 23 W.
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
Containing approximately 7,581 acres.

T. 27 N., R. 23 W.
Secs. 5 to 8, inclusive;
Secs. 17 to 20, inclusive;
Secs. 29 to 32, inclusive.
Containing approximately 7,515 acres.

T. 28 N., R. 23 W.
Sec. 29, SW¼;
Sec. 30, S½;
Sec. 31;
Sec. 32, W½.
Containing approximately 1,388 acres.

T. 25 N., R. 24 W.
Secs. 1 through 36, inclusive.
Containing 23,007 acres.

T. 26 N., R. 24 W.
Secs. 1 through 36, inclusive.
Containing 22,941 acres.

T. 27 N., R. 24 W.
Secs. 1 through 36, inclusive.
Containing 22,875 acres.

T. 28 N., R. 24 W.

Secs. 19 through 36, inclusive.

Containing approximately 11,405 acres.
Aggregating approximately 98,928 acres.
Excluded from the above described lands are the Smith Lake and the Valeska Lake.

These lands have been placed in the out-of-region selection pool and are available for selection by CIRI, subject to valid existing rights. Any conveyance made will be considered a conveyance under and pursuant to Section 12(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 701); made in accordance with CIRI–State agreement of November 18, 1982, and will be charged against CIRI's entitlement under Sec. 12(b)(5) of the act of January 2, 1976, (89 Stat. 1151).

Pursuant to paragraph I.C.(1)(d) of the Terms and Conditions for Land Consolidation and Management in Cook Inlet Area, as clarified August 31, 1976, these lands are withdrawn from all forms of entry and location under the public land laws including the mining and mineral leasing laws, but not from selection by the State of Alaska, as of the date of the approval. The land shall remain withdrawn for as long as the said lands are within the selection pool.

Jules Tileston,

Acting State Director.

[FR Doc. 83-21373 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

[F-19155-20]

Alaska Native Claims Selection; Doyon, Ltd.

On June 26, 1978, a Decision to Issue Conveyance (DIC) was issued to Doyon, Limited for lands selected in the vicinity of Northway. The DIC was published in the **Federal Register** (43 FR 28048–28049) on June 28, 1978. There were no inland water bodies considered to be navigable within the selected area.

The DIC was appealed to the Alaska Native Claims Appeals Board (ANCAB) (RLS 78–1) and on January 22, 1980, BLM was ordered to submit its basis for determining the waterbodies to be navigable or nonnavigable. BLM filed its Review and Basis for Navigability Determinations on March 28, 1980. Upon review, the Nabesna River and Fish Lake were determined to be navigable. On October 30, 1981, ANCAB issued a decision finding the Nabesna River and Fish Lake to be navigable. Therefore, the DIC dated June 26, 1978, is hereby modified by changing the second sentence in the first paragraph of the published decision on page 28048, column 3, to read, "The application excluded Nuziamundeho Lake as being navigable."

On page 28049, column 2, the paragraph stating, "There are no inland water bodies considered to be navagible within the selection area," is deleted.

The DIC of June 26, 1978, approved for conveyance the surface and subsurface estate of the beds of the Nabesna River and Fish Lake to Doyon, Limited. As these water bodies are now considered navigable, the submerged lands beneath them are not public lands and are not available for conveyance to the Native corporation under the Alaska Native Claims Settlement Act (43 CFR 2650.0–5(g)).

Therefore, the DIC of June 26, 1978, approving the submerged lands of the above-described water bodies for conveyance to Doyon, Limited, is hereby modified to exclude those lands. The approximate total acreage is changed from 122,499 acres to 121,414 acres.

Those water bodies determined to be navigable are identified on the attached navigability maps, the originals of which will be found in easement case file F–21779–20.

This modified decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

On June 23, 1978 and June 26, 1978, DIC's were issued to Doyon, Limited and published in the **Federal Register** (43 FR 28048–28051) on June 28, 1978. These DIC's reserved easements which had not been conformed to the Departmental easement policy announced March 3, 1978. On December 20 1978, ANCAB remanded the easements to BLM for determination in accordance with the new Departmental easement regulations.

Accordingly, a decision was issued to conform easements on August 24, 1979, and published in the **Federal Register** (44 FR 49795), the same date, in which the following easement was reserved:

(EIN 14 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 11, T. 14 N., R. 19 E., Copper River Meridian, northerly to public lands. The uses allowed are those listed above for a twenty-five (25) foot wide trail easement.

On December 17, 1982, the Interior Board of Land Appeals modified easement EIN 14 C5, L to only allow "travel by foot, dogsled, [and] animals," Northway Natives, Inc., Doyon, Limited, 69 IBLA 219, 244 (1982). It now reads as follows:

(EIN 14 C5, L) An easement for an existing access trail twenty-five (25) feet in width from the Alaska Highway in Sec. 11, T. 14 N., R. 19 E., Copper River Meridian, northerly to public lands. The uses allowed are travel by foot, dogsled and animals.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Fairbanks Daily News-Miner.

Except as modified by this decision, the decisions of June 26, 1978, and August 24, 1979, stand as written.

B. LaVelle Black,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-21367 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

[F-19154-16 and F-19154-17]

Alaska Native Claims Selection; NANA Regional Corp.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., for approximately 34,434 acres. The lands involved are within the Kateel River Meridian, Alaska:

T. 9 N., R. 11 W.
T. 8 N., R. 12 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Tundra Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal, the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 6, 1983 to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Land and Water Management, Pouch 7-005, Anchorage, Alaska 99510
NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-21368 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

[F-14842-A through F-14842-H]

Alaska Native Claims Selection; NANA Regional Corp., Inc.

In accordance with departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613 (1976) (ANCSA)), will be issued to NANA Regional Corporation, Inc., as successor in interest to Buckland Nunachiak Corporation, for approximately 88,636 acres. The lands involved are within the Kateel River Meridian, Alaska:

T. 5 N., R. 10 W.
T. 9 N., R. 10 W.
T. 5 N., R. 11 W.
T. 6 N., R. 11 W.
T. 7 N., R. 11 W.
T. 8 N., R. 11 W.
T. 7 N., R. 12 W.
T. 9 N., R. 12 W.

The decision to issue conveyance will be published once a week, for four (4) consecutive weeks, in the Tundra Times upon issuance of the decision. For information on how to obtain copies, contact the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal Government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E, as revised.

If an appeal is taken, the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits far filing on appeal are:

1. Parties receiving service of the decision by personal service or certified mail, return receipt requested, shall have thirty days from the receipt of the decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign their return receipt, and parties who received a copy of the decision by regular mail which is not certified, return receipt requested, shall have until September 6, 1983, to file an appeal.

Any party known or unknown who is adversely affected by the decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance Management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

State of Alaska, Department of Natural Resources, Division of Land and Water Management, Pouch 7-005, Anchorage, Alaska 99510
NANA Regional Corporation, Inc., P.O. Box 49, Kotzebue, Alaska 99752

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-21371 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-6680-B]

Alaska Native Claims Selection; Paug-Vik, Inc., Ltd.

On December 4, 1974, Paug-Vik Incorporated, Limited, for the Native village of Naknek, filed selection application AA-6680-B, as amended, under the provisions of Section 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611) (1976) (ANCSA), for the surface estate of certain lands in the vicinity of Naknek.

On October 28, 1941, Air Navigation Site No. 169 (ANS 169), as amended, was withdrawn for the Department of Commerce in the maintenance of air navigation facilities at Naknek, Alaska (King Salmon Airport).

On February 2, 1981, the Federal Aviation Administration (FAA) filed a request for an ANCSA Section 3(e) determination, serialized as AA-41878, which included a portion of ANS 169. The lands were not withdrawn for national defense purposes, were not lands in the National Park System, nor were they former reserves selected pursuant to Section 19(b) of ANCSA. Therefore, they are subject to a determination pursuant to Section 3(e) of ANCSA which states:

> "Public lands" means all Federal lands and interests therein located in Alaska except: (1) The smallest practicable tract, as determined by the Secreary, enclosing land actually used in connection with the administration of any Federal installation * * *.

The Bureau of Land Management made a Section 3(e) determination on August 25, 1982, as amended, that the following described lands are the smallest practicable tract enclosing lands actually used in connection with the administration of this FAA facility at King Salmon Airport:

Seward Meridian, Alaska (Partially Surveyed)

T. 17 S., R. 45 W.
Sec. 15, SW¼SW¼SE¼, E½SE¼SE¼SW¼;
Sec 22, NW¼NE¼, N½SW¼NE¼, NE¼NW¼, S½NW¼NW¼.
Containing 135 acres.

A portion of the remaining lands in Section 3(e) case file AA-41878 has been

determined to be public lands and will be approved for conveyance to Paug-Vik Incorporated, Limited, in this document. The lands remaining in AA–41878 have serialized as AA–50090 and use has been claimed by the Air Force. A separate Section 3(e) determination will be made on these lands at a later date.

As to the lands described below, application AA–6680–B, as amended, submitted by Paug-Vik Incorporated, Limited, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands have been determined to be public lands, and do not include any lawful entry perfected under or being maintained in compliance with laws leading to acquisition of title.

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Section 12(a) of ANCSA, containing 274.79 acres, is considered proper for acquisition by Paug-Vik Incorporated, Limited, and is hereby approved for conveyance pursuant to Section 14(a) of ANCSA:

Seward Meridian, Alaska (Partially Surveyed)

T. 17 S., R. 45 SW.
Sec. 15, E½NE¼SE¼SW¼, W½E½ S E¼SW¼,E½W½SE¼SW¼, NW¼SW¼SE¼;
Sec. 22, lots 1 through 4, inclusive, S½SW¼NE¼, N½NW¼NW¼, SE¼NW¼, NE¼SW¼, S½S½ NW¼SE¼.
Containing 274.79 acres.

There are no inland water bodies considered to be navigable within the above-described lands.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities, and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(f)); and

2. Pursuant to Section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1616(b)), the following public easements, referenced by easement identification number (EIN) on the easement maps attached to this document, copies of which will be found in case file AA–6680–EE, are reserved to the United States.

All easements are subject to applicable Federal, State, or Municipal corporation regulation. The following is a listing of uses allowed for each type of easement. Any uses which are not specifically listed are prohibited.

60 Foot Road—The uses allowed on a sixty (60) foot wide road easement are: travel by foot, dogsled, animals, snowmobiles, two-and three-wheel vehicles, small and large all-terrain vehicles, track vehicles, four-wheel drive vehicles automobiles, and trucks.

25 Foot Utility Easement—The uses allowed on a twenty-five (25) foot wide powerline easement are those uses associated with the construction, operation, and maintenance of a powerline.

a. (EIN 32 C4) An easement twenty-five (25) feet in width for an existing aerial power and control line in the SE¼SE¼SW¼ of Sec. 15, T. 17 S., R. 45 W., Seward Meridian. The uses allowed are those activities associated with the operation and maintenance of the powerline facility.

b. (EIN 35 K) An easement sixty (60) feet in width for an existing road from the barge landing site in lot 2, U.S. Survey No. 3177 northeasterly to the U.S. Air Force POL Tank Farm (Parcel 2) located in the NW¼SE¼ of Sec. 22, T. 17 S., R. 45 W., Seward Meridian. The use allowed are those listed above for a sixty (60) foot wide road easement.

The grant of the above-described lands shall be subject to:

1. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Section 6(g) of the Alaska Statehood Act of July 7, 1958 (48 U.S.C. Ch. 2, Sec. (g))), contract, permit, right-of-way, or easement, and the right of the lessee, contractee, permittee, or grantee to the complete enjoyment of all rights, privileges, and benefits thereby granted to him. Further, pursuant to Section 17(b) (2) of ANCSA, any valid existing right recognized by ANCSA shall continue to have whatever right of access as is now provided for under existing law;

2. A right-of-way, A–051081, located in Sections 15 and 22, T. 17 S., R. 45 W., Seward Meridian, twenty (20) feet on each side of the centerline for an electrical distribution line for the Naknek Electric Association, Inc., under the provisions of the Act of October 21, 1976 (43 U.S.C. 1701, 1761) (1976);

3. Any right-of-way interest in Federal Aid Secondary FAS Route No. 380 (King Salmon/Naknek Road) from Naknek on Kvichak Bay easterly to King Salmon Air Force Base, transferred to the State of Alaska by the quitclaim deed dated June 30, 1959, executed by the Secretary of Commerce under the authority of the Alaska Omnibus Act, Pub. L. 86–70 (73 Stat. 141), as to T. 17 S., R. 45 W., Seward Meridian; and

4. Requirements of Section 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1613(c)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section.

Paug-Vik Incorporated, Limited is entitled to conveyance of 115,200 acres of land selected pursuant to Section 12(a) of the Alaska Native Claims Settlement Act. Together with the lands herein approved, the total acreage conveyed or approved for conveyance is approximately 105,504 acres. The remaining entitlement of approximately 9,696 acres will be conveyed at a later date.

Pursuant to Section 14(f) of ANCSA and Departmental regulation 43 CFR 2652.4, conveyance of the subsurface estate shall be issued to Bristol Bay Native Corporation when the surface estate is conveyed to Paug-Vik Incorporated, Limited, and shall be subject to the same conditions as the surface conveyance, except for those provisions under Section 14(c) of ANCSA; also the right to explore, develop or remove mineral materials from the subsurface estate in lands within the boundaries of the Native Village shall be subject to the consent of Paug-Vik Incorporated, Limited.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the **Federal Register** and once a week, for four (4) consecutive weeks, in the Anchorage Times.

Any party claiming a property interest in lands affected by this decision, an agency of the Federal government, or regional corporation may appeal the decision to the Interior Board of Land Appeals, Office of Hearings and Appeals in accordance with the attached regulations in Title 43 Code of Federal Regulations (CFR), Part 4, Subpart E as revised. However, pursuant to Pub. L. 96–487, this decision constitutes the final administrative determination of the Bureau of Land Management concerning navigability of water bodies.

If an appeal is taken the notice of appeal must be filed in the Bureau of Land Management, Alaska State Office, Division of Conveyance Management (960), 701 C Street, Box 13, Anchorage, Alaska 99513. Do not send the appeal directly to the Interior Board of Land Appeals. The appeal and copies of pertinent case files will be sent to the Board from this office. A copy of the appeal must be served upon the Regional Solicitor, 701 C Street, Box 34, Anchorage, Alaska 99513.

The time limits for filing an appeal are:

1. Parties receiving service of this decision by personal service or certified mail, return receipt requested, shall have thirty days from receipt of this decision to file an appeal.

2. Unknown parties, parties unable to be located after reasonable efforts have been expended to locate, parties who failed or refused to sign the return receipt and parties who received a copy of this decision by regular mail which is not certified, return receipt requested, shall have until September 6, 1983, to file an appeal.

Any party known or unknown who is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Bureau of Land Management, Alaska State Office, Division of Conveyance management.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeals. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 701 C Street, Box 13, Anchorage, Alaska 99513.

If an appeal is taken, the parties to be served with a copy of the notice of appeal are:

Federal Aviation Administration, Alaska Region, 701 C Street, Box 14, Anchorage, Alaska 99513

State of Alaska—Title Administration, Division of Technical Services, Department of Natural Resources, Pouch 10–7035, Anchorage, Alaska 99510

Paug-Vik Incorporated, Limited, P.O. Box 61, Naknek, Alaska 99633

Bristol Bay Native Corporation, P.O. Box 198, Dillingham, Alaska 99576

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-21366 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

Intent To Hold a Public Hearing and Regional Coal Team Meeting; Southern Appalachian Regional Coal Draft Environmental Impact Statement—II

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR 3420.304(e), the Bureau of Land Management will hold a public hearing to accept written and oral comments on the *Southern Appalachian Regional Coal Draft Environmental Impact Statement—II (DEIS–II).* Details on the availability of the DEIS-II, comment procedures, and time and location of the public hearing were first announced in the June 24, 1983 **Federal Register.**

Following the public hearing, the Regional Coal Team for the Southern Appalachian Federal Coal Production Region, Alabama Subregion, will meet to review the comments received, offer additional guidance to the team preparing the Final Environmental Impact Statement, and discuss schedulintg alternatives for the second round of regional competitive Federal coal lease sales. Public attendance is welcome.

DATE: The public hearing will be held from 9:00 a.m. to 11:00 a.m. on August 31, 1983. The Regional Coal Team will meet immediately following the hearing.

LOCATION: Stagecoach Inn, Black Warrior Room, 4810 Skyland Boulevard East, Tuscaloosa, Alabama.

FOR FURTHER INFORMATION CONTACT: Doug Blankinship, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, VA 22304, (703) 235–9575; or Ed Roberson, Jackson District Office, Bureau of Land Management, Jackson Mall Office Center, 300 Woodrow Wilson, Suite 3495, Jackson, MS 39213, (601) 960–4405.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-21301 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

Change of Office Hours for Filing Documents and Inspection of Records; Oregon and Washington

Effective August 8, 1983, pursuant to 43 CFR 1821.2–1 (a) and (d), the Oregon State Office, Bureau of Land Management, located at 825 NE Multnomah, Portland, Oregon 97232 will be open to the public for the filing of applications and other documents and inspection of records between 8:30 a.m. and 4:00 p.m., Monday through Friday, with the exception of those days when the office may be closed because of a national holiday or by Presidential or other administrative order.

Paul M. Vetterick,

Associate State Director.

July 27, 1983.

[FR Doc. 83-21286 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

Sale of Public Lands; Realty Action; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action, I–20201, Noncompetitive sale of public lands in Blaine County, Idaho.

SUMMARY: The following described land has been examined, and through the development of land use decisions based on public input, it has been determined that the sale of this tract is consistent with Section 203(a) of the Federal Land Policy and Management Act of 1976.

T. 2 N., R. 17 East, Boise Meridian, Blaine County, Idaho
Sec. 34: SE¼NE¼SW¼NW¼, SW¼SE¼NW¼.
Containing 12.5 acres.

The lands described will be offered for direct sale for no less than the fair market value to Denzel R. Rowland and George A. Dehlmar, a partnership, based on historic use and value of added improvements. Failure of the proponents to submit the required amount by September 30, 1983 will result in cancelation of the sale to them.

The lands will then be offered using competitive procedures every Friday from October 7, 1983 for three consecutive weeks. If no bids are received by October 21, 1983 this sale is canceled.

Upon publication of this Notice in the **Federal Register,** the land described above will be segregated from all forms of appropriation under the public land laws, including the mining laws, but excepting the mineral leasing laws, for a period of two years or until the lands are sold. The segregative effect may otherwise be terminated by the Authorized Officer by publication of a termination period in the **Federal Register** prior to the expiration of the two year period.

A patent for the land, when issued, shall be subject to the following reservations:

1. A right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890, 26 Stat. 391; 43 U.S.C. 945.

2. All minerals including Geothermal Resources and Oil & Gas shall be reserved to the United States, as required by Section 209(a) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1719.

3. All valid existing rights and reservations of record, at the time of sale.

The sale will be conducted by the Shoshone District Office, Bureau of Land Management, 400 West F Street, P.O. Box 2B, Shoshone, Idaho 83352. Additional information concerning this land and terms and conditions of sale may be obtained from the Shoshone

District Manager at the above address, or by calling 886–2206.

SUPPLEMENTARY INFORMATION: For a period of 45 days from the date of this notice, interested parties may submit comments to the District Manager regarding the proposed action. Any adverse comments will be evaluated by the district manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this realty action will become the final determination of the Department of Interior.

Dated: July 29, 1983.

Jon H. Idso,

Acting District Manager.

[FR Doc. 83-21287 Filed 8-4-83; 8:45 am]

BILLING CODE 4310-84-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Public Information Collection Requirements Submitted to OMB for Review

The Agency for International Development submitted the following public information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of the entry no later than (ten days after publication). Comments may also be addressed to, and copies of the submissions obtained from the Reports Management Officer, Ms. Melita E. Yearwood, (202) 632–3378, IRM/MMP, Room 708B, SA–12, Washington, D.C. 20523.

Date Submitted: July 25, 1983.

Submitting Agency: Agency for International Development.

OMB Number: N/A.

Form Number: None.

Type of Submission: New.

Title: Conversion of Payments of $25,000 or More to Treasury Financial Communications System.

Purpose: Beginning October 1, 1983, agencies will be required to use the TFCS for making Treasury disbursed payments for vendors in excess of $25,000. In order to meet this requirement, AID needs to collect information identified, as data is not currently available.

Date submitted: July 25, 1983.

Submiting Agency: Agency for International Development.

OMB Number: N/A.

Form Number: AID 570–1.

Type of Submission: New.

Title: Mailing List/Questionnaire.

Purpose: Questionnaire is provided to individuals requesting to be placed on AID's Office of Public Affairs mailing list. The publication's audience can then be identified for content planning and to standardize the process of adding, changing, and deleting names on the mailing list.

OMB Reviewer: Francine Picoult, (202) 395–7231, Office of Management and Budget, Room 3201, New Executive Office Building, Washington, D.C. 20503.

Dated: July 25, 1983.

Richard F. Calhoun,

Chief, Mandated Management Programs.

[FR Doc. 83-21289 Filed 8-4-83; 8:45 am]

BILLING CODE 6116-01-M

Commission on Security and Economic Assistance; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the Seventh Meeting of the Commission on Security and Economic Assistance and a change in the location of the Sixth Meeting of the Commission. This notification provides further information to that which appeared in the **Federal Register** on July 6, 1983, Vol. 48, No. 130, page 31103.

The Fifth Commission Meeting on September 12, 1983, will be held from 1:30 p.m. to 5:00 p.m., in Room B338–40, Rayburn House Office Building, Independence and South Capitol Street, Southwest, Washington, D.C.

The Sixth Commission Meeting on October 3, 1983, will be held from 1:30 p.m. to 5:00 p.m. *in the Caucus Room of the Russell Senate Office Building, Room 325, located at Delaware and C Streets, Northeast, Washington, D.C.*

The Seventh Commission Meeting will be held on October 24, 1983, from 1:30 p.m. to 5:00 p.m. in the Caucus Room of the Cannon House Office Building, Room 345, located at 1st Street and Independence Avenue, Southeast, Washington, D.C.

Mr. John K. Wilhelm is the designated A.I.D. Representative. Statements may be filed with him, or further information received by writing to him care of the Agency for International Development, PPC/C, Room 4319, Washington, D.C. 20523, or by telephoning him at 202/632–7800.

Dated: July 25, 1983.

John K. Wilhelm,

A.I.D. Representative, Commission on Security and Economic Assistance.

[FR Doc. 83-21290 Filed 8-4-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

[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: Carol Wright Sales 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 2, 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 of 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.

By order of the Commission.

Issued: August 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-21380 Filed 8-4-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Finance Applications; Decision Notice

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

We find:

Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

It is ordered:

The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

By the Commission.

Agatha L. Mergenovich,

Secretary.

For the following, please direct status inquiries to Team 4 at (202) 275–7669.

Volume No. OP4–FC–497

MC–FC–81615. By decision of July 28, 1983 issued under 40 U.S.C. 10926 and the transfer rules at 49 CFR 1181, the Review Board, Members Krock, Dowell, and Carleton approved the transfer to RICHGELS MILK SERVICE, INC., of Highland, WI, of Certificate No. MC–144506 (Sub-No. 1) issued July 16, 1979 and July 8, 1982, respectively, to KOLLER PETROLEUM PRODUCTS, INC., of Spring Green, WI, authorizing the transportation of (a) *gasoline, diesel fuel and No. 1 and No. 2 fuel oil,* in bulk, in tank vehicles, from the facilities of Amoco Oil Company, at Dubuque, IA, to points in Crawford, Dane, Grant, Iowa, and Lafayette Counties, WI, and (b) *petroleum, natural gas and their products,* between Chicago, and Rockford, IL; Dubuque, IA, and Minneapolis, MN, on the one hand, and, on the other, points in WI. An application for temporary authority has been filed. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705.

[FR Doc. 83-21324 Filed 8-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Permanent Authority Decisions; Decision-Notice

Motor Common and Contract Carriers of Property (fitness-only); Motor Common Carriers of Passengers (fitness-only); Motor Contract Carriers of Passengers; Property Brokers (other than Household goods). The following applications for motor common or contract carriage of property and for a broker of property (other than household goods) are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the **Federal Register** on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the **Federal Register** on December 31, 1980. For compliance procedures, see 49 CFR 1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common or contract carriage of passengers filed on or after November 19, 1982, are governed by Subpart D of the Commission's Rules of Practice. See 49 CFR Part 1160, Subpart D, published in the **Federal Register** on November 24, 1982, at 49 FR 53271. For compliance procedures, see 49 CFR 1160.86. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E.

These applications may be protested *only* on the grounds that applicant is not fit, willing, and able to provide the transportation service or to comply with the appropriate statutes and Commission regulations.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. This presumption shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's

other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce, over irregular routes unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract."

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. OP4–495

Decided: July 29, 1983

By the Commission, Review Board, Members: Joyce, Williams and Krock.

MC 169386, filed July 21, 1983. Applicant: CAREFREE EXPRESS LTD., 453 Leaside Ave., Lethbridge, Alberta, Canada T1J 4G8. Representative: Wayne C. Petersen, 600 Chancery Court, 220 4th St., So., Lethbridge, Alberta, Canada T1J 4J7; (403) 328–7781. 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 169417, filed July 25, 1983. Applicant: MOUNTAIN TRANSIT, INC., Cherry St., Milton, VT 05468. Representative: Barry Weintraub, Suite 403, 7700 Leesburg Pike, Falls Church, VA 22043; (703) 442–8330. 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 169426, filed July 25, 1983. Applicant: AIM CONSULTANTS, INC., 250 N. Cleveland-Massillon Rd., Akron, OH 44313. Representative: J. W. Jackson, P.O. Box 2631, Barh, OH 44210; (216) 666–7112. As a *broker of general commodities* (except household goods), between points in the U.S. (except AK and HI).

Please direct status inquiries to Team 1 (202) 275–7030.

Volume No. OP–1–312

Decided: July 29, 1983.

By the Commission, Review Board Members Williams, Parker, and Krock.

MC 108460 (Sub-77), filed July 21, 1983. Applicant: PETROLEUM CARRIERS COMPANY, P.O. Box 762, Sioux Falls, SD 57101. Representative: Gary Mundhenke (same address as applicant), (605) 336–1980. Transporting *passengers*, in charter operations, beginning and ending at points in ND, SD, MN and IA, and extending to points in the U.S.

Note.—Applicant seeks to provide privately-funded charter transportation.

MC 169260, filed July 15, 1983. Applicant: UNIVERSAL FORWARDING OVERSEAS, 2530 West Everett St., Appleton, WI 54911. Representative: Steven C. Weiss, 29 South LaSalle St., Chicago, IL 60603; (312) 236–0548. As a *broker* of *general commodities* (except household goods), between points in the U.S.

MC 169361, filed July 20, 1983. Applicant: INDEPENDENT COURIER EXPRESS, INC., One Post Office Square, Suite 1560, Boston, MA 02109. Representative: Jeffrey N. Schultz (same address as applicant), (617) 542–8700. Transporting *shipments weighing 100 pounds or less* if transported in a motor vehicle in which no one package exceeds 100 pounds, between points in ME, NH, VT, MA, CT, RI and NY.

[FR Doc. 83-21329 Filed 8-4-83; 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 Part 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of $10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant has demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the

compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

Agatha L. Mergenovich,

Secretary.

Note.—All applicatios 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 common carrier of passengers are duly noted.

Please direct status inquiries about the following to Team 4 at (202) 275–7669.

Volume No. DP4–491

Decided: July 19, 1983.

By the Commisssion, Review Board, Members: Joyce, Carleton, and Parker.

MC 147916 (Sub-9), filed July 11, 1983. Applicant: GAMPAC EXPRESS, INC., 10829 N.E. 68th St., P.O. Box 2489, Kirkland, WA 98033. Representative: Richard J. Howard, 3201 Bank of California Center, Seattle, WA 98124; (206) 464–4224. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with American Western Corporation, of Sioux Falls, SD.

Volume No. OP4–493

Decided: July 27, 1983.

By the Commission, Review Board, Members: Williams, Dowell and Carleton.

MC 169347, filed July 20, 1983. Applicant: STARBOARD TRUCK LINES, INC., 1201 S. East Ave., P.O. Box 8893, Baltimore, MD 21224. Representative: C. Paul Cox III (same address as applicant) (301) 327–1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MD, PA, NY, DE, VA, SC, and NJ.

Volume No. OP4–494

Decided: July 29, 1983.

By the Commission, Review Board, Members: Krock, Williams, and Joyce.

MC 42487 (Sub-1079), filed July 25, 1983. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, 175 Linfield Dr., menlo Park, CA 94025. Representative: V. R. Oldenburg, P.O. Box 3062, Portland, OR 97208; (503) 226–4692. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Pay n' Save Corporation, of Seattle, WA.

MC 95876 (Sub-407), filed July 21, 1983. Applicant: ANDERSON TRUCKING SERVICE, INC., P.O. Box 1377, St. Cloud, MN 56302. Representative: Eugene L. Cannon, P.O. Box 1377, St. Cloud, MN 56302; (612) 255–7400. 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 Franklin Manufacturing Company, of St. Cloud, MN.

MC 124896 (Sub-110), filed July 19, 1983. Applicant: WILLIAMSON TRUCK LINES, INC., Corner of Thorne and Ralston Sts., P.O. Box 3485, Wilson, NC 27893. Representative: Peter A. Greene, 1920 N St., NW., Washington, DC 20036; (202) 331–8800. Transporting *lumber and wood products,* and *pulp, paper and related products,* between points in the U.S. (except AK and HI), under continuing contract(s) with Weyerhaeuser Company, of Plymouth, NC.

MC 167507 (Sub-1), filed July 22, 1983. Applicant: GIL AYERS, INC., Box 98, Dawson, IA 50066. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309; (515) 245–4300. 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 All Points Transportation Service, of Denver, CO, and Ayers Brothers Enterprises, Inc., of Perry, IA.

MC 169387, filed July 21, 1983. Applicant: RICHARD J. PRAGIT d.b.a. PRAGIT TRUCKING, Route 3, New Auburn, WI 54757. Representative: Richard J. Pragit (same address as applicant) (715) 967–2674. Transporting *lumber and wood products,* between points in the U.S. (except AK and HI).

Volume No. OP4–496

Decided: July 29, 1983.

By the Commission, Review Board, Members: Joyce, Williams, and Krock.

MC 169427, filed July 25, 1983. Applicant: FIVE STAR TRUCKING CO., 6201 Leesburg Pike, Suite 307, Falls Church, VA 22044.Representative: Robert J. Gallagher, 1435 G St., N.W., Suite 848, Washington, DC 20036; (202) 628–1642. Transporting *general commodities* (except classes A and B explosives and commodities in bulk), between points in the U.S., under continuing contract(s) with AABCO, Inc. and B & B Forwarding, Inc., both of Falls Church, VA; Foremost Forwarders, Inc., of Long Beach, CA; Always Forwarding, Inc., of National City, CA; and Gulf Forwarding, Inc., of Biloxi, MS.

Please direct status inquiries to Team 1, (202) 275–7030.

Volume No OP–1–313.

Decided: July 29, 1983.

By the Commission, Review Board Members Williams, Parker, and Krock.

MC 141950 (Sub-6), filed July 22, 1983. Applicant: IOWA MINNESOTA EXPRESS, LTD., 2216 5th Avenue South, Ft. Dodge, IA 50501. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309; (515) 245–4300. Transporting *food and related products,* between points in IA, MO, MN, NE, KS, IL, SD, ND and WI, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 148600 (Sub-21), filed July 21, 1983. Applicant: TRANSHIELD TRUCKING, INC., 1150 Powis Road, W. Chicago, IL 60185. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., N.W., Suite 500, Washington, DC 20006, (202) 828–5015. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

MC 155070 (Sub-4), filed July 15, 1983. Applicant: APX, INC., 817 McDonald St., Green Bay, WI 54306. Representative: Thomas E. Vandenberg, P.O. Box 2545, Green Bay, WI 54306, (414) 498–7689. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of printed matter, and pulp, paper and related products, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers and distributors of the commodities named above.

MC 156050 (Sub-1), filed July 22, 1983. Applicant: FOUR-B LINES, INC., 71 West Park Ave., Vineland, NJ 08360. Representative: Addison Hand (same address as applicant), (609) 691–7000. Transporting *containers and container ends,* between points in the U.S. (except AK and HI), under continuing contract(s) with Continental Can Co., Inc., of Stamford, CT.

MC 168601 filed July 21 , 1983. Applicant: JERICHO TRANSPORT CO., INC., 1011 Brook Ave., Secane, Pa 19018.

Representative: Joseph R. Pinto (same address as applicant), (215) 284–0621. 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 Boeing Vertol Company, of Philadelphia, PA.

Volume No. OP–1–314

Decided: July 29, 1983.

By the Commission, Review Board Members Dowell, Carleton, and Parker.

MC 75840 (Sub-175), filed July 11, 1983. Applicant: MALONE FREIGHT LINES, INC., P.O. Box 11103, Birmingham, AL 35202. Representative: Raymond Hamilton (same address as applicant), (205) 323–6721. Transporting (1) *food and related products*, (2) *pulp, paper, and related products*, (3) *chemicals and related products*, and (4) *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, distributors, or dealers, of (a) food and related products, in (1) above, (b) pulp, paper, and related products, in (2) above, (c) chemicals and related products, in (3) above, and (d) metal products, in (4) above.

MC 114211 (Sub-510), filed July 11, 1983. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Kenneth R. Nelson (same address as applicant), (319) 233–6113. Transporting *such commodities* as are dealt in or used by manufacturers and dealers of (1) agricultural equipment, (2) industrial equipment, and (3) lawn care and leisure products, between points in the U.S., under continuing contract(s) with manufacturers and dealers of (a) agricultural equipment in (1) above, (b) industrial equipment in (2) above, and (c) lawn and leisure products in (3) above.

MC 121770 (Sub-2), filed July 13, 1983. Applicant: MACEY TRANSFER & STORAGE, INC., 701 W. 6th St., Jamestown, NY 14701. Representative: Kenneth T. Johnson, Key Bank Bldg., 4th Fl., Jamestown, NY 14701, (716) 664–5210. Transporting (1) *furniture and fixtures*, (2) *metal products*, (3) *machinery*, (4) *pulp, paper, and related products*, (5) *clay, concrete, glass, or stone products*, and (6) *plant and office equipment, records and supplies*, between points in Chautauqua County, NY, on the one hand, and, on the other, points in MO, OH, IN, IL, WI, MN, MI, ME, NH, VT, RI, MA, CT, NY, NJ, PA, DE, MD, WV, VA, NC, SC, GA, AL, TN, KY, and DC.

MC 124411 (Sub-29), filed July 11, 1983. Applicant: SULLY TRANSPORT, INC., P.O. Box 185, Sully, IA 50251. Representative: James M. Hodge, 3730 Ingersoll Ave., Des Moines, IA 50312, (515) 274–4985. Transporting *chemcials and related products*, between Chicago, IL, on the one hand, and, on the other, points in IA, MN, MO, and NE.

MC 125551 (Sub-30), filed July 12, 1983. Applicant: K & W TRUCKING CO., INC., 101 Cooper Avenue North, P.O. Box 1415, St. Cloud, MN 56302. Representative: E. Lewis Coffey (same address as applicant) (612) 255–7474. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except HI), under continuing contract(s) with Arco Oil and Gas Company, and its affiliates, of Dallas, TX.

MC 133841 (Sub-32), filed July 21, 1983. Applicant: DAN BARCLAY, INC., Route 15 and Taylor Rd., Wharton, NJ 07885. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934; (201) 234–0301. 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 Ecodyne Graver Water, Division of Ecodyne Corporation, of Union, NJ.

MC 140050 (Sub-5), filed July 18, 1983. Applicant: ELVIS A. LONG d.b.a. ELVIS A. LONG TRUCKING, P.O. Box 117, Carrollton, TX 75006. Representative: Sam Hallman, 4555 InterFirst One, Dallas, TX 75202; (214) 741–6263. 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 Container Corporation of America, of Chicago, IL, and CertainTeed Corporation, of Valley Forge, PA.

MC 147951 (Sub-5), filed July 21, 1983. Applicant: YOURLINE, INC., 3540 E. 26th St., Los Angeles, CA 90023. Representative: Milton W. Flack, 8484 Wilshire Blvd, Suite 840, Beverly Hills, CA 90211; (213) 655–3573. Transporting *furniture and fixtures*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, distributors, dealers and retailers, of furniture and fixtures.

MC 150201 (Sub-4), filed July 11, 1983. Applicant: SAM F. HARKEY d.b.a. SAM F. HARKEY TRUCKING, P.O. Box 423, Holdenville, OK 74848. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459; (713) 437–1768. Transporting (1) *building materials*, (2) *lumber and wood products*, (3) *clay, concrete, glass, or stone products*, (4) *fire fighting equipment and supplies*, (5) *plumbing equipment*, (6) *electrical machinery and supplies*, (7) *restaurant equipment and supplies*, and (8) *lawn and garden supplies*, between points in the U.S. (except AK and HI).

MC 153871 (Sub-2), filed July 18, 1983. Applicant: ED COCHRAN d.b.a. ED'S TRUCKING COMPANY, 2214 Poplar Rd., Baltimore, MD 21221. Representative: Walter T. Evans, 17 West Jefferson St., Suite 105, Rockville, MD 20850; (301) 251–1606. Transporting *metal products*, between points in the U.S. (except AK and HI), under continuing contract(s) with manufacturers, fabricators, distributors, and dealers of metal products.

[FR Doc. 83-21330 Filed 8-4-83; 8:45 am]
BILLING CODE 7035-01-M

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b) (1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office: Columbus Foundries, Inc., 1600 Northside Industrial Blvd., Columbus, GA 31904.

2. Wholly-owned subsidiary which will participate in the operations, and State of incorporation: Lynchburg Foundry, Lynchburg, VA 24505–0411.

1. The parent corporation is: James River Corporation, Tredegar Street, P.O. Box 2218, Richmond, VA 23217.

2. The wholly-owned subsidiaries which will particpate in the operations are as follows:

Riverside Transportation, Inc. (formerly Riverside Trucking Co.), 802 Holly Springs Rd., Richmond, Virginia 23224

James River Paper company, Tredegar Street, P.O. Box 2218, Richmond, Virginia 23217

James River-Rochester, Inc., Adams Division, 115 Howland Avenue, Adams, Massachusetts 01220

James River-Rochester, Inc., Rochester Division, 340 Mill Street, Rochester, Michigan 48663

Riegel Porducts Corporation, Frenchtown Road, Milford, New Jersey 08848

Curtis Paper Company, Paper Mill Road, Newark, Delaware Mill, Newark, Delaware 19711

Peninsular Paper company, Ypsilanti, Michigan Mill, 100 North Huron, Ypsilanti, Michigan 48197

James River-Fitchburg, Inc., Old Princeton Road, Fitchburg, Massachusetts 0120

*James River-Massachusetts, Inc., 701 Westminster Street, Fitchburg, Massachusetts 01420
*James River-Graphics, Inc., 28 Gaylord Street, South Hadley, Massachusetts 01075
James River-Otis, Inc., P.O. Box 10, Jay, Maine 04239
James River-KVP, Inc., Island Avenue, Parchment, Michigan 49008
James River-Patapar, Inc., 7900 N. Radcliff St., P.O. Box 230, Bristol, Pennsylvania 19007
*James River Board and Carton company, 243 East Paterson Street, Kalamazoo, Michigan 49007
James River-Berlin/Gorham, Inc., 650 Main Street, Berlin, New Hampshire 03570
James River-New Hampshire Electric, Inc., 650 Main Street, Berlin, New Hampshire 03570
Paterson Services company, 243 East Paterson Street, Kalmazoo, Michigan 47007
Industrial Leaseholds, Inc., 243 East Paterson Street, Kalamazoo, Michigan 47007
James River-Gilco, Inc., 28740 Glenwood, Perrysburg, Ohio 43551
*James River-Dixie/Northern, Inc., P.O. Box 2260, Greenwich, Connecticut 06830
*James River-Groveton, Inc., Groveton, New Hampshire 03582

The above subsidiaries indicated by an asterick (*) each have truck fleets of their own. James River-Dixie/Northern, Inc. has truck fleets operating in Neenah, Wisconsin; Darlington, South Carolina and Fort Smith, Arkansas. James River-Dixie/Northern, Inc. has a private truck fleet division operating under the name of Bigbee Xpress in Meridian, Mississippi and Darlington, South Carolina. James River-Groveton, Inc. has fleets domiciled in Groveton, New Hampshire and Old Town, Maine. compensated intercorporate hauling operations will be performed by and between the subsidiaries of James River Corporation.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-21325 Filed 8-4-83; 8:45 am]

BILLING CODE 7035-01-M

Motor Carriers; Proposed Exemptions

AGENCY: Interstate Commerce Commission.

ACTION: Notices of proposed exemptions.

SUMMARY: The motor carriers shown below seek exemptions pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property Under 49 U.S.C. 11343*, 367 I.C.C. 113 (1982), 47 FR 53303 (November 24, 1982).

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.

Volume No. OP3-336

[No. MC-F-15345]

Preston Corporation—Control Exemption—Preston Trucking Company, Inc., and Pioneer Transportation Systems, Inc.

Preston Corporation seeks an exemption from the requirement under section 11343 of prior regulatory approval for its acquisition as a non-carrier of Preston Trucking Company, Inc (No. MC-1824), and of Pioneer Transportation Systems, Inc. (No. MC-150339). Preston Trucking presently controls Pioneer pursuant to Commission approval.

Send comments to :

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423, and
(2) Petitioner's Representative, Brian L. Troiano, 918 16th Street NW., Washington, DC 20006.

Comments should refer to: No. MC-F-15345.

Volume No. OP4-F-488

[No. MC-F-15320]

Henry O. Heptinstall—Continuance in Control Exemption—H.O.H. Company, Inc., and Piedmont Maintenance Company d.b.a the Piedmont Company

H.O.H. Company Inc. (MC-148872) (H.O.H.), and Piedmont Maintenance Company d/b/a the Piedmont Company (MC-160987) (Piedmont) which are jointly controlled by Henry O. Heptinstall (Heptinstall), seek an exemption under 49 U.S.C. 11343(e) from the need for regulatory approval under 49 U.S.C. 11343. H.O.H. and Piedmont are both contract carriers and jointly controlled by Heptinstall, who owns 100 percent of the stock of H.O.H. and 33.3 percent of the stock of Piedmont.

Send comments to:

(1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, DC 20423, and
(2) Petitioner's Representative; C. Jack Pearce, 1000 Connecticut, Ave., NW., Suite 1200, Washington, DC 20036.

Comments should refer to: No. MC-F-15320.

[FR Doc. 83-21326 Filed 8-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. 436]

Rail Carriers; Railroad Cost of Capital; 1982

AGENCY: Interstate Commerce Commission.

ACTION: Notice of decision.

SUMMARY: On August 4, 1983, the Commission served a decision to unpdate its estimate of the railroad industry's cost of capital for 1982. The composite cost of capital for 1982 is found to be 17.7 percent based on a current cost of debt of 14.0 percent; a cost of equity capital of 19.8 percent; and a 37/63 debt/equity market capital structure mix. The cost of capital findings made in this proceeding will enable the Commission to make its annual determination of railroad revenue adequacy for 1982. The scope of the decision is specifically limited to the required annual updating of the railroads' cost of capital.

ADDRESS: To purchase copies of the full decision contact: TS Infosystems Inc., Room 2227, 12th and Constitution Avenue, NW., Washington, D.C. 20423; (202) 289-4357—DC Metropolitan Area, (800) 424-5403—toll free for outside DC area.

FOR FURTHER INFORMATION CONTACT: Ward L. Ginn, Jr., (202) 275-7489.

SUPPLEMENTARY INFORMATION: The cost of capital findings in this decision should be utilized to evaluate the adequacy of railroad revenues for 1982, under the procedures and standards promulgated in Ex Parte No. 393, *Standards for Railroad Revenue Adequacy*, 364 ICC 803 (1981). These findings may also be utilized in proceedings involving the prescription of maximum reasonable rate levels.

Dated: July 22, 1983.

By the Commission. Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-21327 Filed 8-4-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-6 (Sub-155)]

Rail Carriers; Burlington Northern Railroad Co.; Abandonment; In Jefferson County, AL; Findings

The Commission has issued a certificate authorizing the Burlington Northern Railroad Company to abandon its 2.39-mile rail line known as the Birmingham 500 Zone trackage, in the City of Birmingham, Jefferson County, AL. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and 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." An 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. 83-21326 Filed 8-4-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under reveiw by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The Agency from number, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small busines or organizations are affected.

The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions: Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, N.W., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Extension (Burden Change)

- Mine Safety and Health Administration
- Training Plan Regulations
- On occasion
- Businesses or other for-profit and small businesses or organizations
- SIC: Major groups 10, 11, 12 and 14
- 4,100 respondents; 32,800 hours

Requires mine operators to have an MSHA approved plan containing programs for training new miners, training newly-employed experienced miners, training miners for new tasks, annual refresher training, and hazard training. Regulations are intended to ensure that miners will be effectively trained in matters affecting their health and safety, with the ultimate goal being the reduction of the frequency and severity of injuries in the nation's mines.

- Mine Safety and Health Administration
- Record of Individual Exposure to Radon Daughters
- Annually
- Businesses or other for-profit and small businesses or organizations
- SIC: Multiple
- 125 respondents; 39,063 hours

Requires the mine operator to calculate, record and report individual exposures to concentrations of radon daughters.

Operators are required to conduct weekly testing where the fluctuation in radiation is substantial or concentrations of radon daughters exceed 0.3 WL. Monthly testing is required where mines have consistent readings of 0.3 WL or less. Records are maintained by the operator and are submitted to MSHA annually.

Reinstatement

- Bureau of Labor Statistics
- Manual for Developing Local Area Unemployment Statistics
- BLS 3040 and LAUS 1-5
- Monthly and Annually
- State Governments (State Employment Security Agencies)
- SIC: 9441
- 72,000 responses; 144,000 hours; one document, five forms

The manual provides the theoretical basic and essential technical instructions and guidance (including the estimating worksheet) which States require to prepare State and area unemployment estimates, while the documents, LAUS 1-5 are selected estimating worksheets and vehicles for transmitting estimates to BLS.

Signed at Washington, D.C., this 2nd day of August 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83-21388 Filed 8-4-83; 8:45 am]

BILLING CODE 4510-24-M, 4510-43-M

[Secretary of Labor's Order 9-83]

Delegation of Authority and Assignment of Responsibilities for Occupational Safety and Health Programs

July 28, 1983.

1. *Purpose.* To update the delegation of authority and assignment of responsibilities for conducting safety and health programs.

2. *Directive Affected.* Secretary's Order 8-76 is cancelled.

3. *Background.* The Occupational Safety and Health Act of 1970, other Acts listed in 4a(1) below, and Executive Order 12196 provide authority and assign responsibility to the Secretary of Labor for safety and health programs. Section 405 of the Surface Transportation Assistance Act (STAA) authorizes the Secretary of Labor to investigate and adjudicate complaints filed by certain employees alleging they have been discharged or discriminated against for taking certain actions in connection with commercial motor vehicle safety and health. Since that protection is similar to the provisions of Section 11(c) of the Occupational Safety and Health Act of 1970, the Assistant Secretary for Occupational Safety and Health, pursuant to this Order, is delegated authority for administering Section 405 of STAA as well.

4. *Delegation of Authority and Assignment of Responsibilities:*

a. *The Assistant Secretary for Occupational Safety and Health,* is delegated authority and assigned responsibility for:

(1) Administering the safety and health programs and activities of the Department of Labor (DOL) under:

(a) Occupational Safety and Health Act of 1970.

(b) Walsh-Healey Public Contracts Act of 1936, as amended.

(c) Service Contract Act of 1965.

(d) Contract Work Hours and Safety Standards Act.

(e) Maritime Safety Act of 1958.

(f) National Foundation on the Arts and Humanities Act of 1965.

(g) 5 U.S.C. 7902 and any Executive Order thereunder.

(h) Executive Order 12196.

(i) Section 405 of the Surface Transportation Assistance Act of 1982.

(j) Responsibilities of the Secretary of Labor with respect to safety and health provisions of any other Federal statutes except those related to mine safety and health, the issuance of child labor hazardous occupation orders, and DOL employee safety and health which are administered pursuant to Secretary's Orders 3-78; 16-75 as modified by 1-81; and 6-81 respectively.

(2) Serving as Chairperson of the Federal Advisory Council on Occupational Safety and Health, as provided for by Executive Order 12196.

(3) Coordinating Agency efforts with those of other officials or agencies having responsibilities in the occupational safety and health area.

b. *The Solicitor of Labor* is responsible for providing legal advice and assistance to the Secretary and all offices of the DOL relating to the delegations of authority referenced and applicable laws, Executive Orders, and regulations.

c. *The Commissioner of Labor Statistics* is delegated authority and assigned responsibility for:

(1) Furthering the purpose of the Occupational Safety and Health Act by developing and maintaining an effective program of collection, compilation, analysis, and publication of occupational safety and health statistics consistent with the provisions of Secretary's Order 4-81.

(2) Making grants to States or political subdivisions thereof in order to assist them in developing and administering programs dealing with occupational safety and health statistics under Sections 18, 23, and 24 of the Occupational Safety and Health Act.

(3) Coordinating the above functions with the Assistant Secretary for Occupational Safety and Health.

5. *Reservation of Authority.* The following functions are reserved to the Secretary:

a. Submission of reports and recommendations to the President and the Congress concerning the administration of the statutes and Executive Orders listed in paragraph 4a above.

b. The commencement of legal proceedings under the statutes listed in paragraph 4a above. The Solicitor of Labor will determine in each case whether such proceedings are appropriate and may represent the Secretary in civil litigation as authorized by law.

6. *Redelegation of Authority.* The Assistant Secretary for Occupational Safety and Health, the Solicitor of Labor, and the Commissioner of Labor Statistics may redelegate authority delegated in this Order.

7. *Effective Date.* This Order is effective immediately, and with respect to Section 405 of STAA, shall apply to any action arising subsequent to the date of enactment of the STAA.

Raymond J. Donovan,

Secretary of Labor.

[FR Doc. 83-21389 Filed 8-4-83; 8:45 am]

BILLING CODE 4510-23-M

Employment and Training Administration

Employment Transfer and Business Competition Determinations Under the Rural Development Act; Applications; Wausau Manor

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market with particular emphasis upon its potential impact upon competitive enterprises in the same areas.

4. The competitive effect upon other facilities in the same industry located in

other areas (where such competition is a factor).

5. In the case of application involving the establishment of branch plants or facilities, the potential effect of such new facilities in other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice. Comments received after the two-week period may not be considered. Send comments to: Richard C. Gilliland, Director, U.S. Employment Service, Employment and Training Administration, 601 D Street, NW., Room 8000—Patrick Henry Building, Washington, D.C. 20213.

Signed at Washington, D.C. this 2nd day of August 1983.

Robert S. Kenyon,

Director, Office of Program Operations.

APPLICATIONS RECEIVED DURING THE WEEK ENDING AUGUST 6, 1983

Name of applicant and location of enterprise	Principal product of activity
Wausau Manor, Wausau, Wisconsin.	Skilled nursing facility.

[FR Doc. 83-21323 Filed 8-4-83; 8:45 am]

BILLING CODE 4510-30-M

Office of Pension and Welfare Benefit Programs

Blackmore and Glunt, Inc., et al.; Grant of Individual Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Blackmore and Glunt, Inc. Profit Sharing Plan (the Plan) Located in Maryland Heights, Missouri

[Exemption Application No. D-2773; Prohibited Transaction Exemption 83-115]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c) (1)(A) through (E) of the Code, shall not apply to the sale of office equipment by the Plan to Blackmore and Glunt, Inc. (the Employer), provided the terms of the sale are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party on the date of sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on April 1, 1983 at 48 FR 14074.

Comments and Hearing Requests

The applicant represents that it was unable to notify interested persons of the proposed exemption within the time period specified in the **Federal Register** Notice of April 1, 1983. Therefore, pursuant to discussions with the Department, all interested persons were notified of the proposed exemption on May 24, 1983 and informed that the comment period would be extended until June 24, 1983.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Cox, Cummins & Lamphere Profit Sharing Plan and Cox, Cummins & Lamphere Pension Plan (Collectively, the Plans) Located in Martinez, California

[Exemption Application No. D-3637 and D-3638; Prohibited Transaction Exemption 83-116]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed sale by the Plans of a 10.4 percent limited partnership interest (the Interest) in a real estate limited partnership known as Country Plaza to Mr. James E. Cox, a party in interest with respect to the Plans, for cash in the amount of $197,665, provided that this amount is not less than the fair market value of the Interest at the time the sale is consummated.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27312.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

Allbright Machine Company, Inc. Employees' Profit-Sharing Plan and Trust (the Plan) Located in Odesa, Texas

[Exemption Application No. D-3674' Prohibited Transaction Exemption 83-117]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b) (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code,shall not apply to the lease of certain real property by the Plan to

Allbright Machine Company, Inc. for a ten-year period, with the option to renew, provided the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on May 10, 1983 at 48 FR 21022.

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Capital Guardian Trust Company (the Bank) Located in Los Angeles, California

[Exemption Application No. D-3697; Prohibited Transaction Exemption 83-118]

Exemption

Section I. Covered Transactions. The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A) through (E) thereof shall not apply to the transactions described below if the applicable conditions set forth in Section II are met:

A. The acquisition or disposition, with employee benefit plan (Plan) assets, of shares in an American Funds Group investment company (Investment Company(ies), discussed in detail below), at the direction of the Bank;

B. The transfer of Plan assets to or from an Investment Company, at the direction of the Bank;

C. The Bank's recommendation that Plan assets be allocated to an Investment Company and any investment of Plan assets in an Investment Company that results from such recommendation;

D. The receipt by the Bank and its affiliates of certain fees and compensation related to the provision of asset allocation services (hereinafter referred to as Discretionary Asset Management Services) described in this Section I.

Section II. Conditions. The exemption provided for transactions described in Section I is available only if each of the following conditions is met:

A. The Discretionary Asset Management Services are authorized pursuant to a written agreement between the Plan (or an independent fiduciary on behalf of the Plan) and the Bank, which agreement has been signed by an independent fiduciary on behalf of the Plan.

B. The combined total of all fees and other consideration received by the Bank or its affiliates relating to the provision of Discretionary Asset Management Services is not in excess of reasonable compensation pursuant to section 408(b)(2) and 408(c)(2) of the Act and section 4975(d)(2) and 4975(d)(10) of the Code.

C. Neither the Bank nor any affiliate thereof is an employer of an employee covered by the Plan.

D. In the case of any transaction described in paragraphs A through C of Section I that constitutes, or results in, the investment of Plan assets in any Investment Company any of the assets of which are, or may be, assets other than "publicly traded securities," such transaction is specifically authorized by an independent fiduciary of the Plan whose assets are involved in such transaction. For the purposes of this paragraph D and paragraph M of this section, "publicly traded securities" are securities that are not "restricted securities" within the meaning of Rule 144 of the Securities Act of 1933.

E. The authorization referred to in paragraph A of this Section II continues in effect for more than one year only if such continuance is authorized in writing at least annually by an independent fiduciary of the Plan for which Discretionary Asset Management Services are performed.

F. No such authorization is made or renewed unless the Bank shall have furnished the independent Plan fiduciary with any reasonably available information which the Bank reasonably believes to be necessary to determine whether such authorization should be made or renewed, and any other reasonably available information regarding the matter that the independent fiduciary may reasonably request.

G. In the case of an initial authorization, the information required by paragraph F of this Section II shall include, but is not limited to:

(1) A description of the Discretionary Asset Management Services to be rendered by the Bank;

(2) The schedule of the specific fees charged by the Bank or paid by the Bank to its affiliates relating to the performance of Discretionary Asset Management Services including the investment advisory fee paid by the Bank to its affiliates and fees charged in connection with the acquisition or disposition of shares in an Investment Company or the transfer of Plan assets to or from such Investment Company;

(3) A description of the steps a Plan must take in order to terminate the agreement made for it by its independent fiduciary which authorizes the performance of Discretionary Asset Management Services;

(4) A description of the steps a Plan must take to liquidate its investment in any Investment Company that has been made at the direction or recommendation of the Bank; and

(5) A full description of the consequences to the Plan of terminating any agreement under which the Bank performs Discretionary Asset Management Services and full description of the consequences to the Plan of the liquidation of any investment of the Plan assets in an Investment Company that may be made at the direction or recommendation of the Bank.

H. In the case of any renewal of an authorization, the information required to be disclosed by paragraph F of this Section II shall include, but is not limited to:

(1) A description of any changes in matters specifically required to be disclosed by paragraph G of this Section II (relating to an initial authorization);

(2) A statement of the value, as of a date within 90 days of the date such information is furnished of the Plan's investment, if any, in each Investment Company to which its assets have been allocated at the direction or recommendation of the Bank regardless of when such allocation was made;

(3) A general statement of the manner in which the Bank determines the value of the Plan's investment in each Investment Company to which its assets have been allocated.

I. No change in the substance of any matter specifically required to be disclosed by paragraph G of this Section II (relating to an initial authorization) is effective as to a Plan until the earlier of:

(1) The date of which an independent Plan fiduciary specifically consents to such change; or

(2) The first date after disclosure of such change pursuant to paragraph H of this Section II on which an independent Plan fiduciary renews the Bank's authorization to perform Discretionary Asset Management Services.

J. The Bank furnishes the authorizing fiduciary with a report containing at least the following information not less frequently than every three months and not later than 45 days following the end of the period to which the report relates:

(1) The total of all charges that are attributable to the Plan relating to the Bank's provision of Discretionary Asset Management Services during the preceding three months;

(2) The amount of such charges, by category, including:

(a) Fees for the provision of Discretionary Asset Management Services,

(b) The investment advisory fee paid by the Bank to each Investment Company in which the Plan's assets are invested during the period to which the report relates,

(c) Any charge relating to the acquisition or disposition of an interest in an Investment Company or the transfer of Plan assets to or from such as Investment Company, and

(3) A description of each acquisition with Plan assets or disposition of the Plan's interest in an Investment Company, including the date of such transaction and the amount involved.

K. That portion of any agreement pursuant to which the Bank performs Discretionary Asset Management Services is terminable by the Plan, without penalty or charge, on not more than 30 days's notice.

L. The Plan is able to liquidate its investment in any Investment Company to which its assets have been allocated at the direction or recommendation of the Bank on not more than 90 days' notice (unless and independent Plan fiduciary has agreed in writing to an extension of such 90 day period).

M. No penalty or other charge is made with respect to the withdrawal of Plan assets from an Investment Company, except the following:

(1) A reasonable charge for accounting and recordkeeping services actually rendered in connection with such liquidation;

(2) A charge not in excess of the amount reasonably necessary to reimburse the Investment Company for direct expenses properly and actually incurred in connection with the liquidation of the Plan's investment in the Investment Company; and

(3) In a case where a Plan has requested withdrawal of its assets from an Investment Company any of the assets of which are invested in property other than "publicly traded securities" (as defined in paragraph D of this Section II), a charge not in excess of the amount reasonably necessary to reimburse to such Investment Company an amount equal to—

(a) The difference, if any, between the "fair market value," determined as of the date of withdrawal, of any assets of the Investment Company that are disposed of in order to liquidate the Plan's investment and the amount actually received on disposition; less,

(b) That portion of such difference that bears the same relationship to the total amount of the difference as the value of the withdrawing Plan's interest in the Investment Company, determined immediately prior to its withdrawal, bears to the aggregate value of all interests in such Investment Company, determined immediately prior to the Plan's withdrawal.

For the purposes of this paragraph M, the "fair market value" of an asset means the fair market value of such asset as reasonably determined in writing by a person who is reasonably qualified to form an opinion regarding the fair market value of the asset and who is agreed to in writing by an independent fiduciary of the withdrawing Plan. Such person may be designated in the instrument authorizing the Bank to perform Discretionary Asset Management Services.

Section III. Definitions. For purpose of this exemption—

A. An "affiliate" of a person includes—

(1) Any person, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, employee or relative of, or partner in, any such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner or employee.

B. The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

C. The term "Discretionary Asset Management Services" has the meaning given it in Section I.

D. The term "party in interest" includes a "disqualified person" described in section 4975(e)(2) of the Code.

E. The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(5) of the Code), or a brother, a sister, or a spouse of a brother or sister.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27313.

For Further Information Contact: Mr. Robert Sandler of the Department, telephone (202) 523-8195. (This is not a toll-free number.)

La-Z-Boy Chair Company Employees' Profit Sharing Plan (the Plan) Located in Monroe, Michigan

[Exemption Application No. D-3860; Prohibited Transaction Exemption 83-119]

Exemption

The restrictions of section 406(a), 406(b)(1) and 406(b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the proposed contributions of certain securities by participants in the Plan to their own self-directed voluntary contribution accounts in the Plan.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27317.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8972. (This is not a toll-free number.)

ISIS Chemicals, Inc. Employee Profit Sharing Plan (the Plan) Located in Stamford, Connecticut

[Exemption Application No. D-3868; Prohibited Transaction Exemption 83-120]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, for a five year period, to (1) the purchases by the Plan of participation interests from Union Trust Company (Union) in a mortgage note executed between Union and ISIS Realty Associates, Ltd. (ISIS Ltd.), parties in interest with respect to the Plan; and (2) the extension of credit between ISIS Ltd. and the Plan resulting from the purchase of the participation interests; provided that (a) no more than 25 percent of the Plan's total assets are invested in the participations; and (b) the Plan pays no more for a participation than it would pay in an arm's-length transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27318.

Temporary Nature of Exemption: This exemption will be effective for five years from the date this grant is published in the **Federal Register**. Subsequent to the expiration of the

exemption, the Plan may hold the participations provided they were purchased during the five year period.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523–8883. (This is not a toll-free number.)

Southern Welding Supply Co., Inc. Profit Sharing Plan (the Plan) Located in Bowling Green, Kentucky

[Exemption Application No. D–4190; Prohibited Transaction Exemption 83–121]

Exemption

The restrictions of section 406(a), 406 (b)((1) and (b)(2) of the Act and the sanctions resulting from the application of sections 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to (1) a loan of $125,000 by the Plan to Southern Welding Supply Co., Inc., under the terms set forth in the notice of proposed exemption, provided such terms are not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; and (2) the personal guarantee of repayment of the loan to the Plan by Mr. Jerry Baker.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27324.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

BR Medical Clinic, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Gatos, California

[Exemption Application No. D–4217; Prohibited Transaction Exemption 83–122]

Exemption

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a parcel of real property (the Property) located at 4864 Rue Calis, San Jose, California, by the Plan to Mr. Steven Green, for $100,000 in cash, provided such amount is not less than the fair market value of the Property on the date of the sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27324.

For Further Information Contact: Gary H. Lefkowitz of the Department, telephone (202) 523–8881. (This is not a toll-free number.)

William F. Cardman, D.M.D., P.A., Profit-Sharing Plan (the Plan) Located in Lakeland, Florida

[Exemption Application No. D–4221; Prohibited Transaction Exemption 83–123]

Exemption

The restrictions of section 406(a) and 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale of a vacant residential building lot (the Land) located in Polk County, Florida, by the Plan to William F. Cardman, D.M.D., a party in interest with respect to the Plan, provided the sales price is at least equal to the fair market value of the Land on the date of such sale.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on June 14, 1983 at 48 FR 27325.

For Further Information Contact: Mrs. Miriam Freund, of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 2nd day of August, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-21382 Filed 8-4-83; 8:45 am]

BILLING CODE 4510-29-M

Foodcraft, Inc., et al.; Proposed Exemptions

AGENCY: Office of Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemption, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20216. Attention: Application number stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N–4677, 200 Constitution Avenue, NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register.** Such notice shall include a copy of the notice of pendency of the exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

The Foodcraft, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Angeles, California

[Application No. D–4179]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to: (1) the proposed purchase of certain real property (the Property) by the Plan from Ernest and Caryl Lieblich (the Lieblichs) for a cash price of $165,000 provided that this price is no more than the fair market value of the Property at the time of sale; (2) the subsequent ground lease (the Lease) of the Property by the Plan to the Lieblichs provided that the terms and conditions of the Lease are and will remain at least as favorable to the Plan as those which the Plan could receive from an unrelated party in a similar transaction; and (3) any resale of the Property by the Plan to the Lieblichs provided that the sales price is not less than the then current fair market value.

Summary of Facts and Representations

1. The Plan is a defined benefit pension plan which as of March 31, 1982 had assets of $1,433,890 and ten participants. The trustees of the Plan are Ernest and Caryl Lieblich, who are also the President and Secretary of Foodcraft, Inc. (Foodcraft) the sponsoring employer of the Plan. The Lieblichs jointly own 100% of the issued and outstanding common stock of Foodcraft.

2. The applicant is requesting an exemption that will permit the Plan to purchase the Property from the Lieblichs and subsequently lease the Property back to the Lieblichs. The Property, located at 1625 Riverside Drive, Los Angeles, California, was originally acquired by the Lieblichs on January 29, 1982 as an unimproved parcel of real estate for $165,000. The Property is located near an off-ramp to Interstate Highway 5 in an area dominated by small commercial buildings. While not considered a prime commercial area, the subject area is undergoing primary redevelopment with the construction of numerous multiple residential dwelling units. The acquisition of the Property by the Lieblichs was initially financed; however, all outstanding indebtedness was paid off on January 22, 1983. The Lieblichs are currently in the process of constructing an office building and warehouse on the Property (the Improvements). Once the Improvements are completed the Lieblichs will lease the Property and the Improvements to Foodcraft which will use this site as its principal place of business.

The proposed sale of the Plan would be a cash sale for $165,000, an amount which represents approximately 11.5% of the Plan's assets. On November 3, 1982 an appraisal (the Appraisal) of the Property was performed by an independent appraiser, Gail A. Anderson, which determined that the fair market value of the Property, exclusive of the Improvements, was $303,220. Although the Improvements and the Lieblichs' rights under the Lease (the Leasehold Interest) will be encumbered with a deed of trust securing a promissory note, the Property will be transferred to the Plan free and clear of any encumbrances. Since the encumbrance affecting the Property will be on the Leasehold Interest and the Improvements, in the event of any foreclosure only the Leasehold Interest and the Improvements would be subject to sale. The successful purchaser at any foreclosure sale would then be obliged to observe the terms and conditions of the Lease including making the required rental payments to the Plan. In the event all the terms and conditions of the Lease are not observed, the Plan, as lessor, could legally terminate the Lease and become owner of the Improvements and not be subject to the outstanding Leasehold Interest. It is intended that the loan for the Improvements will be paid off in five years. The Appraisal states the value of the Property, including the Improvements, to be $825,000. No sales commissions will be paid by the Plan in conjunction with the proposed sale.

3.Subsequent to the acquisition of the Property by the Plan, it is the intention of the parties to execute the Lease. The Lease will be an absolute net lease for a period of 30 years. The initial rent, which was established by the Appraisal will be $30,300 per year. The rental rate will be adjusted periodically, but at a minimum of every three years, as determined by an independent appraiser, to the greater of 10% of the fair market value of the Property, or the fair market rental value of the Property. Since the Lieblichs will have initial ownership of the Improvements constructed on the Property, they will be responsible for all repairs and maintenance with respect to the Improvements and will maintain adequate insurance pursuant to the terms of the Lease.

4. The Plan, at all times, will have a put option to sell the Property for cash to the Lieblichs at a price equal to the greater of the Property's fair market value at such time, as determined by an independent appraiser, or the Property's original cost to the Plan. The applicant represents that the Lieblichs have a joint net worth in excess of one million dollars.

5. An independent Plan fiduciary, Mr. Frank V. Calaba, an attorney located in Los Angeles, California, will examine the proposed transactions. Mr. Calaba has a substantial tax and real estate practice. Prior to entering into the proposed transaction, Mr. Calaba has agreed to assume the following responsibilities with respect to the Plan's proposed involvement: (1) Determine that the purchase of the Property and the granting of the Lease are in the best interest of the Plan participants and beneficiaries; (2) monitor the terms and conditions of the proposed transactions to determine that they are and will remain at least as favorable to the Plan as those which the

Plan could receive in a similar transaction with an unrelated party; and (3) determine if and when the Plan should sell the Property.

6. In summary, the applicant represents that the proposed transactions satisfy the criteria of section 408(a) of the Act as follows: (1) The trustees of the Plan represent that the proposed transactions are in the best interests of the participants and beneficiaries of the Plan; (2) the transactions will be approved and monitored by an independent fiduciary; (3) the rental rate and purchase price for the Property have been established by a qualified, independent appraiser; (4) the rental rate under the Lease will always be at least the fair market rate; and (5) the Plan will have a put option which will allow the independent fiduciary to sell the Property.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523-6915. (This is not a toll-free number.)

Modern Finance Corporation Pension Plan (the Plan) Located in Detroit, Michigan

[Application No. D-4235]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply, for a period of five years, to the proposed loans by the Plan of up to 25% of its assets to Modern Finance Corporation (the Employer) and to the guarantee of repayment on the loans by Mr. Stuart Hirshberg, (Mr. Hirshberg), provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

Temporary Nature of Exemption

The proposed exemption is temporary and, if granted will expire five years after the date of grant with repect to the making of any loan. Subsequent to the expiration of this exemption, the Plan may hold loans originated during this five year period for an additional five years. Should the applicant with to continue extering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

Summary of Facts and Representations

1. The Plan, which was established on November 15, 1982, is a defined benefit plan with six participants and net assets of approximately $25,000 as of July 11, 1983. Mr. Hirshberg serves as trustee under the Plan. The Employer is a Michigan corporation which has been engaged in the financing business since 1946.

2. The Plan proposes to make loans to the Employer over a period of five years, involving up to 25% of its assets, provided that at all times the Plan will have sufficient liquid assets to allow for immediate distribution of benefits to employees, other than Mr. Hirshberg, who may terminate employment, become disabled, retire or die. All loans made will be repaid on a quarterly basis and will be paid off within 10 years of the date of grant of this exemption. The loans will be secured by a recorded first mortgage on the Employer's office building located at 22001 Grand River, Detroit, Michigan (the Property). The initial interest rate for the loan will be 13%, which is represented to be the fair market value for a loan of this type by the independent fiduciary appointed by the Plan (see representation 4). The interest rate for subsequent loans will be determined by the independent fiduciary appointed by the Plan based upon the rate charged by local lending institutions for similar loans.

3. The Property was appraised by Donald W. Greene of Robert Wolf Company of Southfield, Michigan, as having a fair market value of $86,000 as of January 14, 1983. The loans will also be secured by the personal guarantee of Mr. Hirshberg, whose net worth exceeds $250,000. The Employer represents that it will add any collaternal that may be required during the life of the loans to assure that the value of the Property is at all times equal to at least 150% of the outstanding balance of the loans. During the life of the loans, Mr. Hirshberg will keep the Property insured for at least 80% of its full replacement cost. The proceeds of the insurance policies will be payable directly to the Plan.

4. The trustee of the Plan will appoint Donald W. Greene, who is experienced in accounting, real estate investments, and financing to serve as the independent fiduciary for the proposed loans. Mr. Greene represents that he has been advised by legal counsel with regard to his duties, responsibilities and liabilities as independent fiduciary under the Act and that he is fully conversant with such responsibilities. Mr. Greene has no other relationship with the Employer or the Plan. Mr. Greene, who is responsible for making an independent determination that the proposed loans are appropriate and suitable for the Plan, has examined the terms of the proposed loans and has initially determined that they are appropriate and suitable for the Plan. Mr. Greene will be required to make the same determination immediately prior to consummation of each subsequent loan transaction, as a condition of such consummation. Mr. Green represents that, in addition to reviewing the specific terms and conditions of the proposed loans, he has:

(a) Examined the overall Plan investment portfolio;

(b) Considered the cash flow needs of the Plan;

(c) Given consideration to the necessity of the sale of any Plan assets;

(d) Examined the diversification of Plan assets in light of the proposed loan investment; and

(e) Reviewed the terms of the proposed loans as such terms comport with the Plan's investment scheme.

Mr. Green will be empowered and directed to enforce the terms of the loan agreement between the Plan, the Employer and Mr. Hirshberg, including making demand for timely payment, bringing suit or other appropriate process against the Employer and/or Mr. Hirshberg in the event of default, keeping accurate records and reporting at least annually to the Plan trustee on the performance of the loan, specifically including whether the value of the collateral securing the loan remains equal to at least 150% of the outstanding loan balance. He will be entitled to such information from the Plan, the Employer and Mr. Hirshberg as may be reasonably necessary to fulfill his responsibilities and he shall be paid a reasonable compensation plus reimbursement for reasonable expenses, if any, including legal or appraisal fees or costs, to be agreed upon with the Plan's trustee.

5. In summary, the applicant represents that the proposed transactions meet the statutory criteria for an exemption under section 408(a) of the Act because:

(a) the loans will be approved and monitored by an independent fiduciary;

(b) the loans will be secured by collateral which at all times will be equal to at least 150% of the outstanding loan balances and by the personal guarantee of Mr. Hirshberg;

(c) the exemption will be limited to a five year period; and

(d) the trustee and the independent fiduciary have determined that the

transactions are appropriate for the Plan and are in the best interests of the Plan's participants and beneficiaries.

For Further Information Contact: Alan H. Levitas, of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Corvallis Feed & Seed, Inc. Employees Pension Plan (the Plan) Located in Corvallis, Oregon

[Application No. D-4241]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the cash sale of a certain parcel of real property by the Plan to Messrs. Gordon and Harold Packer (the Packers), who are parties in interest with respect to the Plan, provided that terms of the transaction are no less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a money purchase pension plan with four participants. Each Plan participant can direct the investment of the assets in his or her individual account. The Plan had total assets of $323,808 as of December 31, 1983. The Packers are the trustees of the Plan.

2. Corvallis Feed and Seed, Inc. is the plan sponsor (the Plan Sponsor). The Packers are the shareholders and officers of the Plan Sponsor.

3. On December 31, 1974, the Plan purchased an 11.8 acre parcel of real property located on Highway 34, Corvallis, Oregon (the Property) for $32,700. On the same date the Plan Sponsor purchased a commercial building located on the Property (the Building). The Property is held by the Plan in the Packers' earmarked accounts.

4. On January 15, 1975, the Plan began leasing the Property to the Plan Sponsor pursuant to a writen lease (the Lease). The Lease was for a one-year period with the option to renew. Under the terms of the Lease, the Plan would receive $3,270 per year for the Plan Sponsor's use of the Property. The Lease was renewed each year through 1981. From January 1, 1982 until the present, the Property has been leased to a partnership comprised of the Packers.[1]

5. The applicant requests an exemption to terminate the existing prohibited lease. It is proposed that the Plan sell the Property to the Packers for its fair market value. The Packers proposed to pay a cash price of $74,000 for the Property. This amount represents the fair market value of the Property as determined by an independent appraisal of the Property performed by Jackson A. Cooper, Associate Broker, Town and Country Realty of Corvallis, Oregon, which establishes the value of the Property as of April 5, 1982.

6. In summary, the applicant represents that the proposed transaction meets the statutory criteria of section 408(a) of the Act because:

(1) The sale will be a one-time, cash transaction;

(2) The sale will only affect the earmarked accounts of the Packers, and would have no effect on the accounts of the other participants in the Plan;

(3) The Plan will receive fair market value for its asset; and

(4) The Plan trustees, from whose earmarked accounts the sale will be made, desire that the transaction be consummated.

Notice to Interested Persons: Because the Packers are the only Plan participants who are affected by the proposed transaction it has been determined that there is no need to notify interested persons. Comments and hearing requests are due 30 days from the date of publication of this notice in the **Federal Register.**

For Further Information Contact: Ms. Linda Hamilton of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Radiology Associates, P.A. Profit Sharing Plan (the Plan) Located in Little Rock, Arkansas

[Application No. D-4342]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan of funds by the Plan to Medical Equipment Leasing Company (the Partnership), a party in interest with respect to the Plan, provided that the terms and conditions of the loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

Summary of Facts and Representations

1. On January 21, 1983, the Department published in the **Federal Register** (48 FR 2870) an exemption (Prohibited Transaction Exemption 83-13) granting relief for a loan by the Plan to the Partnership. The proceeds of such loan were to be used to repay certain indebtedness in the amount of $240,000 to the Commercial National Bank of Little Rock, Arkansas (Commercial). After the granting of the exemption the applicant decided not to execute the loan but has instead reapplied for a loan (the Loan) which is the subject of this proposed exemption. The Loan is in a different dollar amount and is secured by different collateral than the previous loan.

2. The Plan is a profit sharing plan with 42 participants. Drs. David H. Newbern and George Regnier serve as the trustees of the Plan (the Trustees) and maintain authority with respect to the management and investment of the Plan's assets. Each Trustee is an employee and owns stock of Radiology Associates, P.A. (the Employer), the sponsor of the Plan. As of January 31, 1983, the Plan had net assets of $4,578,540.

3. The Employer is a professional association engaged in the practice of radiology. The Partnership owns all of the radiology equipment used by the Employer and leases the equipment to the Employer. The Partnership is comprised of 13 doctors (the Partners) who each maintain an equal 7.14% interest of the partnership. The Partners together maintain an 87.5% interest in the Employer, with each Partner owning 6.25% of the stock of the Employer. The aggregate net worth of the Partners exceeds $5,000,000.

4. The applicant is requesting an exemption to allow the Plan to engage in the Loan with the Partnership. The Loan amount will be $485,000 which will represent less than 11% of the Plan's assets. The Loan proceeds will be used by the Partnership to purchase condominium space in a medical building currently under construction in Little Rock, Arkansas, known as the Freeway Medical Towers (the Property). The Partnership will then lease the

[1] The applicant represents that it will pay any excise tax which may be due as a result of the Lease and/or the lease of the Property to the Packers within 60 days of the granting of the proposed exemption.

space to the Employer. The Loan will be payable in monthly installments over a twenty year period, and will bear interest at the initial rate of 12½%. The interest rate will be adjusted annually to the rate equal to the current mortgage rate charged by the First National Bank in Little Rock, Arkansas (the Bank), provided that the rate shall not be less than 10%.

5. The Loan will be secured by a duly recorded first mortgage on the property, and a duly executed second security interest in certain radiology equipment owned by the Partnership (the Equipment; collectively, the Collateral). The Property is located at 10th Street at University Avenue, Little Rock, Arkansas. Mr. George Fox, Jr., an M.A.I. appraiser, appraised the Property and determined that, as of March 31, 1983, it had a fair market value of $505,000. In arriving at this value Mr. Fox took into account the value of the improvements the Partnership intends to invest in the condominium in order to make it adaptable for medical purposes. The Equipment was appraised by Mr. D.S. Felsenthal, the director of Valuation Counselors Southwestern Inc., located in Houston, Texas. Mr. Felsenthal determined that, as of January 29, 1983, the Equipment had a fair market value of $556,915. The Equipment is subject to a first lien executed in favor of Commercial in the current outstanding amount of $220,139. Therefore, the Collateral together has a value of approximately $1,061,915 which is an amount approximately 150% of the total amount of the outstanding loan balance on the Collateral. The Employer will insure the Collateral against damage by fire or other loss at its own expense throughout the term of the Loan.

6. The Bank will serve as the independent fiduciary for the Plan with respect to the proposed Loan. Currently, the Employer and four Partners have certain commercial banking relationships with the Bank. The total deposits of the Employer and the four Partners total less than .01% of the Bank's total deposits, and the total outstanding loans to the Partners constitute less than .01% of the total outstanding loans of the Bank. One Partner maintains a nominal shareholder interest in the Bank. There are no other relationships existing between the Bank, the Employer and the Partnership. The Bank is unrelated to Commercial.

7. The Bank has broad experience in pension and profit sharing plan administration, and has general investment and management expertise. The Bank has reviewed the terms of the Loan and has initially determined that the Loan is an appropriate investment for the Plan, and will be in the best interest of the Plan and its participants and beneficiaries. The Bank will make the same determination immediately prior to the consummation of the transaction. The Bank will have final administrative authority and control over the Loan, and will monitor and enforce the performance of the Partnership's obligations under the Loan. Additionally, the Bank's duties will include, but not be limited to, the annual adjustment of the Loan's interest rate, the determination of any need for the provision of additional collateral to ensure that the total value of the Collateral remains in excess of 150% of the outstanding loan balances secured by the Collateral, determining whether adequate insurance on the Collateral is maintained to protect against a loss by fire or other damage, and the execution and filing of a valid mortgage and security agreement on the Collateral in favor of the Plan.

8. The Bank specifically addressed the Loan's proposed interest rate, and the proposed security for the Loan, and has determined that these provisions are appropriate, suitable, and in the best interests of the Plan. The Bank represents that the Collateral provides adequate security for the Plan. The Bank represents, with respect to the second security interest, if the Partnership defaults on any of its payments of principal or interest under the terms of the Loan, the Plan may foreclose on the Equipment and receive proceeds from a sale of the Equipment subject to the first security interest in the Equipment.

9. In summary, the applicant represents that the proposed Loan will satisfy the criteria of section 408(a) of the Act because: (a) The Loan will be secured by a duly recorded first mortgage in the Property, and a perfected second security interest in the Equipment which together has a value equal to 150% of the total amount of indebtedness secured by the Collateral; (b) the Bank, a qualified, independent party, has reviewed the proposed transaction and has determined that the Loan is appropriate and in the best interest of the Plan and its participants and beneficiaries; and (c) the Bank will monitor the Loan and enforce the performance of the Partnership's obligations under the Loan.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Pillsbury, Madison & Sutro Retirement Plan (the Plan) Located in San Francisco, California

[Application No. D-4362]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed loan, not to exceed the lesser of $6 million or 25% of the Plan's assets, by the Plan to Pillsbury, Madison and Sutro (the Employer), provided that the terms of the transaction are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is an integrated, contributory profit-sharing plan that was established effective December 31, 1952. The Plan has 510 participants and total assets of $19.6 million as of December 31, 1982. The trustees of the Plan are currently J.B. Bates, J.R. Hofmann, Jr., T.N. McNamara, E.H. Taylor, W.J. Martin, Jr., W.D. Berry and J.M. Canty, all of whom are partners in the Employer. The assets of the Plan are currently held under a group annuity contract with The Prudential Insurance Company of America, except for those assets which represent voluntary employee contributions to the Plan which are invested at the direction of participants in a wide variety of stocks, bonds, mutual funds, etc., as provided by the Plan. The Employer was established as a California general partnership in 1875 and is one of the largest law firms in the United States. For the year ending December 31, 1982, the Employer's gross revenues were $55 million and its net income was $26 million.

2. The trustees of the Plan and the Employer have agreed to enter into a loan arrangement in which the Employer will borrow $6,000,000 from the Plan. The arrangement contemplates two separate disbursements, or loans. The first, to be made as soon as the requested exemption is granted, will be for $4,000,000. The second, to be made during the third or fourth quarter of 1984, will be for $2,000,000. The total amount of the loans will, however, not exceed

25% of the Plan's assets on the date of disbursement of each amount. Funds for the loans will come from the group annuity contract issued by Prudential.[1] The proceeds from the loans will be used by the Employer to pay for leasehold improvements, furniture and fixtures for new space leased by the Employer in San Francisco and San Jose, California, and to repay a portion of revolving credit loans to the Bank of American National Trust and Saving Association (Bank of America) and America Security Bank, to the extent that such loans have been used to provide funds for such leasehold improvements, furniture and fixtures. Each of the proposed loans will have a term of 10 years from the date of its disbursement.

3. Principal and interest on the loans will be payable monthly. Monthly principal payments will be in amounts which would amortize the loans over a 15-year period; thus, a balloon payment will be due at the end of the tenth year of each loan.

Monthly interest payments on the remaining principal balance of the loans will be at the annual rate of five percentage points over the Federal Reserve Bank of San Francisco discount rate. The applicant represents that this interest rate compares favorably with the return available on comparable investments and would currently result in an annual interest rate of 13.5%. The loan will be secured by letters of credit issued by the Bank of America equal to the total amount of the outstanding loan balance plus approximately 60 days accrued interest. In addition, the trustees of the Plan will appoint Union Bank as loan trustee for the Plan to determine the prudency of each loan, to administer and enforce the terms of the loan agreement, and, if necessary, to draw down on the letters of credit on behalf of the Plan. Union Bank will also determine at the time each loan is made that the rate of interest payable to the Plan under the loan agreement is equal to or greater than the rate of interest that would be charged by lenders who are not subject to state law usury limitations on similar loans.

4. During the period the loans are outstanding, repayment will be fully secured by letters of credit (or a single letter of credit covering both loans) issued by the Bank of America in favor of Union Bank as loan trustee for the Plan. The letters of credit may be drawn down by Union Bank upon certification by it that the amount being drawn down is due and payable under the loan agreement because of either the occurrence of an event of default under the loan agreement, [2] or the receipt of notice of termination of either letter of credit from Bank of America.

5. Under the letter of credit agreement, Bank of America will reserve the right to terminate the letters of credit upon 60 days written notice to Union Bank. If such a notice is given and substitute letters of credit are not obtained or the Employer does not repay all amounts of principal and interest outstanding under the loan within 30 days prior to the expiration of the letter(s) of credit, an event of default under the loan agreement will occur. In such a case, Union Bank will demand full payment of all principal and interest owing under the loan agreement and will draw down on the letter(s) of credit before they terminate so that interests of the Plan will be protected.

6. The terms of the loan trust agreement provide that Union Bank will hold the promissory notes evidencing the loans as trustee on behalf of the Plan, and will pay over to the trustees of the Plan any amounts of principal and interest received from the Employer and any amounts drawn down under the Bank of America letter of credit. Union Bank is authorized to enforce the provisions of the loan agreement and to collect the notes or the proceeds from the letters of credit as required to protect the interests of the Plan and its participants and beneficiaries. The loan trust agreement will terminate upon the repayment of the loans or the payment of the proceeds from the letters of credit. Union Bank will have control and authority only with respect to the Plan assets subject to the loan agreement.

7. Union Bank represents that as loan trustee, it has reviewed various documents relating to the proposed loan and to the financial condition of the Employer. Those documents included, among others, the loan agreement and note, the loan trust agreement, the stadby letter of credit agreement and rider, the form of the irrevocable letter of credit, and audited financial statements of the Employer. In addition, Union Bank has reviewed the documents establishing the Plan, current financial statements of the Plan and the allocation of the Plan's assets between the Prudential Group Annuity contract and other types of investments.

Based upon Union Bank's review of the documents referred to above and other information provided by the Plan, it has determined that the terms of the proposed loan are consistent with those customarily found in commercial loan arrangements and are no less favorable to the Plan than the Plan might obtain in a loan to an unrelated party. Union Bank has also determined that the proposed loan would be an appropriate investment for the Plan and in the interest of the Plan's participants and beneficiaries. Union Bank will review these determinations prior to making each disbursement under the loan agreement and will not make such disbursements unless it finds them to be appropriate and in the interest of the Plan.

8. The Employer represents that it does not control, is not controlled by, and is not under common control with, Union Bank and is not otherwise affiliated with Union Bank. No partner in the Employer has any ownership interest in Union Bank, nor does any partner or relative of a partner hold a position as a director or senior management official of Union bank. Although the Employer has no banking relationship with Union Bank, a few partners in the Employer have checking or savings accounts, loans or other consumer banking relationships with Union Bank. In addition, the Plan maintains a checking account with Union Bank which is used for the purpose of paying benefits to Plan beneficiaries. The Employer has also provided legal services for Union Bank from time to time. In 1982, Union Bank paid the Employer $68,000 in legal fees, representing approximately 0.12% of the firm's gross income for that year. The applicant represents that the Employer will neither advise nor counsel Union Bank with respect to any matter concerning the proposed loan arrangement or the Bank of America letter of credit arrangement. Thus, the applicant represents that Union Bank will be totally independent of the Employer with respect to this matter, and the Employer will not be in a position, by virtue of any past or existing business relationship, to influence the actions or decisions of Union Bank in connection with the proposed loan arrangements. Union Bank is also totally independent of the Bank of America.

[1] The applicant represents that the Plan will not incur any market value adjustment or other penalty as a result of the liquidation of this investment.

[2] An event of default will occur if the Employer fails to pay interest or principal on the loans within 10 days after the due date, upon proof of any false or misleading statements made by the Employer under the representations and warranties or covenants of the agreement, the filing of bankruptcy, or a default under certain other loan agreements where the lender may accelerate payment. Upon the occurrence of an event of default, the obligation of the Plan to continue the loan is terminated, and, at the option of the Plan, all amounts of principal and interest under the loan become due and payable.

9. In summary, the applicant represents that the proposed transaction meets the statutory criteria for an exemption under section 408(a) of the Act because:

(a) The loans' terms and conditions will be monitored by Union Bank;

(b) The loans will be secured by letters of credit from the Bank of America, which will be called if the Bank of America notifies the Union Bank of its intent not to renew and substitute letters of credit are not obtained; and

(c) Union Bank, as independent loan trustee to the Plan, has determined that the transaction is appropriate for the Plan and in the best interests of the Plan's participants and beneficiaries.

FOR FURTHER INFORMATION CONTACT: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 2nd day of August, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, U.S. Department of Labor.

[FR Doc. 83-21381 Filed 8-4-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; 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 Dance Advisory Panel (Presenters and Services Section) to the National Council on the Arts will be held on August 23-25, 1983, form 9:00 a.m.- 5:30 p.m. in Room M-07, of the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., 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 to 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.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

August 2, 1983.

[FR Doc. 83-21385 Filed 8-4-83; 8:45 am]

BILLING CODE 7537-01-M

PENSION BENEFIT GUARANTY CORPORATION

Exemption From Bond/Escrow Requirement Relating To Sale of Assets by an Employer Who Contributes to a Multiemployer Plan: Barton Brands, Ltd.

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of exemption.

SUMMARY: The Pension Benefit Guaranty Corporation has granted Barton Brands, Ltd. an exemption from the bond/escrow requirement of section 4204(a)(1)(B) of the Employee Retirement Income Security Act of 1974, as amended. A notice of the request for exemption from this requirement was published on April 26, 1983 (48 FR 18958). The effect of this notice is to advise the public of the decision on the exemption request.

ADDRESS: The request for an exemption and the PBGC response to the request are available for public inspection at the PBGC Public Affairs Office, Suite 7100, 2020 K Street, NW., Washington, D.C. 20006, between the hours of 9:00 a.m. and 4:00 p.m. A copy of these documents may be obtained by mail from the PBGC Disclosure Officer (160) at the above address.

FOR FURTHER INFORMATION CONTACT: James M. Graham, Office of the Executive Director, Policy and Planning (140), 2020 K Street, NW., Washington, D.C. 20006; (202) 254-4862.

SUPPLEMENTARY INFORMATION:

Background

Section 4204(a)(1) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), 29 U.S.C. 1384, provides that the sale of assets of an employer that contributes to a multiemployer pension plan will not constitute a complete or partial withdrawal from the plan if certain conditions are met. One of these conditions is that the purchaser post a bond or deposit money in escrow for five plan years after the sale.

ERISA section 4204(c) authorizes the Pension Benefit Guaranty Corporation ("PBGC") to grant individual or class variances or exemptions from the purchaser's bond/escrow requirement of section 4204(a)(1)(B). Under § 2643.3(a) of the PBGC's regulation on procedures for variances for sales of assets (29 CFR Part 2643), the PBGC shall approve a request for a variance or exemption if it determines that approval of the request is warranted, in that it:

(1) Would more effectively or equitably carry out the purposes of Title IV of the Act; and

(2) Would not significantly increase the risk of financial loss to the plan.

The legislative history of section 4204 indicates a Congressional intent that the sales rules be administered in a manner that assures protection of the plan with the least practicable intrusion into normal business transactions.

ERISA section 4204(c) and § 2643.3(b) of the regulation require the PBGC to publish a notice of the pendency of a request for a variance or an exemption in the **Federal Register**, and to provide interested parties with an opportunity to comment on the proposed variance or exemption.

Decision

On April 26, 1983 (48 FR 18958), the PBGC published a notice of the pendency of a request from Barton Brands, Ltd. (formerly known as BBL Acquisition Co.) ("Barton") for an exemption from the bond/escrow requirement of ERISA section 4204(a)(1)(B), in connection with the purchase by Barton of the assets of Bardstown Partners, Ltd. (formerly known as Barton Brands, Ltd.) and its Subsidiaries, ("Bardstown"). The sale of assets become effective on June 30, 1982. No comments were received in response to the notice.

Barton has assumed the responsibilities of Bardstown under a collective bargaining agreement with the Food, Drug and Beverage Warehousemen, Food Processors, Packers and Clerical Employees' Union, Local No. 595, which requires contributions to the Western Conference of Teamsters Pension Trust Fund (the "Fund"). Bardstown's potential withdrawal liability to the Fund has been estimated to be $340,000. The amount of the bond or escrow required under ERISA section 4204(a)(1)(B) is $72,982 (the annual contribution required to be made by Bardstown for the 1981 plan year, the plan year preceding the sale).

Barton intends to continue to operate the business, which is the subject of the sale, as it was previously conducted, using substantially the same management and employees. Barton is a new company, chartered in Delaware, and thus has no prior financial history separate from the assets that were purchased. Barton did provide its unaudited consolidated financial statement for the year ended December 31, 1982 which showed net assets of approximately $20.3 million. That figure reflects $16.3 million in long-term debt incurred incidental to this sale.

Based on the facts of this case and the representations and statements made in connection with the request for exemption, PBGC has determined that an exemption from the bond/escrow requirement is warranted, in that it would more effectively carry out the purposes of Title IV of ERISA and would not significantly increase the risk of financial loss to the plan. Therefore, PBGC hereby grants Barton's request for an exemption from the bond/escrow requirement. The granting of an exemption or variance from the bond/escrow requirement section 4204(a)(1)(B) does not constitute a finding by PBGC that the transaction satisfies the other requirements of section 4204(a)(1). The determination of whether the transaction satisfies such other requirements is a determination to be made by the plan sponsor.

Issued at Washington, D.C. on this 1st day of August 1983.

Edwin M. Jones,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 83-21259 Filed 8-4-83; 8:45 am]

BILLING CODE 7708-01-M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2100]

Illinois; Declaration of Disaster Loan Area

Kane County and the adjacent Counties of DeKalb, DuPage and Will constitute a disaster area as a result of severe storms, torrential rains and flash flooding beginning on July 1, 1983. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on September 23, 1983, and for economic injury until the close of business on April 23, 1984, at the address below: U.S. Small Business Administration, 219 South Dearborn Street, Room 438, Chicago, Illinois 60604, or other locally announced locations.

Interest rates for applicants filing for assistance under this declaration are as follows:

	Percent
Homeowners with credit available elsewhere	11.125
Homeowners without credit available elsewhere	5.625
Businesses with credit available elsewhere	10.500
Businesses without credit available elsewhere	8.000
Businesses (EIDL) without credit available elsewhere	8.000
Other (non-profit organizations including charitable and religious organizations)	11.375

It should be noted that assistance for agricultural enterprises is the primary responsibility of the Farmers Home Administration as specified in Pub. L. 96-302.

(Catalog of Federal Domestic Assistance Programs Nos. 59002 and 59008)

Dated: July 22, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-21387 Filed 8-4-83; 8:45 am]

BILLING CODE 8025-01-M

SYNTHETIC FUELS CORPORATION

Amendment of Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects

AGENCY: Synthetic Fuels Corporation.

ACTION: Issuance of Amendment of Competitive Soliciation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects.

SUMMARY: Notice is hereby given that the United States Synthetic Fuels Corporation has issued an Amendment of the Competitive Solicitation for Eastern Province and Eastern Region of the Interior Province Bituminous Coal Gasification Projects issued by the Corporation on June 30, 1983.

EFFECTIVE DATE: August 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ralph L. Bayrer, Vice President for Projects, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586; (202) 822-6436.

For Copies of the Amendment Contact: Catherine McMillan, Director of Public Disclosure, United States Synthetic Fuels Corporation, 2121 K Street, NW., Washington, D.C. 20586; (202) 822-6460.

United States Synthetic Fuels Corporation.

Jimmie R. Bowden,

Executive Vice President.

August 2, 1983.

[FR Doc. 83-21389 Filed 8-4-83; 8:45 am]

BILLING CODE0000-00-M

UNITED STATES INFORMATION AGENCY

United States Advisory Commission on Public Diplomacy; Meeting

A meeting of the United States Advisory Commission on Public Diplomacy will be held August 17, 1983, from 9:45 a.m. to 12:00 noon in Room 800, 400 C Street, SW., Washington, D.C. The Commission will discuss Project

Democracy and VOA modernization and construction.

Please call Elizabeth Fahl, (202) 485–2468, if you are interested in attending the meeting.

Dated: August 2, 1983.

Charles N. Canestro,

Federal Register Liaison.

[FR Doc. 83-21297 Filed 8-4-83; 8:45 am]

BILLING CODE 8230-01-M

VETERANS ADMINISTRATION

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of proposed new forms, extensions, and a revision. Each entry contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420; (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503; (202) 395–6880.

DATES: Comments on the forms should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: July 29, 1983.

By direction of the Administrator.

Robert A. Frongello,

Executive Assistant to the Associate Deputy Administrator for Information Resources Management.

New Forms

1. Office of Program Planning and Evaluation
2. Evaluation of the Readjustment Counseling Program for Veterans of the Vietnam Era.
3. VA Form 10–5565
4. On intake to program and at 3 and 18 months after intake.
5. Individuals or households.
6. 1,500 responses
7. 1,250 hours
8. Not applicable

1. Department of Veterans Benefits
2. Certification of School Enrollment under Sec. 156, Pub. L. 97–377
3. VA Form 21–8926
4. On occasion
5. Individuals or households; Non-profit institutions.
6. 18,000 responses
7. 4,500 hours
8. Not applicable

Extensions

1. Department of Veterans Benefits
2. Certification of Delivery of Advance Payment and Enrollment
3. VA Form 22–1999v
4. On occasion
5. State or Local governments; Non-profit institutions; Small businesses or organizations
6. 97,200 responses
7. 8,100 hours
8. Not applicable.

1. Department of Veterans Benefits
2. Escrow Agreement for Postponed Exterior Onsite Improvements
3. VA Form 26–1849
4. On occasion
5. Individuals or households; Businesses of other for-profit
6. 32,000 responses
7. 16,000 hours
8. Not applicable

1. Department of Veterans Benefits
2. Home Energy Checklist
3. VA Form 26–1803a
4. On occasion
5. Individuals or households; Businesses of other for-profit
6. 140,000 responses
7. 11,666 hours
8. Not applicable

1. Department of Veterans Benefits
2. Fiduciary Agreement
3. VA Form 27–4703
4. On occasion
5. Individuals or households; State or local governments; Federal agencies or employees; Non-profit institutions
6. 20,500 responses
7. 1,708 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Notice of Change in Student Status
3. VA Form 22–1999b
4. On occasion
5. State or local governments; Non-profit institutions; Small business or organizations
6. 1,012,500 responses
7. 84,375 hours
8. Not applicable

[FR Doc. 83-21298 Filed 8-4-83; 8:45 am]

BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

SUMMARY: The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document consists of proposed extensions and revisions. Each listing contains the following information: (1) The department or staff office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the proposed forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (004A2), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20220; (202) 389–2146. Comments and questions about the items on this list should be directed to the VA's OMB Desk Officer, Rich Shepard, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503; (202) 395–6880.

DATES: Comments on the form should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: August 1, 1983.

By direction of the Administrator.

Robert A. Frongello,

Executive Assistant to the Associate Deputy Administrator for Information Resources Management.

Extensions

1. Department of Veterans Benefits
2. Apprenticeship and On-the-Job Training Agreements and Standards and Employer's Application to Provide Training
3. VA Forms 22–8863, 22–8864, and 22–8865
4. On occasion
5. State or local governments; farms; businesses or other for-profits; Federal agencies or employees; non-profit institutions; small businesses or organizations.
6. 1,740 responses
7. 1,305 hours
8. Not applicable

1. Department of Veterans Benefits
2. Appointment of Veterans Service Organization as Claimant's Representative
3. VA Form 23–22
4. On occasion
5. Individuals or households
6. 325,000 responses
7. 54,166 hours
8. Not applicable

Revision

1. Department of Veterans Benefits
2. Manufactured Home Appraisal Report
3. VA Form 26–8712
4. On occasion
5. Individuals or households; businesses or other for-profit
6. One respondent
7. One hour
8. Not applicable

[FR Doc. 83-21375 Filed 8-4-83; 8:45 am]
BILLING CODE 8320-01-M

Career Development Committee; Availability of Annual Report

Under section 10(d) of Pub. L. 92–463 (Federal Advisory Committee Act) notice is hereby given that the Annual Report for the calendar year 1982 has been issued for the Veterans Administration, Medical Research Service, Career Development Committee.

The report summarizes the activities of the committee on matters related to the review and evaluation of Career Development applications. It is available for public inspection at two locations:

Library of Congress, Serial and Government Publications Reading Room LM 133, Madison Building, Washington, D.C. 20540, and

Veterans Administration, Medical Research Service, Career Development Program, Room 757, 810 Vermont Avenue, NW., Washington, D.C. 20420.

Dated: July 29, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-21347 Filed 8-4-83; 8:45 am]
BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 152
Friday, August 5, 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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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 10:30 p.m. on Saturday, July 30, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Metro Bank, Midland, Texas, which was closed by the Banking Commissioner of the State of Texas on Friday, July 29, 1983; (2) accept the bid for the transaction submitted by Mid-Cities National Bank, Midland, Texas, a newly-chartered national bank; and (3) provided such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Spargue (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1130-83 Filed 8-3-83; 11:09 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:50 p.m. on Friday, July 29, 1983, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in First Peoples Bank of Washington County, Johnson City, Tennessee, which was closed by the Commissioner of Banking for the State of Tennessee on Friday, July 29, 1983; (2) accept the bid for the transaction submitted by First American Bank-Eastern, National Association, Kingsport, Tennessee; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to effect the purchase and assumption transaction.

The meeting was recessed at 3:55 p.m. and at 5:15 p.m. that same day the meeting was reconvened, by telephone conference call, at which time the Board of Directors adopted a resolution making funds available for the payment of the insured deposits in Metro Bank, Midland, Texas, which was closed by the Banking Commissioner of the State of Texas on Friday, July 29, 1983.

The Board of Directors also considered an application for assistance under section 13(c) of the Federal Deposit Insurance Act (name and location of bank authorized to be exempt from disclosure pursuant to the provisions 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)).

In calling the meeting, the Board determined, on motion of Chairman William M. Issac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. Doyle L. Arnold, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 2, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1131-83 Filed 8-3-83; 11:09 am]

BILLING CODE 6714-01-M

3

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., August 10, 1983.

PLACE: Hearing Room One, 1100 L Street, N.W., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Agreement No. 161-40: Modification of the Gulf United Kingdom Conference Agreement to provide for members' right of independent rate action.

2. Agreement No. 9615-37: Modification of the Iberian/U.S. North Atlantic Westbound Freight Conference Agreement to permit alternate port service.

3. Docket No. 81-54: Dual-Rate Contract Systems in the Foreign Commerce of the United States; Amendment to Allow a Third Rebuttable Presumption Under Article 6, Clause (d) of the Uniform Merchant's Contract—Consideration of comments submitted in response to notice of proposed rulemaking.

Portions closed to the public:

1. Agreements Nos. 9718-9, 9731-9, 9835-6, 9975-8, 10116-5, and 10274-2: Proposed Five-Year Extension of Japanese-Flag Carriers' Space Charter and Pooling Agreements and Japanese-Flag Carriers' Petition for *Pendente Lite* Relief.

2. Docket No. 82–58: Conditions Unfavorable to Shipping in the United States/Venezuela Trades—Consideration of petition of Concorde/Nopal Line and status of the proceeding.

3. Commission Position in CalCartage v. F.M.C./U.S.A.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S-1127-83 Filed 8-2-83; 4:14 pm]

BILLING CODE 6730-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

August 1, 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: In addition to the previously announced item the Commission will consider and act upon the following:

2. Southwestern Illinois Coal Corporation, Docket No. LAKE 82–38: Petition for Discretionary Review. (Issues include whether the ALJ erred in vacating a citation alleging that the operator had violated 30 CFR 77.1710(g), dealing with the wearing of safety belts.)

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 addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5632.

[S-1132-83 Filed 8-3-83; 2:46 pm]

BILLING CODE 6735-01-M

5

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a.m., Wednesday, August 10, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: *Summary Agenda:* Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed (1) extension with revision of: (A) Weekly Report of Assets and Liabilities for Large Banks (FR 2416); (B) Weekly Report of Selected Assets (FR 2644s) and the Weekly Report of Loans, Securities, and Assets (FR 2644); (C) Weekly Report of Assets and Liabilities for Large U.S. Branches and Agencies of Foreign Banks (FR 2069); and (D) Monthly Report on the Maturity Distribution of Negotiable Certificates of Deposit (FR 2416b); and (2) discontinuance of the Weekly Report of Outstanding Commercial Paper Issued by Selected Institutions Related to Non-Weekly Reporting Banks (FR 2957c).

2. Proposed: (1) Modification of the quarterly Survey of Selected Transaction Accounts (FR 2071a); and (2) discontinuation of the monthly Survey of Number of Accounts in, and Sources of Funds, for, MMDAs (FR 2071c), and "Super NOW" Accounts (FR 2071d).

3. Proposed extension of the Annual Dealer Reports (FR 2002 and FR 2003).

4. Proposed extension, with revision, of the OTC Margin Stock Report (FR 2048).

Discussion Agenda:

5. Proposed amendment to Regulation Y (Banking Holding Companies and Change in Bank Control) to permit bank holding companies to engage in discount securities brokerage and margin lending. (Proposed earlier for public comment; Docket No. R-0455).

6. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board, (202) 452–3204.

Dated: August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1128-83 Filed 8-3-83; 10:41 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM

Board of Governors

TIME AND DATE: Approximately 10:30 a.m., Wednesday, August 10, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452–3204.

Dated: August 2, 1983.

James McAfee,

Associate Secretary of the Board.

[S-1129-83 Filed 8-3-83; 10:50 am]

BILLING CODE 6210-01-M

7

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-36]

TIME AND DATE: 10 a.m., Friday, August 19, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Petitions and complaints:

a. Certain trolley wheel assemblies (Docket No. 956).

b. Certain indomethacin (Docket No. 957).

2. Investigation 731–TA–137 (Preliminary) (Tubes for Tires Other Than for Bicycle Tires from the Republic of Korea)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-1133-83 Filed 8-3-83; 2:45 pm]

BILLING CODE 7020-02-M

8

INTERNATIONAL TRADE COMMISSION

[USITC SE-83-35]

TIME AND DATE: 2:30 p.m., Wednesday, August 17, 1983.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.

2. Minutes.

3. Ratifications.

4. Petitions and complaints:

a. Certain composite diamond-coated textile machinery components (Docket No. 955).

5. Investigation 731–TA–111 (Final) (Bicycles from Taiwan)—briefing and vote.

6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S-1134-83 Filed 8-3-83; 2:45 pm]

BILLING CODE 7020-02-M

federal register

Friday
August 5, 1983

Part II

Department of Labor

Occupational Safety and Health Administration

Underground Construction; Proposed Rule

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1926

[Docket No. S-370]

Underground Construction

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Proposed rule.

SUMMARY: OSHA proposes to revise § 1926.800, Tunnels and Shafts, of Part 1926, OSHA's construction industry standards. This proposal is being issued after appropriate consultation with the Advisory Committee on Construction Safety and Health.

In 1980, the construction industry, of which tunneling and underground construction is a significant part, had the highest occupational injury incidence of any industry surveyed by the Bureau of Labor Statistics. The proposal would clarify, simplify, and update the existing standards on tunnels and shafts contained in § 1926.800, and provide employee protection against the hazards of underground work. Hazards such as flooding, cave-ins, contaminated atmospheres, fires, and explosions are associated with construction work in the physically restricted and relatively inaccessible underground work environment. The proposal includes requirements for a safety program, rescue crews, emergency planning, air quality, ventilation, fire prevention, drilling, haulage, ground support, explosives handling, equipment use, and hoisting procedures.

DATES: Written comments and any requests for a hearing must be postmarked on or before October 4, 1983.

ADDRESS: Written comments and requests for a hearing should be submitted to the Docket Officer, Docket No. S-370, Occupational Safety and Health Administration, Room S-6212, U.S. Department of Labor, Washington, D.C. 20210, (202) 523-7894.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Room N3637, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210., Telephone (202) 523-8151.

SUPPLEMENTARY INFORMATION: The authors of this Proposed Rulemaking are David Hadden and Steve Jones of the Office of Construction and Civil Engineering Safety Standards, Occupational Safety and Health Administration.

I. Background

Congress amended the Contract Work Hours Standards Act (CWHSA) [40 U.S.C. 327 et seq.] in 1969 by adding a new Section 107 (40 U.S.C. 333) to provide employees in the construction industry with a safer work environment and to reduce the frequency and severity of construction accidents and injuries. The amendment, commonly known as the Construction Safety Act (CSA) [Pub. L. 91-54; August 9, 1969], significantly strengthened employee protection by providing for occupational safety and health standards for employees of the building trades and construction industry in Federal and Federally-financed or Federally-assisted construction projects.

The Occupational Safety and Health Act [the Act.] [84 Stat. 1590; 29 U.S.C. 655 et seq.], which was enacted less than two years later, authorized the Secretary of Labor to adopt established Federal standards issued under other statutes, including the Construction safety Act, as occupational safety and health standards under the Act. Accordingly, the Secretary adopted the construction standards, which were issued under the Construction Safety Act in 29 CFR Part 1518, as OSHA standards on May 29, 1971 (36 FR 10466) and redesignated these rules as 29 CFR Part 1926 on December 30, 1971 (36 FR 25232). The standard entitled "Tunnels and Shafts," § 1926.800, was adopted as an OSHA standard in Subpart S of Part 1926 as part of this process.

The need for review and revision of § 1926.800 has been recognized by OSHA since the earliest days of the OSHA Act. In 1971, there were two major tunnel disasters, in Sylmar, California, and in Port Huron, Michigan. (See discussion in Section II of this Preamble.) These events prompted the Assistant Secretary of Labor for Occupational Safety and Health to ask the Agency's construction safety standards staff and the Advisory Committee on Construction Safety and Health (ACCSH) [1] (established under the CSA Section 107 and the OSHA Act Section 7(b)) to study the existing rules and to recommend any necessary changes. The ACCSH formed a subcommittee on tunnels, which met on January 31, 1972, February 8 and 22, 1972, and on November 1, 20, and 21, 1972. The full Advisory Committee met on August 30, 1972, December 14, 1972, June 19, 1973, and July 25, 1973. The ACCSH submitted its recommendations to the Secretary on July 25, 1973 (Ex. 1:15).

On basis of the ACCSH's findings, OSHA proposed revisions to the tunneling regulations on March 18, 1974 (39 FR 10216, March 18, 1874). A public hearing on the 1974 proposal was held in Washington, D.C. on June 26, 1974. The testimony and comments received in connection with this hearing have been entered into the record of the present rulemaking (Ex. 1:19-28). Based on these comments and changes in the industry, OSHA decided to publish a revised proposed rule. The 1974 proposal is being withdrawn today, simultaneously with the publication of this proposed rule.

During the past several years, the ACCSH has considered subsequent drafts of the proposed tunnel standards at several meetings (Ex. 2-5).The Committee has consistently urged OSHA to initiate rulemaking on a new proposal (Ex. 2, pp. 136-138; Ex. 3, p. 134; Ex. 4, pp. 8-124). In addition, the transcript of the ACCSH's deliberations has been entered into the record (Ex. 1, 4, 7, 8, [Ex. 1 includes the ACCSH's transcripts prior to March 18, 1974]). The Committee's comments, and those of other interested parties, have been carefully analyzed in connection with the present rulemaking. Many of the changes in the standard being poposed today reflect the Committees recomendations and suggestions. Relevant ACCSH comments and recommendations are discussed below in the Summary and Explanation section. Committee discussions that were inconclusive or did not result in a specific recommendation have been considered, but are not discussed at length in this preamble.

II. Hazards in Underground Construction.

The history of modern tunnel building is replete with catastrophies and disasters caused by underground explosions, floods, cave-ins, and rock slides. For example, during the construction of the Hoosac Tunnel in Massachusetts between the years 1858 and 1874, 195 tunnel workers lost their lives in fires, explosions, and cave-ins

[1] The shortened forms listed below are used throughout this Preamble to refer to the following sources: Advisory Committee on Construction Safety and Health—ACCSH; American National Standards Institute, Safety Requirements for Construction of Tunnels, Shafts, and Caissons, ANSI A10.16-1981—ANSI; State of California Tunnel Safety Orders, 1973—California standards; State of Michigan, Standard for Tunnels, Shafts, Caissons, and Cofferdams, 1974 as amended November 6, 1978—Michigan standards; Corps of Engineers EM 385.1.1—COE; Bureau of Reclamation Construction Safety Standards—BOR; Mine Safety and Health Administration—MSHA Title 30 Chapter 1; OSHA's construction standards—Part 1926; OSHA's general industry standards—Part 1910; and exhibits in the rulemaking record—Ex.—.

(Ex. 12:2). Technological advances made during the construction of the same tunnel, including the use of nitroglycerine and power-driven rock drills in place of black powder and hand drills, led to greater cost-efficiency and encouraged tunnel building. By 1900, approximately 100 tunnels had been constructed in the United States, an increase of more than 40 percent in a period of 50 years. This surge in tunnel building at the turn of the century was accompanied by a rising toll in accidents and fatalities, and led to public concern for the welfare of tunnel workers.

In 1914, the Bureau of Mines undertook an investigation of tunneling methods, costs, and equipment, and issued a bulletin on these topics. From a survey of information gathered from 16 tunnels constructed over a 10-year period, the Bureau calculated an annual tunneling fatality rate of 4.7 per 1,000 workers per year (Ex. 12:1, p. 17). In 1941, nearly thirty years later, the Bureau of Reclamation reported a similar fatality rate (4.49 per 1,000 employees per year) for its own tunnel projects (Ex. 11).

Tunnel disasters have continued to plague the construction industry in recent years, despite the development and promulgation of the OSHA Construction Standards in 1971. OSHA has examined the hazards and the available statistics related to this industry and has included in the following discussion a sample of the types of disasters and fatalities that have occurred, and a discussion of the accident frequency and severity rates. This discussion clearly indicates the high risks involved in underground construction.

OSHA's awareness of the need to address the number of occupational injuries and fatalities occurring among underground construction workers dates back to 1971, when two major underground disasters occurred in close succession. The Sylmar, California, catastrophe (June 24, 1971) was caused by the explosion of petroleum vapors emanating from a fault in the rock through which the tunnel was being driven. When petroleum vapors in the tunnel ignited, 17 of the 18 men underground were killed in the explosion. before the explosion, several workers had become ill from breathing the gas-contaminated atmosphere, and others had refused to continue work. The employees' reactions were apparently not considered by the contractor as reactions to toxic gases or vapors. The air quality was reportedly being monitored continuously for lower explosive limits (LEL), but not for permissible exposure limits for the gases. If properly performed, such monitoring should have been able to detect flammable gas levels and provide warning of the explosion hazard. However, it could not be determined how the air monitoring was being done or what the readings were immediately prior to the explosion.

Evidence obtained at the subsequent hearings on the disaster held by a special subcommittee of the California State Legislature (Ex. 12:3 and 4), has led OSHA to the conclusion that if the permissible exposure limits for toxic gases had been observed as required by OSHA's two month old tunnel standards (Subpart S), flammable levels would not have developed. That subcommittee determined that other requirements of the standards that may not have been complied with, and thus may have contributed to the explosion, were the no-smoking and permissible electrical equipment provisions (Ex. 12:3, pp. 105–130; Ex. 12:4, p. 111).

The second tunnel disaster took place in Port Huron, Michigan, in December, 1971. This disaster claimed the lives of 21 men and injured 9 others when methane ignited underground. At the time of the explosion, the tunnel had been nearly completed and mechanical ventilation was no longer being supplied. In addition, atmospheric monitoring for explosive gases, required by OSHA standard, had been discontinued despite the fact that methane had earlier been detected in the atmosphere (Ex. 12:6 and 7). Subsequent investigations by a team of private, city, state, and Federal representatives identified inadequate ventilation, poor communication, and lack of air quality monitoring as contributing causes to the accident (Ex. 12:5, 6 and 7).

In the interval between 1971 and the present, fatal tunneling accidents and disasters involving more than one fatality have continued to occur. Examples of the types of underground accidents that continue to take the lives of tunnel workers are presented below. The causes of the accidents are also discussed whenever possible.

In 1975, four men were trapped and killed in a sewer tunnel being constructed near Green Bay, Wisconsin, when flammable gas caught fire and exploded (Ex. 12:15). Inadequate ventilation and the lack of air monitoring were factors that led to the accumulation of gases within the explosive range.

In the same year, five workers drowned in a Niagara Falls sewer tunnel that flooded when water from an adjacent sewer accidentally broke into the tunnel in which the men were working (Ex. 12:16).

In September, 1978, three men were killed near Macon, Georgia, by carbon monoxide poisoning while working in a 48-inch diameter sewer tunnel (Ex. 12:24). Ventilation, communications, and air quality requirements were not observed in this operation, in violation of existing OSHA standards.

Three underground construction workers died from carbon dioxide inhalation as they entered a sewer near Wheaton, Illinois, in 1979 (Ex.12:28). One worker was apparently overcome by carbon dioxide and fell while climbing into a sewer. A second worker, attempting to rescue the first, was also overcome by gas. The third person was found in a nearby manhole. The air quality of the sewer had not been tested prior to the employees' entry into the sewer manhole.

Three underground construction workers were overcome by hydrogen sulfide inhalation in June, 1980, before they fell out of a cage while they were being hoisted out of the access shaft of a sewer tunnel project in Buffalo, New York. If steps had been taken to ensure air quality before the employees were sent into the shaft, and if the cage had been equipped with a positive locking device, the multiple fatality might not have occurred (Ex. 12:30).

Underground construction workers are exposed to significantly higher accident frequency and severity rates than other workers in the heavy construction industry (Standard Industrial Classification (SIC) code 162) (Bureau of Labor Statistics, 1967, Work Injuries and Work Injury Rates in the Heavy Construction Industry-BLS Report No. 318). Accident frequency rates for disabling injuries among tunnel construction workers in 1961, as reported by the Bureau of Labor Statistics (BLS), were 56.8 million person-hours, compared to 27.3 per million person-hours for all heavy construction industry workers. The frequency rate of tunnel construction operations was nearly five times the 1961 all-manufacturing rate of 11.8. The BLS also reported that tunnel workers lost an average of 270 days per disabling injury, compared to 177 days per disabling injury for all heavy construction employees. The severity rate for underground construction operations was 4.5 times the 1961 all-manufacturing rate of 59 days per disabling injury. The fact that the injury rates for underground construction workers are extremely high in

comparison to other industries surveyed by BLS further buttresses OSHA's conclusion as to the seriousness of the risks of tunnel construction.

In the period since the establishment of OSHA, both the BLS and the Bureau of Reclamation, which sponsors many water supply and conservation projects that involve underground construction, have published annual occupational injury statistics for various industry sectors. The BLS statistics are not usually specific to the underground construction industry, but are specific for SIC 162, Heavy Construction, Except Highway and Street Construction, within which most underground construction firms are classified. The bureau of Reclamation information is specific to Bureau-sponsored water tunnel projects and is therefore more directly relevant to an analysis of underground construction injuries and fatalities than the BLS data.

There is a difficulty in making direct comparison between Bureau of Reclamation and BLS/OSHA data because of a difference in the systems used to calculate these data. The term BLS/OSHA data is used to indicate BLS data that were developed since the inception of OSHA. Prior to the establishment of OSHA, BLS used the ANSI Z16.1 system. The Bureau of Reclamation uses the ANSI Z16.1 system which has different definitions of recordable cases and baselines for calculating the rates than does the BSL/OSHA system. For purposes of general comparison, however, dividing the Bureau of Reclamation's frequency rate by 5, will give a rough approximation of the comparable BLS/OSHA rates. (For more information on statistics and the methods of calculating them, see Exhibit 11, Chapter 3.)

One of the most up-to-date sources of tunnel accident information is site visit data collected by JRB Associates, Inc., under contract to OSHA's Office of Regulatory Analysis; however, the total number of sites visited (9) is small in comparison to the industry's ongoing projects.

Despite the limitations and inadequacies of these data bases, the frequency and severity information calculated from sources clearly confirms the hazardous nature of underground construction work. For example, the Bureau of Reclamation estimates that accidents in underground construction occurred at the rate of 58.2, 32.9, and 35.3 per million person-hours of exposure (converted to 11.6, 6.6, and 7.1 per 200,000 person hours for comparison of BLS/OSHA data) on Bureau-sponsored tunneling projects conducted during 1978, 1979, and 1980, respectively. For the same years, BLS/OSHA accident frequency rates for the entire heavy construction industry (SIC 162) were 6.4, 6.8, and 6.3 per 200,000 person-hours, while above ground workers *at the same sites* had a rate of 6.4 lost-time injuries per 200,000 exposure hours, respecitvely. The all-manufacturing rates for the same years were 5.6, 5.9, and 5.4. Underground construction workers on the sites visted by JRB in 1982 experienced a lost-time accident frequency rate of 12.4 per 200,000 person-hours of exposure. The severity rate for these underground employees was 176.9 days lost per 100 full-time workers, compared to 138.8 days per year for 100 above ground employees on the same sites (Ex. 11, pp. 3–1 through 3–90).

The hazardous nature of underground construction work is also reflected in the amount of money employers must pay to obtain worker's compensation and employers' liability insurance. The National Council on Compensation Insurance determines premium values based on the amount of money paid for injuries to employees in various occupational groups in the past. Premiums charged to individual companies are based on this rate and adjusted for the company's own loss record. The Council does not use SIC code occupational groupings, but has established its own categories. The category most relevant to underground construction is "Tunneling, not pneumatic, all operations." Since the work activities or the work environment, or both, of tunnel workers and employees in mining (underground and surface) are similar, a comparison of the rates will indicate the relative accident experience of these industries. All state premium rates were higher for tunneling than for surface mining (not coal), and 70 percent of the states' premium rates were higher for tunneling than for underground mining (not coal). Just for comparison to other industries covered by OSHA, all state premium rates were also higher for tunneling than for textile mills, tool manufacturing and demolition work. These rates confirm the hazardous nature of underground construction work; they also point to the pontential savings in monetary, as well as human terms, that could be derived from a reduction in accidents and injuries (Ex. 11, pp. 3–37 through 3–40).

The human toll associated with the construction of tunnels, shafts, and other underground facilities is perhaps best demonstrated by the number of fatalities and injuries estimated to occur annually in this industry. A total of 16 fatalities and 1,244 injuries are estimated to occur annually in this worker population, which is believed to total 12,800 full-time employees. These accident data are believed to represent conservative estimates of the actual number of fatal and non-fatal injuries incurred by the underground construction workforce on an annual basis (Ex. 11, pp. 3–71 through 3–74). At that rate, it is estimated that this industry will experience a range of 48 to 72 fatalities per 1,000 underground workers over a working lifetime of 30 to 45 years.

The hazards and statistics associated with underground construction support OSHA's conclusion that the employees in this industry face a significant risk from the hazards of underground employment. This proposed revision was developed to protect employees from these hazards, so as to accomplish the purpose of the OSH Act: "To assure safe and healthful working conditions for working men and women." OSHA's analysis of reports of the fatalities and injuries discussed above has shown that a large proportion could be prevented if employers and employees observed the equipment requirements and work practices proposed in this underground construction standard.

The current standards in § 1926.800 provide at least some degree of coverage for most of the significant hazards encountered in underground construction. However, it is clear from the available data that the potential of the current standards to reduce the number of accidents and injuries in this industry has not been fully realized. OSHA believes that the proposed revisions of the underground construction standards will increase the protectiveness of those standards in three ways; first, by adding new provisions which reflect the unique conditions in underground workplaces, such as paragraph (t) which covers hoisting of employees by both hoists and cranes; second, by clarfying and elaborating upon various duties which are imposed generally upon the employer in the current standards, such as exposure monitoring for toxic and flammable atmospheres in proposed paragraph (j); and, third, by setting forth separate provisions to be followed for "gassy operations," which by their very nature pose a significant likelihood of fire and explosion underground. OSHA is confident that the proposed revisions will be far more effective than the existing standards in dealing with the significant risks of tunnel construction and other underground operations.

OSHA's review of accidents in underground construction indicates that many underground construction fatalities can be reduced by eliminating

such major underground hazards as unsafe means of access and egress, accumulation of toxic or explosive gases, conditions susceptible to ground collapse, and unsafe hoisting operations. The principal causes of preventable lost-time injuries were similar, except that accumulations of toxic or explosive gases were primarily related to fatalities.

There are a number of provisions in the proposal that have been redrafted to address more closely the major causes of fatalities or injuries. For example, unsafe means of access and egress is the main cause of both fatalities and injuries and is addressed in paragraph (b) of the proposal. It has been expanded to include egress. Egress is just as important an access because in emergency situations workers might not exit from underground locations the same way they enter. In addition, a provision has been added to this paragraph to protect employees from being hit by moving equipment while they are walking through tunnels.

The next major cause of fatalities, accumulation of toxic or explosive gases, is also addressed more fully in this Proposal than in the existing standard. For example, a separate set of provisions that specify potentially-hazardous work situations where additional air monitoring is required has been included.

Ground collapse follows as the next major contributor to fatalities and injuries. Paragraph (o) of the Proposal is intended to prevent employee fatalaties and injuries that occur when workers are crushed, struck, or trapped by shifting earth. Some provisions in this paragraph address hazards not addressed in the existing standard. For example, provision (o)(2)(v), adapted from the California standard, offers protection to workers who install permanent roof supports by requiring that they first install temporary roof supports prior to the installation of the permanent ones.

Another important cause of fatalities and injuries is unsafe hoisting practices. Because the general hoisting requirements in Subpart N of the existing construction industry standards do not adequately address the hazards peculiar to tunnel shafts and hoistways, the requirements in paragraph (t) have been greatly expanded to inform the employer of the safety techniques specific to underground hoisting.

Based on the causes of accidents described in the four data sets analyzed by JRB, and OSHA's regulatory analysis of the proposed standards, OSHA finds that full compliance with the proposal would prevent about 51 percent of all fatalities and about 17 percent of all lost-time injuries occurring during underground construction. As a result, an estimated 8 fatalities and 216 lost-time injuries could have been avoided during 1982.

OSHA is interested in obtaining additional information about accidents, injuries, and fatalities associated with underground construction, including material on the frequency, causes, severity, and costs of these accidents. For example, is there any additional information on what types of injuries are most common in underground construction? What work processes, occupations, types of equipment, or phases of construction are most commonly associated with injuries incurred during tunnel and shaft work? Are certain underground construction techniques, such as drill and blast or mechanical excavation, associated with certain types or an increased frequency of injury? Any data on these or related issues will aid OSHA in developing the final rule and ensuring the responsiveness of individual provisions of the standard to the actual hazards in underground construction.

III. Summary and Explanation of the Proposal

It is clear from the above discussion that during the past ten years the accident and injury toll in underground construction has continued to mount. To attempt to reduce this toll, this proposal focuses on the principal hazards of underground work and eliminates provisions of the current standards which OSHA believes to be either redundant or unnecessary for employee safety. It has also been written in straightforward, performance-based language, when possible, in order to provide flexibility and to encourage voluntary compliance by employers and employees. Additional requirements pertaining only to gassy operations, the most hazardous type of underground construction, appear in a separate paragraph at the end of the standard.

Subpart S. Underground Construction, Caissons, Cofferdams and Compressed Air. The title of Subpart S is proposed to be changed from "Tunnels and Shafts, Caissons, Cofferdams and Compressed Air" to "Underground Construction, Caissons, Cofferdams and Compressed Air." The proposed change in the title is intended to clarify the full coverage of Subpart S. In addition, the title would use the phrase "Underground Construction" instead of "Tunnels and Shafts", to reflect the scope of the proposed revision of § 1926.800, as set forth below. This proposal does not substantively affect the other sections(§ 1926.801–.804) in Subpart S.

Section 1926.800. This proposal would change the title of § 1926.800 from "Tunnels and Shafts" to "Underground Construction."

Paragraph (a). Scope and application. Proposed paragraph (a) outlines the scope and application of the underground construction standard. Paragraph (a)(1) states that the standard applies to the construction of underground tunnels, shafts, chambers, passageways, and covered cut-and-cover operations (i.e. where a cover has been put over an excavation which creates the hazards common to tunneling for employees required to work under the covered area). This is in accord with the Construction Advisory Committee's (ACCSH) recommendations that § 1926.800 apply to the construction of any underground facility or operation where tunneling hazards occur (Ex. 2 pp. 131–145). The proposed standard also applies to the construction of underground facilities such as underground storage vaults and chambers, that are not accurately termed tunnels or shafts. The proposed standard is intended to protect all underground construction workers who are exposed to the hazards typical of work in tunnels and shafts, such as poor natural ventilation and light, contaminated and explosive atmospheres, and reduced access to above ground locations. It would thus apply to workers constructing a closed underground tank or pit, or building a manhole that is connected via ducts or conduits to a tunnel or shaft.

Paragraph (a)(2) states that the proposed standard would not apply to excavations or the construction of foundations of above-ground buildings that are not connected to a tunnel or shaft. Electrical transmission and distribution manholes are addressed in Subpart V of Part 1926, and are therefore not covered in this proposal. Tunnels and shafts in mining operations are addressed by regulations of the Mine Safety and Health Administration (30 CFR).

The proposed standard's scope has been the subject of extensive discussion in ACCSH meetings where successive drafts of the standard have been reviewed (Ex. 1:28; pp. 56–205; Ex. 2, pp. 66–185; Ex. 3, pp. 87–103, Ex. 4, pp. 46–124). Some ACCSH members recommended narrowing the scope to include only tunnels and shafts (Ex. 2, pp. 66–104). Other committee members supported expanding the scope to include underground chambers (Ex. 2, pp. 131–145; Ex. 3, pp. 87–90).

In addition, the ACCSH has extensively discussed the appropriateness of including manholes in the proposed standard's scope (Ex. 2, pp. 94–153; Ex. 3, pp. 87–103; Ex. 4, p. 73). Some committee members argued that "manholes are specifically excluded [from the scope of the State of California Tunnel Orders] . . . because they're different kinds of environments" (Ex. 3). Other members believed that the hazards associated with work in manhole construction would be more appropriately addressed by a confined spaces standard (Ex. 2, pp. 103; 143; Ex. 4, p. 73).

Several commenters at the June 26, 1974 public hearing requested that OSHA exclude small tunnels (defined as smaller than 14 feet in diameter), "short" tunnels (length unspecified), and concrete lined utility tunnels from the proposal's scope (Ex. 1:28, pp. 89–206). Other commenters urged OSHA to write separate standards for each type of tunnel, e.g., sewer, water supply, utility, transit (Ex. 1:28, pp. 67–199).

OSHA has determined after careful consideration of the extensive record of transcripts and proposal comments that the proposed standard should apply to all underground facilities that expose employees to the hazards of reduced natural ventilation and light, difficult access and egress, acute exposure, or fire and explosion, except those listed in paragraph (a)(2). Accordingly, the proposal would apply to *all* underground construction, regardless of length, diameter, end use, or phase of construction, in which employees are working and are exposed to such hazards. For example, OSHA intends that an employee required to enter and perform construction work in a 96-inch diameter pipe that has been jacked beneath a highway would be protected by the proposed standard. Similarly, workers building a manhole connected to a sewer system, who might be at risk, for example, of acute hydrogen sulfide or methane exposure, or oxygen deficiency, would also be protected by the promulgation of the proposed standard.

In addition, the proposal would apply to the building of an underground facility within an abandoned mine, such as the office and warehouse complex in St. Louis, because the hazards traditionally associated with tunnels and shafts prevail during the construction of such underground structures. Further, the proposal would apply to cut-and-cover operations which have been "decked" over sufficiently so that natural ventilation and light are reduced significantly, access and egress are restricted, and fire and explosion hazards are increased. In summary, both the increased risk and the commonality of the hazards associated with underground construction, regardless of the purpose of the completed structure or whether it is called a tunnel, shaft or manhole, are the factors determining the scope and application of the proposed standard.

Since other OSHA construction standards in Subpart S (Sections 1926.801, .802, and .803) already contain requirements applicable specifically to caissons, cofferdams, and compressed air work, which are specialized and complex forms of underground construction, these standards are not revised by this proposed revision to § 1926.800.

The proposed standard is somewhat different from the ANSI, Michigan, and California standards in its scope and application. For example, the ANSI and Michigan standards are limited in scope. The 1981 ANSI standard applies only to tunnels, shafts, and caissons (including related compressed air work); the construction of other underground structures, such as storage vaults or warehouses, is not addressed. Similarly, the Michigan State Standard covers only tunnels, shafts, caissons, and cofferdams being constructed, modified, or repaired.

The Tunnel Safety Orders of the State of California apply to "tunnels, shafts, raises, underground chambers, and premises appurtenant thereto during excavation, construction, alteration, repairing, renovating or remodeling" (Ex. 14:4). The scope of the OSHA proposal most closely resembles that of the California standards, because both apply to underground facilities other than tunnels and shafts, and to underground spaces connected to tunnels and shafts. Raises, which are specifically addressed in the scope of the California regulations, are also included in the scope of OSHA's proposal because a raise is simply a shaft that has been driven from the tunnel to the ground above, rather than from the ground downward to the tunnel.

In sum, the coverage of the proposed standard is as comprehensive as that of the California Tunnel Orders, and broader than that of the ANSI and Michigan State standards, because underground operations such as decked-over cut-and-cover operations and raises are included.

OSHA solicits comments on the appropriateness of the scope of this proposed standard. Are there other types of construction that could be a source of confusion if not specifically exempted?

Paragraph (b)—Access and egress. In paragraph (b)(1), the existing tunnel standard's provision (1926.800(a)(2)) concerning safe access to the worksite has been clarified to include the word "egress" as well as "access", in accordance with an ACCSH recommendation (Ex. 1:6, p. 10). In a tunnel, there are a limited number of means of access, and in some cases only one. Therefore, these access-ways must also be used for egress. It is not feasible to require the underground construction employer to provide separate means of egress to be used in the event of an emergency, as is required in public meeting halls and theatres. Therefore, the need to provide and maintain a safe means of access/egress is even more important, as it may be the only way out. One may pick and choose a safe path to a work location when all is calm. However, when a hazardous condition, such as a ground collapse, flooding, a fire or other emergency occurs, then egress becomes a paramount consideration. Therefore, the word "egress" has been included in the requirement. Safe means of access and egress from the site might include wooden steps leading down to a below-ground-level portal entry, a personnel hoist in a completed shaft, or a ladder meeting the requirements of Subpart L in a shaft under construction. An example of an unsafe means of access would be a tunnel bore without a walkway free of slipping and tripping hazards.

As proposed, the requirement would apply both to means of access to the underground worksite itself and to work stations within the tunnel or shaft. Employees must be able to move to and from their work stations without being subject to hazards which may injure them. Safe means of access and egress to a work station in the underground construction site could include a walkway suspended from the ribs of the tunnel and running along the inside of the bore from the portal to the heading, planks laid on the floor of the tunnel between the entrance and the face, or steps leading to a work station on the deck of a drill jumbo. Passageways used by employees to walk to and from their work stations would be required to be maintained free of hazardous obstructions, stored materials, potholes, and protruding material. The rail system for cars transporting employees or material would also have to be properly maintained to prevent employees from being run over, hit, dumped or crushed by uncouplings, derailments, track separations, and other rail system

accidents. Such precautions are essential to employee safety underground because both the space limitations and the working conditions (poor light, excessive wetness, slippery equipment surfaces) typical of tunnel and shaft construction make the hazards of slipping, tripping and falling—that are common to all means of access and egress—even more hazardous. The ANSI, Michigan and California standards all contain provisions addressed to these access and egress hazards (Section 4.3, Rule 408.41462, and Section 8490, respectively).

Whereas OSHA is proposing this general safe means of access provision written in performance language, other regulatory bodies or consensus groups are more specific. In addition to the general safe means of access provision in 4.3, ANSI 4.10 and 4.11 specifically require stairways or ladders where possible. Michigan specifies, in Rule 408.41462, a walkway when rail track is used. OSHA solicits comments on the adequacy of its proposed performance language. Should OSHA include some of the more specific provisions? If so, ones and why?

Provisions to protect employees from being hit by moving haulage equipment would be required by proposed new paragraph (b)(2). There have been several deaths and a number of injuries during the past ten years due to employees being struck by haulage equipment or railcars striking objects. (Ex. 12:11, 21, 32, and 33.) One method of compliance with the proposal could be the use of refuge stations at reasonable intervals along the tunnel (roughly every 200 feet (60.96 m)). Where the narrowness of the bore precludes the use of a plankway suspended from the ribs of the tunnel, or when the nature of the earth being excavated (e.g., solid rock) would make refuge stations prohibitively costly, the employer may implement a work practice to protect employees walking or working in the vicinity of haulage cars. For example, trains could be stopped while employees pass alongside, or the train could remain still until employees have exited the passage. The employer could also require employees to be transported between the entrance and the face (walking would be prohibited).

Proposed paragraph (b)(3) concerns access to underground openings, and would restrict unauthorized access to underground worksites. The proposed language is reworded slightly from the current rule to clarify OSHA's intent in the use of the word "unattended." The proposal would permit employers to choose whether to station an attendant to control access at each entrance or whether to prohibit access by securely barricading, covering, or fencing off the portal or shaft entry. The provision is intended to prevent unauthorized persons from entering the worksite. A similar requirement in both the ANSI (Section 4.7.2) and the Michigan (Rule 408.41462) standards applies only to "abandoned excavation" or to areas in which "work is not being performed," respectively, but OSHA believes that access to active underground worksites may present equally hazardous situations.

For example, without this provision, unauthorized persons might be able to enter a sewer tunnel or shaft during periods when the worksite is deserted, such as the weekend or after the swing shift. Such unauthorized persons might tamper with equipment, start up machinery, damage the facilities, or create additional hazards for the employees coming on duty. In addition, such persons would be exposed to many of the risks of underground construction, including oxygen insufficiency or air contamination, being crushed in a rock or ground cave-in, or being trapped by fire or explosion. If such persons became trapped, they would also expose rescuers to these hazards.

Because accidents such as these are possible, OSHA is proposing that access to all underground areas, whether actively being worked, temporarily closed, or permanently abandoned, be barricaded, bulkheaded, or fenced off, unless an attendant is stationed at entrances to the underground opening. Examples of methods that could be used to barricade an opening include chain link perimeter guarding, a gate at the head of a stairway leading to the portal, rebar and barricade tape, 2×4's and rope, or a snow fence. Additionally, unused chutes, manways, or other openings must be sign-posted to warn unwary persons of the danger of unauthorized entry.

Paragraph (c)—Subsidence areas. The requirement proposed in paragraph (c) is intended to prevent employee injuries caused by slipping, falling, or being trapped by moving earth. Examples of hazardous subsidence areas that are frequently associated with ground excavation are cave-ins around the shaft collar and sumps or holes underground. The existing rule (1926.800(a)(5)) requires employers to fence and post these areas. OSHA is proposing, however, that employers be permitted to choose between alternative means of protecting employees from these hazards. As proposed, employers may either fence off and post a sign at subsidence areas that present employee hazards, or they may control them, as discussed below, to ensure that employees are not trapped or hurt by earth falling onto them. Examples of methods that might be used to fence off an area are chain fence, snow fence, rebars or posts and barricade tape, 2×4's, and fiber or wire rope. Shoring to prevent shifting, or filling with bank run gravel might be used to level the area of soft ground to ensure safety of employees working in such locations.

Paragraph (d)—Check-in/Check-out. In paragraph (d)(1), OSHA is proposing that the check-in and check-out system required by the existing rule (1926.800(a)(6)) be provided at each entrance used for access to the underground worksite, and that an identification system be maintained above ground. Such a system enables the employer to identify how many and which workers are underground. Since it is industry practice to maintain check-in and check-out procedures at the ground level entry to the worksite, and to maintain such a system at all entrances on multi-entry sites, OSHA believes that the addition of the proposed language will clarify the meaning of the requirement but will not impose an additional burden on employers.

The most common types of check-in and check-out systems in use on underground construction sites today involve a check-in board at each entrance. The board may have hooks, labeled with each employee's name, on which markers or tags identifying each employee are hung. The markers may have sides of different colors, e.g., one side may be painted red while the other is unpainted; the employee turns the marker over and places it on the hook when he/she goes underground, and turns it over the other way when coming off shift. Alternatively, the boards may have two hooks for each employee, one on each side of the board. When going underground, the worker takes the marker from one side of the board and places it on the hook on the other side of the board.

Yet another system may be a board with numbered pegs or hooks on which metal identification tags are hung. The employee assigned a particular number would take the tag with him underground and then return the tag to the board upon leaving the underground location. This alternative would also meet the requirement in paragraph (d)(2) since it would also provide a method of personal identification for those who carry the tag. As the Advisory Committee noted during its discussions of this provision, the proposed check-in

and check-out system would not require the assignment of additional employees, because the system as proposed is designed to operate without requiring a person at each entrance to keep a written record.

OSHA invites comments describing other check-in and check-out systems presently in use, and would welcome any information about problems encountered with their use, the costs associated with maintaining these systems, and their effectiveness as aids in monitoring access to underground worksites and the location of employees.

Proposed paragraph (d)(2) would require each employee to carry a positive means of identification, such as a metal disc or tag, at all times when working underground. This proposed new requirement is intended to effect a more efficient rescue process in an emergency, by ensuring that the employer will be able to determine which employees remain underground. This provision is especially important when a disaster occurs because the means of identification assist the rescue team members in knowing which employees have been found. This will minimize the team's exposure to the underground hazards that necessitated their rescue efforts, such as cave-ins or explosions. Rescue teams, whose members are themselves at great risk during rescue attempts, cannot be sure whether all employees have been accounted for or whether rescue efforts should continue unless the men rescued, or the bodies recovered, have been positively identified. The new provisions would allow an efficient on-site identification to facilitate the rescue process and protect rescue workers from the unnecessary risk of looking for "lost" employees. In order for the tag to provide positive employee identification, it must be durable under all circumstances, such as fire or flood.

As proposed, the employers could discontinue the check-in and check-out system once the tunnel or chamber construction had been advanced to the state of readiness for human occupancy, and the necessary environmental controls including permanent flood control, ventilation and illumination are functioning. Permitting discontinuance of the check-in system after permanent environmental controls are in place and operating is in accordance with the recommendations of the Advisory Committee (Ex. 2, pp. 163, 165; Ex. 3, pp. 125–128). When the structural integrity of an underground construction site has been attained, and the permanent environmental controls which provide suitable ventilation, light, access and egress and protection from flooding are operating, construction work inside the completed structure that will not reduce or disrupt those protections may be conducted there without check-in or check-out.

However, check-in/check-out would be required if repairs or alterations were underway that were extensive enough to interfere significantly with the ventilation, lighting, or access in the tunnel being repaired or altered. For example, employees replacing an extensive section of the wall inside a highway tunnel might have to be supplied with forced air to keep their exposure to carbon monoxide (CO) from the fumes of vehicles using the tunnel below the CO limits of § 1926.55. Wherever employees may incur such risks, a check-in/check-out system must be provided.

The ANSI, Michigan, and California standards (Section 4.5.2, paragraph (10) of Rule 408.41462, and paragraph (g) of Section 8410, respectively), all require a check-in and check-out system that provides identification of all employees underground, but they do not specify that the means of identification be carried or worn on the person. MSHA § 75.1715 requires a "check in and check our system which will provide positive identification of every person underground, and will provide an accurate record of the persons in the mine kept on the surface" in a safe place. MSHA requires that the above ground record "shall bear a number identical to an identification check that is securely fastened to the lamp belt worn by the person underground" of at least 16 gauge rust resistant metal. MSHA § 57.11–58, which applies to metal and non-metal mines, is worded differently but is substantively the same, except that the material of the underground worker identification is not specified.

OSHA welcomes comments on the feasibility of the proposed system of positive identification. For example, do tags carried by employees have to be replaced frequently? Are there methods that do not require employees to carry or wear a marker that provide equivalent protection in the event of catastrophe? Are accident data available that further demonstrate the benefits of these measures in relation to employee safety? Should OSHA permit the check-in and check-out system to be discontinued when permanent environmental controls have been installed and are operating? Will the employer always be able to decide when construction has reached this stage, or are more specific criteria necessary?

Paragraph (e)—Safety program. The requirements proposed in paragraph (e)(1) stipulate that an outline of the safety program already required on all construction sites by § 1926.20(b) be available on every underground construction jobsite, and paragraph (e)(3) requires that a copy be given to and discussed with each employee. The current § 1926.800 does not have a specific requirement for such a program. However, § 1926.20(b) is a general requirement that has always applied to underground construction as well as to all other construction activities. Since underground construction is such a hazardous industry, OSHA believes that there are certain specific elements which must be included in that industry's safety program. Therefore, OSHA is proposing that the outline address, at a minimum, the topics specified in paragraph (e)(2), including air monitoring, ventilaition, lighting, communications, flood control, mechanical equipment, personal protective equipment, explosives and emergency procedures. These topics are specifically listed because OSHA feels that they will address most problems arising from the principal hazards of underground construction, such as floods, fires, explosions, rock slides, and cave-ins. The outline may be expanded to include the project's safety rules, the company's safety policies, or any other safety-related information the employer deems important for worksite safety.

In addition to the outline of the accident prevention program required by paragraph (e)(1), above, employers will be required by proposed paragraph (e)(4) to develop evacuation plans and instruct employees as to these plans and procedures. Paragraph (e)(4) specifies that the evacuation plans and associated training are in addition to the training required by the general provisions in § 1926.21(b), which apply to all construction. The current provisions of § 1926.800(b)(1) also require evacuation plans to be developed, but they state only that the plans shall be "made known to the employees." OSHA has clarified this wording in the proposal by using the phrase "and shall instruct employees as to these plans and procedures." One method of such employee instruction could be the use of "tool box sessions." It is already common practice in the underground construction industry to conduct weekly "tool box" safety meetings to present accident prevention training, and to issue the project's safety rules to all new employees.

The importance of having evacuation plans to cover the various emergencies that can occur underground, and of instructing the employees frequently and as underground conditions change, cannot be overemphasized. In proposing a performance-oriented standard, OSHA has not specified the procedures or directions to be followed in the evacuation plan, because these will necessarily vary with each project and with different phases of the same project. For example, emergency plans for employees trapped at the face of a single-access tunnel might include instructions for establishing and maintaining communications with above-ground personnel, donning self-rescuers, turning any equipment in the area off, and turning on the emergency lighting system. In tunnels with two or more means of egress, emergency procedures would include familiarizing employees with alternate means of escape, as well as with the location and use of rescue and emergency equipment.

The ANSI standard (Section 4.1) requires accident prevention programs but does not specifically mention evacuation procedures. ANSI does require an initial orientation and weekly training. Both the Michigan and the California standards specifically address emergency and evacuation plans, but do not specify how often this training must occur (Rule 408.41463 and Section 8426, respectively). Michigan requires an accident prevention program, but does not specify training intervals, while California requires an accident prevention program (Article 3) and weekly "tool box" meetings.

Paragraph (f)—Notification. Proposed paragraph (f) would require that employees coming on shift be notified of any safety-related incidents that occurred during the previous shift. The proposal does not set forth a specific means of communicating this information. Employers could meet this requirement by ensuring that the shifter (heading crew foremen) provides the necessary information to the oncoming shift foreman, either verbally or via a shift log, blackboard, or other written record of hazardous occurrences. The proposed requirement is not included in OSHA's existing tunneling regulation, and the ANSI, MSHA, Michigan, and California standards do not specifically address the problem of conveying safety information from one shift to another.

OSHA believes, however, that requiring hazardous developments to be communicated to the next shift will alert oncoming employees of the need to monitor events closely and to prepare for corrective action. Examples of developments that would bear close watching on subsequent shifts include the liberation of small amounts of methane or hydrogen sulfide during excavation, or a minor rock slide in the area which might indicate that significant ground movement had occurred. The Agency would welcome information on accidents that might have been prevented had employees on the oncoming shift been notified of pre-existing hazardous conditions.

OSHA also solicits any information about the types of prior-shift occurrences that should be discussed with oncoming employees. As proposed, the provision would not require additional recordkeeping. Should OSHA require that a record of the information conveyed be kept, or is verbal notification sufficient?

Paragraph (g)—Communications. (1) *General underground.* Proposed paragraph (g)(1)(i) would ensure that effective voice communication, either power-assisted or unassisted, be maintained between the surface and the working face, and additionally between these stations and the hoisting station (if any) and the bottom of the shaft (if any). This would allow employees to summon help or advise those above ground of conditions underground. As written, the proposal would permit natural voice communication to be used in situations where the unassisted voice can be readily understood above workplace noise. Due to the nature of underground operations, even in short tunnels and shallow shafts, tunneling equipment such as pneumatic spades may produce so much noise that speech cannot be clearly heard. The corresponding requirement in OSHA's existing standard (1926.800(b)(4)) states that "Telephone or other signal communication shall be provided between the work face and the tunnel portal. . . ." In keeping with OSHA's performance language philosophy, the proposal permits a more flexible but equally protective alternative for assuring effective communication at some low-noise sites. Because of the unique nature of hazards associated with hoisting operations, OSHA proposes additionally to require effective communication between the surface and both the hoist station and the bottom of the shaft. Although at the initiation of a shaft-sinking operation the working face may be the bottom of the shaft itself, the face is further and further removed from the hoist station and the surface entrance to the shaft (called the shaft collar) as the work progresses.

The ANSI standard (Section 6.5) requires a telephone or other signal system between the surface and the underground that must be independent of the tunnel's power supply. Rule 1464 of the Michigan standard requires a communication system (type unspecified) in a tunnel more than 225 feet long between the same work stations specified in OSHA's proposed requirement. In addition, the Michigan rule stipulates that units of the communication system must be located at the office, if there is one onsite, and at every 1000 feet of tunnel. The California standard (Section 8428) requires a telephone at intervals not exceeding 2000 feet in all tunnels that will be more than 2000 feet long.

OSHA is proposing this provision in performance-oriented language to assure effective communication. For example, tunnels less than 1000 feet long may still require a power-assisted system to provide effective communication. OSHA solicits data and recommendations as to the desirability of using the proposed performance standard as opposed to a specific provision designating intervals for the spacing of the components.

Proposed paragraph(g)(1)(ii) states that all shafts being developed or actively used must be equipped with a minimum of two effective means of communication. Shafts used exclusively for ventilation or those not used for personnel access or hoisting would be exempt from this requirement. This is a new provision, proposed because OSHA believes that in shaft operations where heavy material, such as loaded muck buckets, shoring, or reinforcing materials are being hoisted, immediate clear communication must be possible at all times. Since power failure or a breakdown of the hoisting equipment might disrupt one of the communication systems, a second means of communication would provide an adequate margin of safety. Both hoist loads and cages could sever communication lines accidentally and the second system would be essential. California standard 8498.(b) requires a secondary signal system and MSHA § 57.19-90 requires at least two effective approved methods of communication, one of which shall be a telephone or speaking tube. The ANSI, and Michigan standards do not specifically address two communication systems in shafts.

Paragraph(g)(1)(iii) contains a cross-reference to the proposed communication requirement for hoist operations found in paragraph(t)(4) of this proposal.

The hazards associated with wiring the underground communications system either on the line supplying power to the worksite or by a method that may allow disruption of service, are addressed in proposed paragraph (g)(1)(iv). The requirement would prohibit the use of any wiring method in which the destruction of one phone or an open circuit could render the entire system inoperative. In addition, the communication system would be required to have an independent power source, so that power shutdown caused by an outage of the tunnel's main power supply from any cause, for example, would not disrupt communication. The ANSI, Michigan, and California standards all prohibit the use of the tunnel's power supply to power the communication system (Section 6.5, Rule 408.4164.(2), and Section 8428.(b), respectively. Only the California standard (Section 8428.(b)) has a requirement which states that the installation method not allow the disruption of service, which is substantively similar to OSHA's proposal.

Proposed paragraph (g)(1)(v) is a new requirement that requires employers to test communication systems upon initial entry of each shift to the underground and as often as necessary qt later times to ensure their operation. In many cases it is unlikely that it will impose any additional duty on employers because communication systems are continually in use and could thus be considered to be undergoing "testing" constantly. In those instances when the off-going shift is using the system as the shift reporting for work enters the area, testing may be considered as being accomplished. However, when a system has not been used for a while, the system must be tested. Whenever there is any indication that the system may have been damaged it must be retested. For example, retesting would be necessary if a load has contacted the sides of a shaft where the wiring for the communication system is installed, or if a rock has fallen on or in the area near the wiring. Neither the ANSI nor the Michigan standard specifies testing or testing frequency, but the California standard requires that telephones be tested once per shift (Section 8428.(a)).

Notwithstanding the general provisions for communication systems, in paragraph (g)(1)(vi), OSHA is proposing that employees who work alone and are beyond natural voice range of another employee be provided with an effective means of obtaining emergency aid. The means provided might be a pull signal-line, a voice-powered bullhorn, a gas-operated horn, or a beeper. This is a new provision, designed to protect employees working in isolation who may be trapped or disabled and unable to summon aid. The State standards and the consensus standard do not specifically address this hazard; however, MSHA § 57.18–25 does (Ex. 14:3). This MSHA provision is worded differently, but requires the employer to provide a method for an employee working alone in a hazardous area to have his cries for help heard, or to ensure that he can be seen. OSHA's intent in proposing performance criteria is to allow the employer the freedom to use any communication method to assure that isolated employees have an effective means of obtaining assistance.

(2) *Communications and coordination among employers.* This new proposed provision requires that the underground construction employer establish direct communications with all other employers whose operation affect or may affect the safety of the employees underground. The provision is intended to ensure that the employer of employees in underground locations can coordinate his or her work with employers of either contractors related to his worksite, or to any other employers whose operations affect or may affect the safety of the employees in an underground location. The Port Huron disaster (See II, Hazards Section) might have been averted by observance of this proposed procedure. In that case, 21 employees of one employer were killed during an explosion while lining a water tunnel about the time another employer drilled into the lake end of the same tunnel.

OSHA is particularly interested in receiving information describing other such multi-employer incidents that have occurred in underground. Should OSHA require that a written record of inter-employer communications be maintained or that employers whose work activities might have an impact on the safety of the employees of another employer have pre-job conferences? Comments on these and related issues would help OSHA in developing the appropriate language to address the problem of inter-employer communication in the final rule.

Paragraph (h)—Reserved. This paragraph is reserved. First aid and medical services for underground construction are contained in § 1926.50, which mandates prearrangements for medical consultation, medical attention i case of serious injury, the availability of a person trained in first aid, first aid supplies, means of obtaining emergency aid, and transportation of injured employees to medical care facilities. No additional first aid or medical care provisions are being proposed for § 1926.800. However, OSHA invites comments on all aspects of medical care and first aid for underground construction sites. If there are sufficient comments to support additional rules, those rules may be placed in this paragraph.

For example, does the relative inaccessibility of many of these sites increase the need to have a first aid room available to employees on-site? If such rooms are not necessary on all sites, are there certain types of underground construction work that should have these facilities immediately available? Should a person trained as an Emergency Medical Technician, rather than a first aid trained person, be available on underground sites? Are specific types of supplies or equipment needed on underground operations of certain kinds, such as single-access tunnels? Should distance to above ground facilities be a factor in determining what kind of on-site supplies are available or what level of medical training an on-site attendant should possess?

First aid requirements are specified in the ANSI (Section 6.1), Michigan (Rule 325.50205), and California (Article 7, Sections 8420 and 8421) standards for underground construction. Each of these standards addresses first aid supplies, their selection by a consulting physician, and the availability of stretchers, emergency transportation, and first aid or medical service on site. The ANSI (Section 6.1.3) and California (Section 8420.(c)(4)) standards also contain provisions dealing with the first aid training of supervisors and on-site first aid stations.

A recommendation was made by a working group of the ACCSH and approved in 1980 by the full committee, asking OSHA to include a requirement for a change house in this proposal (Ex. 5, pp. 52, 122 and 123). OSHA is unable, at this time, to demonstrate that such a requirement would increase the protection otherwise afforded by the proposal. Comments are solicited on the need for change rooms and the benefits that such a requirement would provide.

It should be noted that OSHA's current § 1926.1(f) does require washing facilities for any construction employees who are exposed to contaminants which may be harmful. It requires that "The employer shall provide adequate washing facilities for employees engaged in the application of paints, coating, herbicides, or insecticides, or in other operations where contaminants

may be harmful to the employees. Such facilities shall be in near proximity to the worksite and shall be so equipped as to enable employees to remove such substances." OSHA believes that this rule will provide adequate protection to employees at risk in underground construction, and therefore is proposing no further requirements at this time. However, OSHA solicits comment on this issue. If the existing rule is insufficient, what relevant hazards does it not cover and what should be required for the protection of employees; health and safety?

Paragraph (i)—Emergency provisions. (1) *Hoisting capability.* This proposed provision would require that employers arrange for an emergency hoisting capability to be onsite or close at hand on sites where hoisting would expedite emergency procedures.

Underground construction that is entered via a shaft would always require such hoisting capability. Most shafts are vertical, but some, such as escalator shafts (30° angle), may be inclined, and these have similar access problems to vertical shafts. However, if the configuration of the site is such that hoisting facilities would not be of any use in emergency situations, no emergency hoisting arrangements would be required. For example, a tunnel with portal entry with free walking or vehicular access and no shafts would have no need for hoisting arrangements.

The proposal would require employers to arrange for an emergency means or a secondary means of hoisting employees and material from the shaft in an emergency which might cause the primary hoist system to shut down. The emergency hoisting facility could be at the shaft or on call from a source that could provide the hoisting service on a timely basis. The proposal is similar to paragraph (b)(2) of the existing standard, except that it does not limit its coverage to shafts more than 50 feet in depth. The proposal extends the requirement's application to all shafts regardless of depth, where hoists of some kind would be needed for emergencies, such as the evacuation of injured employees or to lower emergency equipment into the underground. In addition, the proposed provision would require employers to pre-arrange for emergency hoisting facilites even at shafts where the primary hoist is powered independently of the shaft's electrical supply system, because either the hoist's power supply or the shaft's power supply could be knocked out by a fire or explosion.

Examples of equipment which meet the requirement for alternative hoisting capability are an air tugger with power-up and power-down and automatic braking capability, or a tow truck or crane so equipped for personnel hoisting. Both the ANSI standard (Section 8.2) and the Michigan standard (Rule 408.41463) contain provisions addressing the same hazard, but they are not as comprehensive as the proposed requirement.

OSHA solicits information on the impact of expanding the emergency hoisting provisions as proposed.

Paragraph (i)(2)—Self-rescuers. In paragraph (i)(2), OSHA is proposing that every employee underground who might be trapped by smoke or gas be provided with, and trained in the use of, a currently approved self-rescuer. The provision is similar to paragraph (b)(3) of the existing standard, but does not mention specific work areas where self-rescuers must be available. In addition, a reference to the selection and maintenance requirements of § 1926.103 has been added to emphasize that it is incumbent upon the employer to select the appropriate respiratory protective apparatus, as specified in that section. Approvals of self-rescuers to be used for escape are now issued jointly from the National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA) instead of the Bureau of Mines. As proposed, the respirators would be required to have current NIOSH and MSHA approval; use of the term *current* ensures that the approval date on the equipment has not expired. The protection afforded to underground construction workers by the proposed rule would keep pace with improvements in respirator technology and current industry practice.

The types of self-rescuers approved and available at the time of this proposal are the 80-minute carbon monoxide (CO) filter self-rescuer, and 60-minute self-contained self-rescuer units that provide oxygen. Self-contained self-rescuers are independent of the ambient air and therefore can provide protection against most respirable contaminants, including carbon monoxide, encountered for the 60-minute design use. These units are also effective in oxygen-deficient atmospheres. The 60-minute filter self-rescuers filter the air and convert CO to CO_2, but they do not offer protection against oxygen deficiency or other air contaminants. The filter self-rescuers are effective for 60 minutes in concentrations of CO up to 2 percent. However, filter self-rescuers present certain problems which must be taken into account by the employer in selecting an appropriate type of self-rescuer. These units work by catalytic oxidation which heats the air breathed by the user. At the 2 percent concentration, the breathing temperature is approximately 200° F, which can cause severe pain, and the wearer may be tempted to remove the self-rescuer for a few moments of relief. If he or she does so, death may be almost instantaneous (Ex. 14:7, p. 54241).

The ANSI standard contains a provision (Section 6.6.4) that is nearly identical to § 1926.800(b)(3) in the existing OSHA tunnels and shafts standard. The corresponding provision of the Michigan standard (Rule 408.41463(3)) requires the employer to provide a five minute self-contained breathing apparatus for self-rescue purposes. The California Standard (Article 10, Section 8430(e)) is nearly identical to paragraph (b)(3) of the existing OSHA rule, except that the California regulation also specifies that employees in gassy or extra-hazardous atmospheres be provided with Bureau of Mine (now MSHA-NIOSH) approved self-rescuers. OSHA believes that the proposal would effectively cover these situations.

The MSHA requirements for metal and non-metal mines are substantively the same as OSHA's proposal. However, MSHA regulations are more stringent for coal mines, requiring self-contained self-rescuers—with filter self-rescuers allowed only as a special exception (Ex. 14:7; pp. 54241–54247).

OSHA solicits information on current industry practive in regard to self-rescuers. For example, in what underground construction emergencies might the 60-minute carbon monoxide filter self-rescuers not afford adequate time for escape? In what circumstances should the self-contained self-rescuers be required instead? What other factors, such as use of hydraulic fluids or combustibles, phases of tunnel construction, number of access shafts, or ground conditions, should be considered when choosing a suitable respirator? What are the cost associated with purchasing and maintaining the bottled oxygen or chemical type self-contained units? What type of training is required to ensure that employees know how to operate the self-contained respirator? OSHA is also interested in any information about the effectiveness of self-rescuers where employees have been involved in underground emergencies, and whether data exists regarding the use of any type of self-rescuer in facilitating rescues.

Proposed paragraph (i)(3) *Designated person* is new, and would require that a person remain on duty above ground while any employee is working below

ground. Since an underground disaster such as a fire, explosion, or cave-in might simultaneously trap all employees working underground, the need for a responsible person to remain above ground at all times cannot be overstated. Such a person would be assigned the primary responsiblity of obtaining aid in an emergency, but his/her duties might also include any other tasks that would not interfere with getting emergency help. This would mean that the designated person would have to remain close enough to the above ground signal station to give timely response to signals from underground employees. The California standard (Section 8410.(d)) requires an "outside man" for all tunnels more than 300 feet long. The Michigan standard (Rule 408.41463.(7)) requires an above ground man regardless of the length of the tunnel. ANSI(4.5.4) and MSHA(57.18.25) simply require that no employee work underground unless he has some way of summoning help. OSHA agrees that all underground workers must have a method of summoning help and is proposing to require the above ground "designated person" as this appears to be the most effective way to ensure that someone will be capable of securing aid for the underground worker in an emergency.

To ensue that employees would have sufficient light in an emergency to see to escape, the proposed new paragraph(i)(4) *Emergency lighting* specifies that every employee be provided with an MSHA-approved (for a 4% methane atmosphere) portable lantern or miner's cap light. An approved flash light, cap light, or hand light would meet the requirement. Such additional employee measures are not necessary if the worksite is naturally illuminated or equipped with an emergency lighting system. Since both ordinary and extraordinary occurrences, ranging from blasting to rock falls and explosions, may interfere with the operability of the tunnel's primary lighting system, employees must have a supplemental means or back-up system of lighting to facilitate escape.

The corresponding requirement in the California rule (Article 6, Section 8415.(b)) is almost identical in wording to the proposed provision. Michigan Rule 1466(4) requires a back-up lighting system that can be activated upon failure of the regular system. Both states will allow approved flashlights or lanterns for evacuation of employees. ANSI Section 10.2 (Illumination) has several provisions that relate to emergency lighting. ANSI 10.2.3 requires emergency lighting in all areas; ANSI; 10.2.6 requires emergency lighting for employees in haulageways that are illuminated only by haulage equipment; and ANSI 10.2.2 allows approved cap lamps to be used in lieu of fixed lighting. Michigan and ANSI are therefore very similar to OSHA's proposed provision. MSHA (57.17.10)b does not specify emergency lighting, per se, but does require individual lamps to be carried by each employee. Due to the nature of mining, an emergency lighting system is not always feasible, while individual lamps permit employee movement with accompanying illumination. Such lamps are also easy to handle during emergency situations.

OSHA's performance-oriented approach allows the employer flexibility in complying with standard. Consequently, OSHA is proposing to allow natural light, an emergency lighting system, or individual lamps or lanterns to be used for emergency lighting. OSHA welcomes comment on the appropriateness of such latitude for an emergency lighting provision. Are there circumstances in which an emergency lighting system can be rendered either ineffective or inoperable during emergencies that occur underground? Should OSHA, like MSHA, require individual lamps for each employee? Would such a system be feasible for underground construction work?

Paragraph (i)(5)—Rescue crews. The existing OSHA tunnels and shafts standard requires, at paragraph (e)(l)(xii), that employers of operations involving more than 25 workers annually train a minimum of 10 of their own employees as rescue crew members, and that smaller operations must train 5 crew members. In paragraph(i)(5), OSHA is proposing to require the availability of two five-person rescue teams, one on the job or within one-half hour of the tunnel or shaft access point, and a back-up team, within two hours travel time, to rescue employees working underground. The employer may choose to train, qualify and equip members of his own workforce to a level that is suitable for the environmental conditions and hazards that may be encountered at that site. If an employer chooses not to provide his own rescue team, he may make pre-arrangements to have the services of a team that meets such standards of paragraph(i)(5) available through the local fire department, rescue service or a private organization. OSHA's intent is to provide for effective rescue crews for underground construction workers and at the same time allow an employer alternatives to accomplish that performance criteria. Such an allowance for flexibility may be more cost-effective, especially for small jobs. This allowance is also made by Michigan and MSHA.

There has been considerable discussion by the Construction Safety and Health Advisory Committee of the rescue crew provision as it has appeared in various drafts of the standard under consideration by the Advisory Committee (Ex.1:28, pp. 24, 80-82, 196; Ex. 2, pp. 94-98; Ex. 3,pp. 93-174). For example, commenters have requested clarification of the minimum training required and of the size of the crew specified (Ex. 1:28, pp. 23-196).

In addition, a Commettee member recommended that the crew be available "within 30 minutes," as the California rules require (Ex. e, pp. 160-176). Discussion with MSHA staff indicates that they consider a 30-minute response time to be in compliance with their requirements (30 CFR 49.2(a)(l), 49.2(g)) that the rescue team be capable of presenting itself within a reasonable period of time. OSHA concurs that a maximum time of 30 minutes from the entry point will be sufficient for the primary rescue crew to respond to emergencies such as ground collapse, fires or explosions.

OSHA is also proposing to require the availability of a back-up crew within 2 hours ground travel time of the site. A back-up team ensures that suitable help will be available during the critical phases of emergency rescue efforts. The purpose of this crew would be to provide additional assistance to the primary crew, if needed, and to provide relief for the primary crew if the rescue develops into a lengthy effort. OSHA feels that this back-up availability is important as a margin of safety, but does not feel this crew has to be onsite. Both California 8430(b) and OSHA .800(e)(xii) currently require two five-person rescue crews if total employment is 25 or more. OSHA believes that the proposal, by requiring the second crew to be within 2 hours ground travel time, will provide comparable rescue capability in a more cost-effective manner.

An employer may choose to use an MSHA-trained team, in which case the initial and refresher training, equipment, and qualifying tests are all specified by MSHA (30 CFR 49.8, (a), (b), (c), (d), and (g)). Such a team will certainly meet the intent of OSHA's proposed rule, but the level of training required by MSHA may exceed the needs of a particular worksite. OSHA's intention is for the employer to assure the availability of rescue teams that are trained to deal

with the hazards of the particular worksite. For example, hazards encountered in a small liner plate tunnel, a pipe jacking operation under a highway, or an installed pipeline extension, may differ substantially from those encountered in a major tunnel job. For sites where the degree of hazard does not support the need for an MSHA-trained rescue team, the rescue team may be trained less extensively, provided that the training accords with the environmental conditions and hazards that may be encountered at that particular site. In addition to this annual training, the team must practice the use of self-contained breathing apparatus for at least 30 minutes every month.

The Agency solicits information about the availability of rescue services, and about the costs to employers of training their own employees as compared to obtaining these services from other sources. What accident data are available to show the effectiveness of rescue services from outside sources? What information is available to show that employees involved in underground construction have survived or have been less seriously injured because these services were available? In what situations are employers already making advance arrangements to obtain the rescue services of appropriately trained local fire and police departments? How effective have such local services been?

Paragraph (j)—Air quality and monitoring. As the accident narratives included in the Hazards section of the Preamble confirm, contaminated air is a hazard that often results in serious injury or death. OSHA is proposing this revised paragraph in order to reduce that hazard potential. OSHA is proposing to divide the current paragraph (c) *Air quality and ventilation* into two separate paragraphs, (j) *Air quality and monitoring*, and (k) *Ventilation*. Proposed paragraph (j)(1) *General* would apply to all underground construction, paragraph (j)(2) would cover *Additional monitoring for gassy operations*. This organization is designed to facilitate the comprehension and use of the provisions.

Air quality requirements for construction, including all underground construction, appear in Section 1926.55 of the construction standards; a cross-reference to these requirements is provided in proposed paragraph (j)(1)(i) to stress to employers and employees § 1926.55's applicability to tunnels, shafts, and other underground construction. OSHA is deleting the redundant reference to the 1970 edition of the "Threshold Limit Values of Airborne Contaminants" contained in the current .800(c)(iv), since 1926.55 already contains that reference.

In addition to cross-referencing 1926.55, proposed paragraph (j)(1)(i) also specifies certain extraordinary work situations in which employees may work in contaminated atmospheres which exceed the permissible exposure limit (PEL) specified in § 1926.55, as long as approved respiratory protection is worn. OSHA recognizes that there are temporary work situations when feasible engineering controls, such as mechanical ventilation, cannot be implemented to provide the required air quality. During the period of this temporary work and other circumstances listed in (j)(1)(i), employee's must wear respirators which are approved by MSHA-NIOSH for the contaminant in question and the duration of exposure, and which effectively reduce the employees, exposure to the contaminant within the limit established in § 1926.55. For example, selected employees might be required to remain in the tunnel to take corrective action if an isolated pocket of flammable or toxic gas has been liberated. If exposed to levels in excess of the PEL, such employees would be required to wear respiratory protection while initially installing the tunnel's fan lines and vents. Respirators might also be required to be worn during a rescue attempt and while workers are performing short-term tasks, such as abrasive blasting or welding, which may produce significant quantities of hazardous dusts or fumes in the employee's immediate work area that exceed the capacity of feasible engineering controls.

Paragraph (j)(1)(ii)(A) proposes a new provision requiring a "competent person," as defined in 1926.32(f), to monitor the air.[2] The existing air quality provisions do not specify who must conduct tests of the air. OSHA is requiring that a competent person make such tests in order to ensure that the air quality tests are conducted and interpreted properly. The competent person must be capable of identifying existing and predictable hazards at the worksite, and must have the authority to take prompt corrective measures to eliminate hazards. OSHA believes that this authority is especially important when dealing with hazardous atmospheres in underground construction as it permits the competent person to make prompt decisions regarding shut-down of operations and evacuation of employees from an area, and to have those decisions carried out.

In order to help the competent person determine whether certain air contaminants may be present, and how often air quality tests should be conducted, OSHA has proposed a list of factor in paragraph (j)(1)(ii)(B) that, at a minimum, must be considered when making such decisions. These factors include an in-depth analysis of the worksite geology, history, and working conditions which may be encountered. Further, in addition to the testing determined to be necessary by the competent person, the proposal specifies certain types and frequencies of testing for particular air contaminants, based upon their likelihood of being found in underground operations and the hazards that they present to employees.

The minimum level of oxygen that must be available in the atmosphere is addressed in proposed paragraph (j)(1)(iii); the provision requires that the air at an underground worksite contain at least 19.5 percent oxygen at all times when employees are working below ground. The requirement revises the existing standard found at paragraph (c)(1)(vi), which requires an oxygen level of 20.0 percent. OSHA is proposing the lower limit because this level is the minimum established by ANSI Z88.2–1980; is the same level as the Mine Safety and Health Administration's rules of Metal and Non-Metallic Mines (Title 30, Chapter 1, Part 57.5–15); and is consistent with other OSHA regulations—§ 1910.94(d)(9)(vi), and (11)(iii). Section 1918a.23(d)(3) of OSHA's current proposal of Marine Terminals (46 FR 4182) also sets 19.5 percent oxygen as the minimum level.

The Michigan and ANSI standards (Rule 211 and Section 5.2, respectively) also require a minimum oxygen level of 19.5 percent; the California standard specifies (Section 8437(d)) a minimum of 20.0 percent oxygen.

Proposed paragraph (j)(1)(iii) also limits the oxygen level to that which is normally present at that locality, approximately 21 percent. This is a new provision that serves to reduce the likelihood of ignitions and explosions due to oxygen-enriched atmospheres. Since oxygen-enriched atmospheres significantly increase the rate of combustion and decrease the amount of energy required to ignite a flammable substance, such an upper limit is necessary. The most likely source for an oxygen-enriched atmosphere during underground construction work would be a leak from an oxygen cylinder used

[2] A competent person is defined as one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them.

on an oxy-fuel gas rig. None of the state regulatory bodies or consensus standards have such a provision. However, oxygen-enriched atmospheres are generally recognized as hazardous and the National Fire Protection Handbook has a separate section on the subject. OSHA solicits information about accidents related to oxygen-enriched atmospheres in underground construction and on the appropriateness of the limit.

Proposed paragraph (j)(1)(iv)(A) requires that tests for oxygen concentration be made before the tests for atmospheric contaminants specified in this air quality section of the proposal are conducted. Specifying the sequence of testing is a new requirement, and has been included to ensure that the instruments used for testing contaminants operate properly. For example, instruments used to test for carbon monoxide, and certain test instruments used to measure the lower explosive limits of a flammable gas such as methane, may not function accurately in an oxygen-deficient atmosphere. The ANSI A10.16, Michigan, and California standards do not specify the sequence of environmental testing.

In paragraphs (j)(1)(iv) (A) and (B) OSHA is proposing that a competent person test the atmosphere in underground operations as often as necessary to ensure that the oxygen levels specified above are met, and that the air quality limits of Section 1926.55 and the applicable flammable atmospheric limits of this section are not exceeded. The air must be specifically and quantitatively tested for oxygen, carbon monoxide, nitrogen dioxide, hydrogen sulfide, methane, and any other toxic or flammable gases, dusts, vapors, mist, or fumes. While Hydrogen Sulfide (H_2S) is a flammable gas at one level, it is highly toxic at a much lower level, and measurement devices other than an explosimeter that are designed to measure for levels in the toxic range are necessary to measure that level. The same is true of certain petroleum vapors, such as hexane, pentane, and cyclohexane (Ex. 2, pp. 60–62). Thus, if monitoring for PEL's is done appropriately, and ventilation is provided to ensure air quality below the assigned PEL's for petroleum vapors and other flammable gases, flammable levels should not be reached.

Except for the specific air monitoring frequencies that appear in later provisions, OSHA is placing the responsibility upon the employer, through the competent person, to determine how often to conduct such tests. The competent person must consider the list of factors contained in paragraph (j)(1)(ii) in making such decisions. For example, if no diesel equipment is being used in a tunnel, there will be less of a need for frequent nitrogen dioxide testing. Similarly, when drilling through hard granite rock, methane is less likely to be liberated, and frequent testing for methane would therefore not be necessary. Further, if petroleum has never been found in a particular geographic region, employers would not normally be expected to test continually for petroleum vapors. However, the presence of nearby petrochemical plants, or tank farms, might provide an indication to the employer that testing is, in fact, necessary. If initial testing reveals the presence of any of the elements for which the proposal sets forth specific testing and other procedural requirements, an employer would have to comply with those provisions. For example, the competent person would determine if there is any potential for H_2S and would test to make a determination. If the presence of H_2S was confirmed, then more frequent testing would be required as specified in paragraph (j)(1)(vi).

The air monitoring requirements proposed in paragraph (j)(1)(iv) carry forward the intent of current § 1926.800(c)(1). They would provide for performance of air quality testing as often as necessary to assure that safe levels are maintained. Several specific air contaminants and unsafe atmospheric conditions which are frequently encountered in underground operations are singled out for consideration, including oxygen deficiency, hydrogen sulfide, carbon monoxide, and methane. In addition, to assure that monitoring for toxic and flammable atmospheres is performed accurately, the proposal would require that oxygen testing be performed first. This is because a low oxygen atmosphere can cause inaccurate readings of levels of air contaminants. The requirements of this paragraph are intended to clarify the existing air quality provisions in § 1926.800, and do not impose new requirements.

The ANSI standard (Section 5.4) recommends periodic testing, but does not specify which "explosive, flammable, and toxic gases, mists, vapors, dusts, and fumes" are to be monitored. ANSI gives no definition of "periodic testing." The Michigan standard (Rule R325.50211) specifies the contaminants, but not the frequency of testing. The California regulations (Section 8424.(a) and (f)) require a "certified person" (one certified by the State) to test for dangerous or explosive gas before every shift and at 4-hour intervals in potentially gassy sites, but do specify test intervals.

Proposed paragraph (j)(1)(iv)(B), as noted above, is a requirement to perform tests for methane, petroleum vapors and other flammable gases. Such monitoring is necessary to determine if the concentration of these gases indicates that actions required by paragraphs (j)(1) (viii), (ix) and (x) are necessary and whether an operation should be identified as gassy according to the specifications of paragraph (j)(1)(xii).

The proposed new requirement of (j)(l)(iv)(C) has been included here to ensure that exhaust contaminants from combustion engines will not enter the ventilation system. Such contaminants could endanger the lives of employees by exposing them to potentially toxic levels of fumes. This requirement is written in performance language which will allow the employer to arrange the gasoline or diesel engine-driven ventilation system intake so that the air being blown or compressed is free of those contaminants. This rule is in the Michigan tunnel requirements (see Michigan Rule 325.50213(5)).

Proposed paragraph (j)(l)(iv)(D) contains the requirement to test the air to ensure that the ventilation requirements of paragraph (k) of this section are met. This is a clarification of OSHA's current § 1926.800(c)(l)(i) that requires tests "as frequently as necessary to assure that the required quality and quantity of air is maintained."

Proposed paragraph (j)(l)(v) is a new requirement reflecting the increasing use of tunnel boring machines (TBMs) in underground construction and the hazards they create. TBMs are mechanical excavating machines which are designed to cut through soil or rock and are built to the specifications of each site and task. These machines would be required to be fitted with a continuously operating flammable gas monitor to provide a timely warning that the gas is being released, and to reduce the potential for fire or explosions. The requirement stipulates that the gas monitor's sensor be located as close to the face as possible in order to detect gas being liberated by the excavation. The entire monitoring unit, or the sensor of a unit connected by tubing to the monitor, would have to be located near the top and as close to the front of the TBM's cutterhead as practicable to meet this requirement. This provision imposes the duty to have the monitor, and directs where to place the sensor. Subsequent provisions of paragraph (j) specify the necessary safety actions indicated by

the monitoring results. The Michigan standard (Rule 325.50213(a)) has a similar requirement for the location of the sensor.

The new proposed paragraph (j)(l)(vi) establishes test procedures and schedule minimums for hydrogen sulfide (H_2S) (one of the more prominent toxic gases occurring in man-made underground workplaces) once the presence of H_2S is confirmed. The proposal requires tests to be taken at the beginning and mid-point of each shift. Once an amount in excess of 5 ppm is detected, a continous H_2S monitor shall be installed with the sensor located as close to the face as possible. This sensor must provide both a visual and audible alarm when 10 ppm is reached.

While H_2S is flammable as well as toxic, it is toxic at concentrations much lower than that which would indicate a flammability problem (10 percent of the LEL). Thus, an employee performing monitoring only for the LEL can be overcome by low H_2S levels long before those low levels register on the explosimeter. Further, at several parts per million, one begins to lose the ability to smell H_2S and, therefore, is not even able to recognize its continued presence. While H_2S is not as prominent as methane, its deadly effect at very low levels warrants establishing minimum test frequencies and procedures whenever its presence is indicated.

These proposed H_2S test provisions are modeled after the Michigan regulations (R325.50213(2)) that were mentioned by the ACCSH for consideration (Ex. 5, p. 49) by OSHA. Whereas Michigan requires continuous monitoring at 10 ppm and the alarms at 20 ppm, OSHA decreased these amounts to 5 ppm and 10 ppm, respectively, to be consistent with OSHA's current H_2S PEL of 10 ppm. The concept of increasing the monitoring at a level lower than the upper limit, in order to ensure that employees are automatically warned if the upper limit is ever reached, is important with such a toxic gas.

OSHA's current rules provide a PEL of 10 ppm for H_2S, but do not list a ceiling value (maximum limit) for this substance, although Michigan rules do. The 1982 American Conference of Governmental Industrial Hygienists (ACGIH) maintains the Threshold Limit Value (TLV) of 10 ppm, but additionally has adopted a Short-Term Exposure Limit (STEL) of 15 ppm. A STEL is defined as a 15-minute time-weighted average exposure which should not be exceeded at any time during a workday even if the eight-hour time-weighted average is within the TLV. OSHA solicits comment on the appropriateness of adopting such a 15-minute time-weighted maximum exposure level (15 ppm) for H_2S in underground construction for the purpose of reducing accidents such as those mentioned in the Hazards Section of this Preamble.

OSHA also solicits comment as to whether a specific level such as 1 or 2 ppm H_2S should be enumerated to indicate the presence of H_2S, thus triggering the provisions of paragraph (j)(l)(vi).

Paragraph (j)(l)(vii) applies those unusual times when air contaminants may be present in sufficient quantity to be dangerous to life. The competent person must determine when a life-threatening atmosphere may be present. If the competent person suspects that such a danger exists, paragraph (j)(l)(vii)(A) requires that all entrances must be posted with a sign. Paragraph (j)(l)(vii)(B) requires that all entrants are properly instructed in the necessary precautions to be taken. Examples of such precautions would be respiratory protection, authorized entry only, and communication capability.

In paragraph (j)(l)(viii), OSHA is proposing that when 10 percent or more of the LEL of any flammable gas or petroleum vapor is detected, any subsequent work be conducted with extreme care and steps be taken to improve ventilation. When 10 percent of the LEL is reached, it should be viewed as a warning that gas is not only present, but that the concentration is increasing. Although paragraph (ix) specifies 20 percent of the LEL as the maximum safe level, it would be preferable that a 20 percent level never be reached. This proposed provision is designed to decrease the likelihood of such a concentration, but if it occurs, immediate necessary corrective actions are proposed. Ventilation, not air monitoring, is the key to control such risks. By maintaining an effective air monitoring program, warning levels of 10 percent LEL will be detected, and ventilation can be increased to maintain the level below 20 percent. In addition, all work must be performed so as to reduce the liberation of gas and to control all sources of ignition.

This provision is modeled after California .8424(d), except that they require the employer to notify the California Division of Industrial Safety when 10 percent LEL is reached, and the Division will ensure that appropriate precautions are taken. Otherwise, the level and necessary actions are identical to those in the California rule.

Because of the extreme hazards associated with flammable gas, paragraph (j)(l)(ix)(A) proposes that when 20 percent or more of the LEL of any flammable gas is detected in the atmosphere, all employees except those required to eliminate the hazard be removed from the tunnel. Twenty percent of the LEL indicates that potentially explosive or flammable quantities of the gas or vapor are being liberated. This requirement parallels paragraph (c)(2) of the existing regulations, except that the proposal reduces the percentage of the LEL requiring evacuation from 30 percent (1.5 percent by volume) to 20 percent (1.0 percent by volume). OSHA is making the change to increase the margin of safety for exposed workers and to bring OSHA's rules in line with current safe practices. The California and Michigan standards (.8424(e) and R325.50211(l) respectively) both specify the 20 percent LEL level for evacuation. The ANSI standard does not address this point.

Paragraph (j)(l)(ix)(B) stipulates that all electrical equipment, except acceptable ventilation and pumping equipment (as defined in the note in this paragraph), must be turned off until the level is reduced to less than 20 percent when the gas or vapor level has reached 20 percent of the LEL. Only acceptable equipment) i.e., either MSHA "permissible", or listed or labeled under Subpart K of Part 1926) is permitted in this situation because of the spark hazard associated with other electrical equipment. This provision is similar to paragraph (c)(2)(vi) of the existing regulation, except that the proposal would expressly permit the operation of certain equipment because it would pose no source of ignition hazard. Allowable acceptable equipment is that which is necessary to ventilate the contaminated area or to pump water from the flooded area during the interval while repairs are being made or the source of the gas or vapors is being reduced or sealed off. The Michigan standard (Rule 211) contains a similar requirement except that it only allows power for explosion-proof lighting and the general egress route lighting until the concentration of such gas is reduced to 10 percent LEL or less. California (Rule .8425(d)) requires all electric power, except for ventilation equipment, to be shut down when 20 percent or more of the LEL is encountered. The California Division of Industrial Safety must authorize re-entry in writing before work can be resumed. MSHA § 57.21–40 specifies that work can resume when the concentration of methane is reduced to 20 percent LEL or less. OSHA's re-entry rule proposes the same level as MSHA.

OSHA solicits additional data on the topic of appropriate percentages of the

flammable gas LEL for evacuation, power shut-down, and re-entry.

The proposed standards on underground construction carry forward various provisions of the current standards, including references to other subparts of Part 1926, which provide for the use of "approved" equipment, or which refer to "nationally-recognized testing laboratories." In a separate but related rulemaking action, OSHA is currently reviewing its requirements and procedures concerning laboratory accreditations (29 CFR Part 1907) and approvals, and published an Advance Notice of Proposed Rulemaking on these subjects earlier this year (48 FR 270). A proposed revision of these provisions is expected in the near future. In addition, OSHA will shortly be proposing a revision to its electrical standards for construction (Subpart K of part 1926), which will also deal with the laboratory and approval question, but solely in the context of electrical safety. OSHA recognizes that the outcome of these forthcoming rulemaking actions will likely affect the use of terms such as "approved" in the underground construction standards. Therefore, although the underground construction proposal does not contain changes in such terms as they currently appear in § 1926.800, OSHA solicits comment on approval requirements and their relationship to employee safety in underground operations. Broader concerns on laboratory accreditation and approval of equipment should be addressed in the context of the rulemaking efforts on Part 1907 and Subpart K of Part 1962.

Proposed new paragraph (j)(1)(x) prohibits welding, cutting and hot work in atmospheres containing 10 percent or more of the LEL of flammable gas or vapor. Provisions regarding the duty to test and the frequency of tests for such work are outlined in paragraphs (j)(1)(iv)(B) and (n)(1).

The Michigan standards (Rules 408.41467 (10) and (11)) require "local gas checks" before and during underground welding and other spark-producing operations, and prohibits these operations in atmospheres containing more than 5 percent of the LEL of a flammable gas or vapor. The California code (Section 8425.(c)) prohibits welding, cutting and hot work in atmospheres with 20 percent or more of the LEL of a flammable gas, and also requires air quality tests before and "continuously during" these operations. The fact that these other regulatory bodies cover this situation demonstrates the explosion hazard of hot work in a gassy atmosphere, although different levels are considered safe. OSHA believes that waiting until a level of 20 percent LEL, which is the level for withdrawal of employees, would be an unnecessary risk due to the ignition hazard that hot work presents. Therefore, OSHA is proposing the 10 percent level to be consistent with paragraph (j)(1)(viii) discussed above. Due to the variation between the various rules, OSHA welcomes comment on the appropriate level for safe hot work.

Proposed new paragraph (j)(1)(xi) requires tests for flammable gas or petroleum vapor before reentry after blasts in drill and blast operations. Testing after a blast has a three-fold purpose: first, to ensure adequate oxygen; second, to assure that additional emissions have not raised a gas or vapor level above the established flammable limits; and third, to make certain that the flammable gas or vapors that may have been released by the blasting are maintained within allowable limits.

Drilling and blasting are particularly hazardous, since these operations may suddenly release pockets of gas. Constant surveillance is necessary to prevent the development of hazardous concentrations of flammable gases during drilling, blasting and mucking. For this reason, once flammable gas or petroleum vapor is detected, continuous gas monitoring must be performed when men are working underground on these jobs. This requirement, which is taken from the California Tunnel Safety Orders (Article 8, Section 8425.(e)), reflects the need to detect these releases promptly so that action can be taken.

Proposed new paragraphs (j)(1)(xii) (A) and (B) set forth those concentrations of flammable gases and vapors which will cause an operation to be considered as "gassy." Once an operation is identified as "gassy" under these air monitoring requirements, it is subject to the additional monitoring requirements of paragraph (j)(2). The unique hazards of gassy operations call for more stringent air monitoring which is more stringent than for underground operations in general. Gassy operations are discussed more fully in paragraph (u) of this section.

Paragraphs (j)(1)(xii) (A) and (B) specify distances from the underground surface at which air measurements are to be taken. Depending on the molecular weight of the flammable gas or petroleum vapor in relation to the weight of air, a significant concentration may accumulate against either an upper or lower surface. However, if measurements are taken too close to the source of an emanation, the reading may be high but the volume of gas may be so low as not to constitute a significant hazard.

Paragraph (j)(1)(xii)(A) proposes a specific distance for measurement of petroleum vapors. Since certain petroleum vapors, particularly those heavier than air, are known to remain close to a surface from which they are liberated, it is proposed to measure for them at a distance 3" (76.2 mm)±0.25 inch (6.35 mm) from the underground surface. These heavier vapors are more apt to fall to lower levels without coming away from the surface as much as 12 inches (304.8 mm). A volume of such gases at 3" (76.2 mm) from the surface may well be very dangerous. Since the available data do not indicate that such vapors are inclined to release suddenly or in high volume, OSHA is proposing that an operation be considered gassy whenever petroleum vapors reach or exceed a level of 20 percent LEL at the designated 3" (76.2 mm) distance.

OSHA analyzed other standards to determine the appropriate levels and measuring distances for petroleum vapors. Michigan, ANSI and MSHA do not address petroleum vapors. However, California (8422.(a)(4)) also uses a 20 percent LEL for petroleum vapors, but states that they must be "detected *not less than 3 nches* from the roof, face, floor and walls in any open workings with normal ventilation." In 1968, the Bureau of Mines developed Bulletin 644, *Tunneling: Recommended Safety Rules*, in which a special section dealt with tunnels where petroleum products are encountered. In the narrative portion, it was stated that "The heavy hydrocarbon vapors may accumulate close to the tunnel periphery atmosphere more than 3 inches from these surfaces". Bureau of Mine's recommendation was that the vapors be detected *within* 3 inches of the roof, face, floor, and walls in any open workings, a recommendation which conflicts with the California rule.

Both Bureau of Mines and California agree, and OSHA acknowledges, that released petroleum vapors will stay very close to the surface. However, OSHA also believes that if readings were taken too close (1" for example), an overly rich reading may result.

Therefore, to address these concerns, OSHA proposes that measurements for petroleum vapors be taken 3 inches (±0.25 inch) from the surface. The ±0.25 inch margin reflects OSHA's recognition that measuring at an exact 3" distance from the surface may be

difficult due to the irregularity of surfaces in underground construction.

OSHA recognizes both the hazard presented by petroleum vapors and the need to prescribe measurement techniques in order to ensure the proper evaluation of the concentration of such vapors. OSHA is interested in additional data that would help to accomplish this purpose and to determine the appropriate distance for measurement. The Agency also requests that interested parties submit recommendations on appropriate monitoring strategies and schedules for detecting petroleum vapors underground.

Paragraph (j)(1)(xii)(B) covers methane and other flammable gases. Methane, the most commonly found gas in the underground environment, is approximately half the weight of air and will rise and collect near the roof. It is released in a variety of ground conditions, both natural and man-made; is odorless; and may increase in volume to a hazardous level before corrective measures can be initiated. For these reasons, a lower level is assigned for methane (5 percent LEL) in determining whether an operation is gassy than for other gases which are both less prevalent and less likely to be liberated rapidly from the strata. Therefore, a 5 percent LEL (0.25 percent by volume) is proposed for methane while 10 percent LEL is proposed for other gases, regardless of their weight in relationship to air.

Proposed new paragraph (j)(2) contains additional air monitoring requirements specifically for gassy operations. It should be noted that paragraph (u) of this proposal deals with gassy operations in great detail. However, OSHA decided that employers and those persons responsible for air monitoring would find the standards easier to implement if all the air monitoring provisions in the standards, including those for gassy operations, were consolidated in paragraph (j). Paragraph (j)(2) is specifically referenced in paragraph (u) to ensure that the reader who may be concerned specifically with gassy operations does not overlook these air monitoring requirements. The unique hazards of gassy operations in general require much more stringent air monitoring than for under ground construction not classified as gassy. (See discussion of proposed paragraph (u) later in this Preamble.)

Proposed new paragraph (j)(2) specifies air monitoring in addition to the provisions in (j)(1) that must be conducted in gassy operations. The current regulations do not have a specific paragraph for gassy operations.

Paragraph (j)(2)(i) requires oxygen tests to be conducted at the beginning and midpoint of each shift in all work areas identified as gassy. This rule, which has been taken from Michigan regulation (R325.50213), establishes a minimum number of times that oxygen tests must be conducted in gassy operations. The required percentage of oxygen and a general duty to test for oxygen are found in paragraphs (j)(1)(iii) and (iv). Paragraph (j)(2)(i) expands that duty because of the unique hazards of gassy operations.

Paragraph (j)(2)(ii) requires continuous automatic and manual gas monitors to be provided in a gassy operation where mechanical excavators are used. The three locations mentioned in this provision are areas where a significant amount of gas is likely to accumulate. The manual monitor is used to take random tests to detect pockets of gas that may have accumulated in locations that are not covered by one of the fixed automatic monitors.

The automatic monitor must shut down electric power, in order to remove a major source of ignition, except for acceptable ventilation and pumping facilities, when 20 percent or more of the LEL is encountered. A manual control, in addition to the automatic shut-down control operated by the automatic monitors, is required near the heading so that electrical power can be shut down in the event that 20 percent LEL is indicated by manual atmospheric monitoring.

Paragraph (j)(2)(iii) is a new provision which requires local gas testing prior to and continuously during welding, cutting, and hot work performed in an underground location that is determined to be gassy. Since hot work is a constant source of ignition, more frequent monitoring is essential to detect an increase in the concentration of flammable gases. This more frequent monitoring will help to detect the liberation of concentrations of flammable gases which necessitate discontinuance of the hot work, as required by paragraph (j)(1)(x).

Paragraph (j)(3) is a general recordkeeping requirement for all air quality tests. The ANSI, Michigan, and California standards all require records of tests to be kept, as do OSHA's existing .800(c)(1)(i) and proposed .800(j)(3). These records are a useful and necessary tool to the employer as they provide a source of information about the tests conducted and their results. By analyzing these results, an employer can detect an increase in the contaminant levels that could possibly be overlooked without such records, and can readily determine what corrective and protective actions are to be taken.

OSHA is not specifying a retention period for records kept under paragraph (j)(3) of this proposal. However, it should be noted that § 1910.20—"Access to Employee Exposure and Medical Records" currently requires records of employee exposure to toxic substances to be maintained for at least thirty years unless a specific OSHA standard provides a different period of retention. OSHA solicits comments on what the appropriate retention period should be for records required by paragraph (j)(3). Should different retention periods be specified for records of monitoring of flammable atmospheres as opposed to toxic air contaminants?

Paragraph (k)—Ventilation. The ventilation requirements in proposed paragraphs (k)(1) and (k)(2)(i) remain as currently stated in paragraphs (c)(2)(v), except that OSHA is proposing to require air flow of 30 linear feet per minute in all underground work areas that are not sealed to employee entry. The current rule requires 30 feet per minute only in the presence of blasting, rock drilling, or when harmful quantities of air contaminants are likely. The current rule (§ 1926.800(c)(2)(i)) also requires mechanical ventilation in all work areas. Since OSHA also is proposing to allow natural ventilation as long as it provides sufficient air quality and movement, minimum criteria must be established for the performance of that ventilation. OSHA further believes that such criteria must apply to all workplace air to which employees are exposed or potentially exposed. Therefore, the proposal states that a minimum of 200 cubic feet of fresh air per minute must be available or supplied for each employee working below ground, and the air flow must be maintained at a minimum linear velocity of 30 feet per minute. This provision specifies the minimum amounts of air and rate of flow that are required, without specifying what ventilation equipment is necessary or what factors must be taken into consideration to ensure that these requirements are met. For example, an employer would calculate the ventilation requirements for a particular tunnel on the basis of such factors as the number of employees below ground, the work processes required, the number of diesels in use, the dimensional configuration of the bore, and the type of earth or rock being excavated. OSHA's goal is to maintain the proper air quality while at the same time allowing the employer to choose

the best design for that particular jobsite.

The proposed requirement specifies that the minimum air flow must be maintained in all "unsealed" underground areas, i.e., those that are not sealed or bulkheaded off, because unsealed areas are either connected to or part of the active work area where employees may be exposed to contaminants unless the air flow is sufficient to move and disperse such concentrations. The ANSI standard (Section 5.1) recommends that "Ventilation and exhaust systems shall . . . maintain a supply of quality air within permissible limits at all points of the tunnel and shaft." The Michigan standard (Rule 214) specifies an air quantity of 200 cubic feet per minute per employee, as does the California standard (Rule 8437). In addition, the California regulation stipulates that the "lineal velocity of the air flow in the tunnel bore shall not be less than 60 feet per minute in those tunnels where blasting and rock drilling is conducted or where there are other conditions that are likely to produce dusts, fumes, vapors or gases in harmful quantities." California also allows tunnels or chambers more than 30 feet in diameter to have only 30 linear feet per minute, provided that air quality is maintained, including areas where drilling or blasting are taking place.

OSHA solicits information on the adequacy of a flow of 30 linear feet per minute as a minimum in all underground construction.

In proposed paragraph (k)(2)(ii), mechanical ventilation is required when natural ventilation does not supply the employees with the required air quality and flow. The existing requirement (see Section 1926.800(c)(2)(i)) requires mechanical ventilation in all underground work areas. Since OSHA is attempting to allow greater flexibility in meeting a desired level of safety, if natural ventilation meets the criteria, there seems to be no reason not to allow it. For example, after a tunnel has been "holed through," natural ventilation might provide sufficient air quality and flow, and therefore OSHA does not see the need for requiring mechanical ventilation. The ANSI standard requires mechanical ventilation when natural ventilation is inadequate; the Michigan and California standards do not make an exception for tunnels with adequate natural ventilation.

The requirement at proposed paragraph (k)(2)(iii), which states that the direction of air flow must be reversible from the surface, remains unchanged from paragraph (c)(2)(i) in the existing regulations. The ventilation system must be able to pull air from the tunnel bore as well as supply air to the work area. After blasting, or in an emergency such as a fire, smoke, gas, or fumes must be exhausted from the underground area through the vent line to protect the employee from exposure. The proposal makes clear that the control governing the direction of mechanical air flow must be located above ground, in order to remain accessible and operative in a below-ground emergency. The ANSI standard (Section 5.1), Michigan (Rule 325.50214(7), and the California standard (Section 8437.(c) all require reversibility of the direction of the ventilation system.

Proposed paragraph (k)(3) requires that where ventilation doors are used, they must be designed and installed to remain closed regardless of the direction of air flow. This requirement is a clarification of the existing requirement found at paragraph (c)(2)(ii). The proposed requirement applies to undergound construction sites that are equipped with ventilation doors, and should not be interpreted to mean that ventilation doors are required. If ventilation doors are used, however, they must be of the type that remain closed whether air is being supplied to or exhausted from the bore, in order to regulate the air flow.

Ventilation doors are used to control the fresh air supply in underground chamber and passage systems similar to mine complexes. Since abandoned mines are being converted to underground office and warehouse uses, such doors may be used during the construction activities in the same mode used for mining activities.

Intermittent use of the door for ventilation is governed by the sources of incoming fresh air at the locations being worked. These doors have windows in them which can be set at a predetermined opening size for limiting the amount of air flow to that needed for the work area being served. Such a door is used to assure a sufficient air supply for the area to be served, without reducing the amount of air supply to other sections of the underground complex. The ANSI, Michigan, and California standards do not address ventilation doors specifically.

Proposed paragraphs (k)(4) and (k)(5) are essentially clarifications of paragraphs (c)(2)(iii) and (c)(2)(iv) of the existing regulation. Both provisions address situations in which the supply of fresh air has been substantially reduced or shut off, permitting hazardous levels of gases or contaminants to build up.

The first requirement (k)(4) is concerned with a situation in which the ventilation has been reduced temporarily, as might occur if a piece of equipment has damaged a section of vent line or a fan or electric power has failed in part of the system. The current rule requires that the ventilation system operate prior to restoring power. However, OSHA intends for the ventilation system to be functioning prior to restoring any other power, except for power used to operate acceptable equipment. Since OSHA has proposed the use of "acceptable equipment" elsewhere in this proposal, this provision needed revision to allow the continuation of power to such equipment.

The second provision, (k)(5), addresses situations in which the ventilation system as a whole has been shut down. This may occur intentionally (for example, where the system is turned off after the last shift of the week has left) or by accident (for example, where an electrical outage shuts off the electricity to the fans). In both types of situations, hazardous levels of gases or contaminants may build up, and a competent person is therefore required to test air quality and assure that the air is safe before work can be resumed. The Michigan standard contains two provisions (Rule 325.50212 (5) and (6)) that cover the same hazards; the ANSI and California standards do not specifically address these situations.

In proposed paragraph (k)(6), OSHA would require employers to use dust suppression methods to control dust levels within the limits specified in Section 1926.55 when they are drilling into rock or concrete surfaces. Although the proposal includes a separate provision on dust suppression, it does not impose any new requirement. The air quality provisions of the existing standard (1926.800 (c)(1)(iv)) currently incorporate a requirement that dust levels be maintained within permissible limits at all times. The hazards related to dust may include coughing and respiratory and eye irritation in the case of nuisance dust, silicosis if the inhaled dust contains large quantities of silica, and lung cancer if the material being drilled releases radon or its progeny into the atmosphere. Examples of dust control measures include supplying water to the drill bit, wetting the muck pile, and increasing the velocity of the ventilation. The ANSI standard does not address dust suppression separately; the Michigan and California rules both stipulate specific dust control procedures (Rule 325.50211 (5) and (6) and Section 8438, respectively).

The requirement proposed in paragraph (k)(7)(i) is a restatement of the first provision in paragraph (c)(2)(vii) of the existing standard. The proposed requirement, like the existing provision, prohibits the use of internal combustion equipment powered by gasoline or any fuel other than diesel in any underground operation; only mobile equipment powered by diesel engines is permitted. Gasoline or other fuel is not permitted underground because it is more easily ignited than diesel fuel, generates higher contaminant levels and poses both a fire and explosion hazard. In addition, the exhaust emanating from a diesel engine is lower in temperature and contains less carbon monoxide than that from fuel gas-powered engines. Diesel exhaust systems can also be fitted with water scrubber-type exhaust conditioners and other permissible equipment. The existing regulation, the ANSI standard (Section 5.5), and the Michigan and California standards (Rule 325.50209 and Section 8470, respectively) all contain similar prohibitions against the underground use of gasoline-powered engines. A Note is included with this paragraph to remind employers that diesel engines have additional air consumption requirements which must be taken into consideration when determining the total ventilation needs of the operation.

The requirement proposed in paragraph (k)(7)(ii) is a restatement and modification of the second provision in paragraph (c)(2)(vii) of the existing standard. The proposed provision includes the same cross-reference to 30 CFR Part 32, MSHA's approval requirements for Mobile Diesel Power Equipment for Non-Coal Mines, formerly known as Schedule 24. That document includes a requirement for exhaust conditioners. The OSHA proposal requires that mobile diesel-powered equipment used underground in atmospheres other than gassy operations must be certificated according to 30 CFR Part 32, or shall be fully equivalent in all respects to MSHA certificated equipment. The employer would not normally have facilities to determine equivalency, but would rely upon the manufacturer to make such a determination.

The proposed allowance for equivalent equipment is intended to provide flexibility for employers in obtaining equipment which meets MSHA's specifications. Several years ago, employers informed OSHA of their inability to obtain suitably-sized or designed mobile diesel equipment that was certified under "Schedule 24" by the Bureau of Mines. However, OSHA understands that MSHA is currently meeting the demand for certification requests.

Under the present standard, OSHA has allowed the employer under the following conditions to use equipment fitted with exhaust conditioners without the appropriate MSHA certification: a qualified person must ensure that there is a sufficient air supply for the use of mobile diesel machines; and must ensure that acceptable air quality for employees is maintained and that the exhaust conditioners in use on the diesel equipment are at least as effective as those MSHA requires. Since several factors are involved in MSHA certification, the employer (or manufacturer) establishing equivalency must review 30 CFR Part 32 in its entirety to ensure that that determination includes all pertinent factors considered by MSHA in issuing its certifications.

Exhaust conditioning as required by MSHA reduces the temperature of the exhaust, reduces the concentration of air contaminants in the exhaust, and diffuses the flow of exhaust away from employees. Water scrubbers, exhaust water sprays, and exhaust diffusers are three established types of exhaust conditions. A fourth type, catalytic converters, has been introduced to underground mobile diesel equipment in an attempt to provide the desired level of exhaust conditioning. While catalytic converters may reduce the level of certain exhaust contaminants, such as CO, they may also raise the level of others, such as SO_2. In addition, it appears that catalytic converters may increase exhaust temperatures. At this time, available data indicates that MSHA has not certified any equipment that uses catalytic converters under Schedule 24.

The ANSI standard (Section 5.5) and the Michigan standard (Rule 325.50209) both incorporate 30 CFR Part 32 (Schedule 24) by reference. The California standard (Section 8470.(c)(3)) stipulates that "exhaust from the diesel engine shall be passed through an acceptable scrubber that is at least as effective as a well-designed water-bath scrubber in reducing hazard and discomfort to workers."

OSHA solicits comments on the different exhaust conditioners that are available and provide for proper maintenance of those scrubbers. Do catalytic converters provide the protections specified by MSHA approvals? Should OSHA specify its own criteria for acceptance of equipment which has not received MSHA certification? If so, what should these criteria include? If OSHA is to accept "equivalent equipment," what criteria should be applied and who should be responsible for determining equivalency? OSHA solicits comments on this matter to determine whether catalytic converters can ever be relied upon to be fully equivalent to the protections required by MSHA, and under what conditions such equivalency can be determined.

Paragraph (k)(8) proposes to require that when mobile diesel equipment is in a position to interfere with or potentially reduce air flow, air quality shall be tested and measues taken to ensure allowable limits are not exceeded. OSHA's air flow and volume requirements should generally be sufficient to maintan exhaust air contaminants in the workplace within allowable levels. However, if the air flow is reduced around the machine, the air contaminants may not be diffused and levels may subsequently increase. Reduced air flow can also cause the engine to rebreathe its exhaust air, causing the levels of CO, NO and NO_2 to increase beyond the allowable limits in a matter of minutes. Therefore, in situations where the main ventilation system may not provide the specified air flow, steps must be taken to ensure that acceptable ventilation rates and air quality are maintained.

Paragraph (l)—Illumination. This paragraph contains a cross-reference to the illumination requirements for underground construction and other work situations in construction found in Subpart D (Section 1926.56) of Part 1926 (Table D-3). It is included to remind employers of the importance of adequate light to employee safety in underground construction. The proposal amends Table D-3 to clarify where light measurements are to be taken and proposes new illumination levels.

Where Subpart D was adopted as an OSHA standard in 1971, it contained a cross-reference to the ANSI standard which indicated where light measurements are to be taken; however, many employers were not familiar with the ANSI document or its requirements, and light measurements were often taken inaccurately. Light measurements were being taken at waist or chest level heights in the accessway or near a work area. This resulted in a more intense or higher level of light being measured than actually reached the surfaces which needed to be viewed by the employees. Consequently, the higher levels called for by the standard were sometimes not being provided at the working surface. OSHA believes that the proposed illumination levels, measured as set

forth in the Table, will provide enough light for safety. As amended, the Table would require 5 foot-candles in underground work areas, such as tunnel and shart headings, drilling, mucking, and scaling aras, while a minimum of 2 foot-candles would be necessary in underground accessways, passageways, and storage areas. The ANSI standard (10.2.1) requires the same levels of illumination for underground work areas, and specifies that readings shall be taken at ground level. California (8415(a)) requires two foot candles at the floor and five at the heading area.

OSHA's proposal specifies that measurements are to be taken at the walking and working surface. The ANSI IES Industrial Lighting standard (RP-7), specifies that light readings are to be taken at the task, or the surfaces to be viewed. OSHA agrees that the tunnel invert work surfaces and projections are the appropriate surfaces at which to measure illumination levels. A 2 foot-candle light level at the floor will ensure that employees can see adequately to avoid walking surface hazards and to facilitate escape, and the 5 foot-candle level required in active work areas will similarly provide sufficient light to enable scaling areas and roof and wall surfaces to be examined thoroughly to detect hazardous conditions. OSHA has proposed the 5 and 2 foot candle levels to be consistent with state and ANSI standards. Comment is encouraged on the sufficiency of such levels for safety during underground construction.

Proposed paragraph (l)(2) includes a new requirement that acceptable portable lighting equipment be used within 50 feet of a tunnel or shaft heading when explosives are being handled or detonated. Such acceptable lighting would include approved flash lights, cap lamps, hand lanterns, and air-motor lights. Portable light sources must be available during blasting operations because installed lighting systems near the point of the blast are often damaged by the explosion. Such lighting is important because the drilling may liberate flammable gas that could be ignited by a spark from a non-permissible light source. The ANSI, Michigan, and California standards do not specifically address portable lighting for use at the working face during explosives-handling and detonation.

Paragraph (m)—Fire Prevention and Control. The provisions in paragraph (m) address one of the principal hazards of underground construction: fires and explosions. Proposed paragraph (m)(1) contains a cross-reference to the fire prevention and protection requirements applicable to all construction operations that are found in Subpart F of Part 1926; the cross-reference is intended to stress that all applicable Subpart F requirements apply to underground construction in addition to the provisions proposed in this paragraph (m).

Paragraph (m)(2) would prohibit fires and open flames of any type, except those used in welding, cutting, or other hot work, in any underground construction operation. As proposed, flame type heaters (salamanders) or other fire sources would not be permitted below ground. Proposed paragraph (m)(3)(i) would allow smoking only in areas that are without any fire or explosion hazards. In paragraph (m)(3)(ii), employers would be required to post signs prohibiting smoking or open flames in areas having fire hazards, such as locations where straw, form oil, flammable epoxies, or flammable coatings of any kind are used or in an area where high pressure hydraulic line failures may cause a flammable vapor.

The precautions mandated by these requirements are necessary because fire presents an even greater hazard below ground than in the above ground environment. For example, explosions under ground have caused equipment, such as vent lines, forms, and small miscellaneous equipment used in the work process, to be plied up against obstructions and block egress and access. Such objects have, in turn, caused employees working ahead of the area of dislodged equipment and debris to be trapped and injured or killed.

OSHA's existing tunnel and shafts regulations contain provisions in paragraphs (e)(1) (ii), (iii), and (ix) directed at the same underground fire hazards. The current prohibition against smoking, as carried forward in the proposal, would still only apply to locations having fire or explosion hazards. Proposed paragraph (m)(3)(i) would limit smoking to those underground areas free of fire and explosion hazards. The ANSI standard (Sections 7.1.2 and 7.1.3), which has provisions similar to those in proposed paragraphs (m)(2) and (m)(3) (i) and (ii), prohibits the carrying of matches, lighters or other flame-producing smoking materials in all underground areas. The Michigan code simply prohibits "smoking and open flames" (Rule 408.41467(2)) in all areas, with an allowance for welding and cutting, if done safely. In proposed paragraph (u)(5), the gassy operations requirements, OSHA would continue to prohibit smoking and the carrying of matches and lighters.

OSHA solicits comments on the hazards associated with employee smoking below ground; for example, are there underground operations or conditions where employee smoking does not increase the hazard of fire and explosion? Should smoking be prohibited only in underground operations that are classified as gassy operations? Can other precautions be taken, such as setting aside a specially ventilated smoking area and providing matches or lighters at that location, that will reduce smoking-related fire hazards? Should OSHA ban carrying of matches and lighters at all times? What underground conditions greatly increase the likelihood of underground fires? For example, does the use of excelsior as packing material, or the presence of lagging, timber, or other combustible materials pose a sufficient fire hazard to warrant prohibition of smoking and the posting of signs to warn employees working in the area of the hazard? What information is available concerning accidents related to employee smoking or the use of heaters or other flame sources underground? Any comments, suggestions, or data related to these issues would aid OSHA in defining the content and language of the final rule.

In paragraph (m)(4)(i), OSHA is proposing that the quantity of diesel fuel stored underground at any work site be limited to the amount needed to supply the equipment at that site for a period of 24 hours only. Paragraph (m)(4)(ii) is a new requirement that would prohibit employers form piping diesel fuel from the surface to any area below ground. These requirements are necessary because although diesel fuel is less ignitable than gasoline, the circumstances surrounding the use of any highly combustible liquid below ground must be carefully prescribed. The below ground storage of such fuel creates a potential hazard. Above- to below-ground pipelines are especially hazardous because any leaks from the pipe would run into the underground opening, e.g., into the tunnel area at or leading away from the bottom of the shaft. In addition, a fuel pipe running from the surface to the bottom of a shaft could contain a large supply of fuel. If the pipe leaked, or the bottom of the pipe was not sealed off, large amounts of fuel could escape into the underground cavity. Under the proposal, employers could carry fuel into the shaft or tunnel in tanks or drums, using hoists or other vehicles as appropriate. The Michigan code similarly limits the quantity of diesel fuel below ground to a one-day supply (Rule 408.41467.(3)), and the ANSI standard also prohibits the use

of a pipeline to convey diesel fuel to the underground work area (Section 7.4.1).

Additional fire and explosion prevention requirements are proposed in paragraphs (m)(5) (i) and (ii) which would prohibit the presence of gasoline underground at all times, and would restrict the use of specific fuel gases to welding, cutting, and hot work operations only. In paragraph (e)(1)(v) of the existing OSHA tunnels and shafts standard, gasoline and LPG are prohibited underground in any form or for any purpose. OSHA is continuing the prohibition of gasoline in underground construction. The ANSI, Michigan, and California standards all prohibit gasoline in underground construction (Section 7.1.4, Rule 408.41467(3), and Section 8446.(f), respectively). However, OSHA is proposing to remove the prohibition of LPG, while limiting its use to welding, cutting and hot work. OSHA requirements for welding, burning or cutting, etc., in Subpart J permit use of fuel gas, including LPG, if used in compliance with the procedures prescribed in that subpart, including handling, storage and ventilation requirements. Since such procedures have been shown to be safe by experience, OSHA believes that the listed fuel gases should be allowed in underground locations provided the use, handling, storage and ventilation requirements of Subpart J and proposed paragraphs (j), (k), (m), and (n) of this section are fully implemented. It should be noted that the ventilation required by paragraph (k) of this proposal is in addition to the ventilation requirements in Subpart J.

The ANSI and Michigan standards (Section 7.1.4 and Rule 408.41467(3), respectively) both prohibit the use of LPG underground. However, MSHA § 57.4–53 allows LPG underground, but limits its use to maintenance work, which is consistent with OSHA's proposal.

In 1973, OSHA was asked if Methylacetylene Propadiene Stabilized, commonly known as MPS gas, could be used in underground locations by some employers working on a tunnel of the Washington, D.C. metro. MPS gas is not as volatile as gasoline or acetylene, but is highly flammable. It is heavier than air and has an odor which is pervasive will below the LEL, which provides an early warning should a leak occur. Since MPS gas is not LPG, the current standards do not expressly prohibit its use underground. OSHA Instruction STD 3–17.1 October 30, 1978 (Ex. 5:2) (previously known as Program Directive #100–55) identified the special precautions in Subpart J of Part 1926 which must be taken for underground use of fuel gases in welding, burning, and hot work.

Since OSHA's proposal that Acetylene, LPG and MPS gas may be used below ground, provided that recognized safe procedures are followed, deviates from existing standards, the Agency solicits comment on this proposed rule. Are there any problems in allowing the restricted use of these fuel gases as proposed? Should any other fuel gases be allowed?

In proposed paragraph (m)(6) OSHA is requiring that any oil, grease, or diesel fuel kept below ground be stored in sealed containers and in fire-resistant areas located at least 300 feet away from explosives magazines and 100 feet from shaft stations and inclined passageways. In addition, the area would have to be isolated or diked so that any combustible material leaking from the containers would be prevented from entering the underground work area. In proposed paragraph (m)(7), storage of above ground flammable or combustible materials would be required to be located at least 100 feet away from the access opening (shaft or portal) of the underground worksite as in § 1926.152(c). Where this is not feasible, a fire-resistant barrier of at least one-hour rating must be interposed between the material and the opening. This latter requirement is newly proposed to prevent fire and explosion hazards at the surface from endangering employees underground. The ANSI standard (Section 7.4) addresses the same hazards, but includes only "oils and other dangerous flammable and combustible liquids" rather than the proposed "flammable or combustible materials or supplies" language. California Section 8446.(a) covers oils and other dangerous flammable material.

OSHA welcomes comments on the appropriate scope of this provision; for example, do stacks of timber, planks, or other building supplies pose a significant fire risk to underground workers? Should the 100-foot above ground storage limitation only apply to combustible and flammable liquids such as oil? Have incidents occurred in which fires started by these materials above ground have spread to the underground worksite? Has the smoke from such fires been drawn into the underground cavity and imperiled workers below? Information on these or other accidents caused by related events would greatly aid OSHA in formulating appropriate requirements for the final rule.

The use of hydraulic fluids in underground equipment is addressed in proposed paragraph (m)(8). Paragraph (e)(viii) of the existing standard requires the use of fire-resistant hydraulic fluids. Fire-resistant hydraulic fluids resist ignition at temperatures 300 to 400 degrees F. Higher than the standard hydraulic fluids. The proposal would allow employers either to use fire-resistant hydraulic fluid or to install a suitable fire suppression system or suitable fire extinguisher. The proposed requirement is consistent with OSHA Instruction STD 3–17.2, October 30, 1978 (Ex. 15:1) (previously known as Program Directive #100–87), which permitted these alternative fire control methods in response to reports from employers that fire-resistant fluids reduced the operating efficiency of hydraulic equipment by as much as 50 percent. Offering alternatives provides the employer with more flexibility in complying with these provisions. These alternatives offer comparable safety in that most fires on dozers, loaders, and trucks involve the engine or wring igniting limited amounts of hydraulic fluid that has leaked or been sprayed on them from hydraulic lines or hoses. Under these circumstances, the hydraulic pressures drop quickly and render the piston or hydraulic motor ineffective. Operators and crew can immediately look for the failure source, and can activate the fire suppression system or extinguishers manually if a fire occurs. On larger units, fire suppression systems are available which will automatically activate on sensing a heat or smoke rise in the engine compartments.

Fire-suppression systems appear to have provided effective protection for machinery used in other underground locations, such as mines where MSHA has made the same application (§ 75.1107). The California standard (Section 8456.(b)) similarly permits suppression systems to be used as altenatives to fire-resistant fluids. The Agency welcomes comments on the problems associated with the use of fire-risistant hydraulic fluids. OSHA also solicits information on the appropriateness and degree of employee protection offered by the alternatives proposed and on whether there are types of equipment for which fire-resistant fluid should still be mandated. In addition, OSHA solicits comments on types of fire suppression systems and extinguishing media, including suggested criteria for their selection for underground locations.

Proposed paragraph (m)(9) (i) and (ii) address the fire and explosion hazards of elctrical installations below ground, and would permit employers to use such

installations only for lighting purposes in areas in which oil, grease or diesel fuel is kept. In addition, any light fixtures in or within 25 feet of these areas would be required to conform to the requirements for Class I, Division 2 locations, as required by Subpart K of this Part. The California standard (Section 8446.(b)) prohibits open flame lights in areas in which flammables are stored, but provides for electric lights if necessary. The ANSI standard does not specifically address lighting fixtures in underground storage areas. The Michigan standard (Rule 408.41467(4)) and the Bureau of Reclamation (BOR) (Section 23.8.4) requires storage at a safe distance from electrical installations, which parallels OSHA's present paragraph (e)(l)(vi). OSHA believes this proposal clarifies the term "safe distance" and provides the identification of the electrical classification which provides an alternative for lighting when the distance is not practical.

The requirement proposed in paragraph (m)(10) is new, and would require employers to ensure that flammable or combustible fluids that have leaked or spilled from equipment or containers be cleaned up and corrected as soon as possible in order to eliminate the fire hazard associated with such fluids. It is not always possible to correct a situation at the time of the leak as it might require equipment to be shut down. A method that might be used to correct the spill would include covering the spilled fluid with sand to prevent slips and falls and putting it in the muck being removed to reduce any fire hazard potential. Leaks could be corrected by applying a new hose, fitting or tightening a leaking valve. The ANSI, Michigan, and California standards do not contain a similar work practice requirement.

The requirement proposed in paragraph (m)(11) is a restatement of paragraph (e)(1)(xi) of the existing tunnels and shafts regulation. It requires fire extinguishers at the head and tail pulleys of underground conveyors, which may get out of adjustment or have a bearing failure and permit friction to build up sufficiently to cause a fire. The proposal deletes the existing standard's requirement for a fire extinguisher at 300-foot intervals along the conveyor's belt, because the available data do not indicate that the friction hazard exists along the length of the belt to the extent that it is found at the pulleys. The ANSI standard (Section 7.1.7) requires extinguishers or equivalent protection at both conveyor pulley locations. The Michigan standard (Rule 408.41467(6)) specifies that an extinguisher or equivalent means of fire protection be located at the drive pulley and at 300-foot intervals along the belt, and the California code (Section 8456) parallels the requirements of OSHA's existing standards.

OSHA requests comments on the appropriateness of eliminating this requirement for extinguishers at 300-foot intervals from the final rule. Would employees working alongside or in the vicinity of underground conveyors be adequately protected from fire hazards by an extinguisher at the head and tail pulley locations? Are there specific underground situations or types of conveyors that necessitate extinguishers or other fire suppression equipment at other locations? For example, should extinguishers be required at specified intervals along the belts of conveyors that are not being used in conjunction with tunnel boring machines? Should hydraulically-operated conveyors or conveyors with rubber belts be equipped with additional extinguishers? Any information on the topic of fire prevention and control as related to underground conveyors would be useful to OSHA in formulating the final rule.

The last requirement in the proposed fire prevention and control section (m)(12), would require that any structure inside or within 100 feet of the opening to an underground worksite be constructed of material that will resist fire. The requirement would apply to facilities such as changehouses, trailers used as offices, and storage sheds located within the area specified by the proposal. Employers could use non-combustible materials, such as metal, fire-resistant-rated gypsum board, or materials with fire-resistance ratings of one hour or more to build such structures, or they could buy ready-made facilities built of such materials. This requirement is designed to minimize the potential for fire or smoke from a fire in a nearby building from entering the underground area via the tunnel's portal, shaft, fan ducts, or ventilation holes. The required fire-resistant material would allow the employer time to extinguish a fire before it created a hazardous degree of smoke or fire in the vicinity of the underground opening. The compressed air section, § 1926.803, has a similar requirement. Since the same hazard exists in free air operations, OSHA feels this requirement should apply to all underground construction. The ANSI standard (Section 7.2) prohibits structures made of combustible materials within 100 feet of any underground entrance, and the Michigan and California rules address the same hazard (R408.41467(14) and Section 8445. (a) and (b), respectively).

Paragraph (n)—Welding, cutting and hot work. All employers engaged in welding, cutting, or hot work operations in construction are required to comply with the applicable requirements of Subpart J of Part 1926. Such operations performed in underground construction would also have to comply with paragraph (n) of this proposal.

Proposed paragraph (n)(1) would require that a competent person ensure that the atmosphere in the work area is in compliance with the requirements of paragraphs (j)(1) (iii) and (x) before the welding, cutting, or hot work operations begin. No more than 23 percent oxygen or 10 percent of the LEL of a flammable gas or vapor would be permitted in the atmosphere to minimize the potential for a fire or explosion. It is especially important to ensure that these limits are not exceeded before welding begins, because the valves of the oxygen, acetylene, or other fuel bottles used may leak while in use. In addition, the risk of fire or explosion in the area from the hot work would be compounded by the liberation during excavation of even a small amount of flammable gas.

Proposed paragraph (n)(2) would prohibit more than a one-shift supply of fuel gas or oxygen underground at any time. Underground storage of these bottles is prohibited because of the risk of fire and explosion. The requirement does not specify the number of bottles that may be below ground at one time, because OSHA recognizes that this number will vary with the number of welders, type of work to be done, and phase of construction. As proposed, only the number of oxygen and fuel bottles required by the number of welders working during any single shift would be permitted in the underground area; any bottles not needed by welders for the oncoming shift would be required to be removed from the underground.

OSHA seeks comments on the appropriateness of the one-shift supply concept embodied in the proposed requirement. For example, would specifying the number of oxygen and fuel bottles permitted underground per welder per shift provide greater employee protection than the proposed requirement? Are there other methods, such as providing special protected and ventilated holding areas below ground, that will provide equivalent employee protection? What data are available on accidents and injuries caused by fuel gas or oxygen explosions or fires? OSHA solicits information on these or other topics related to the hazards of

welding and other heat-producing work processes below ground.

Proposed paragraph (n)(3) is a restatement of paragraph (e)(x) of the existing standard. It would require that a non-combustible barrier, such as a non-flammable drop cloth, piece of fire-resistant gypsum board, or other barrier made of non-combustible material, be positioned so that employees below a welding, cutting, or hot work operation conducted in a shaft or over a raise, are protected from flying sparks, or burning slag. The ANSI (Section 7.5.1), Michigan (Rule 408.41467(9)), and California (Section 8446(d)) standards all contain similar provisions directed at the same hazard.

Paragraph (o)—Ground support. Proposed paragraph (o)(1) is an amplified restatement of the existing requirement (h)(1), that portal openings and access areas be protected to ensure safe and quick access to the worksite. The purpose of the new wording is to ensure that the employer understands the intent of the requirement. The employer's duty is not changed.

Paragraph (o)(2)(i)(A) is a clarification of the existing requirement of the present (h)(2)(i), and is intended to protect employees from falling debris and to ensure that the work area is safe to work in. The following agencies or states have similar requirements: BOR Section 23.10.2; Michigan Rule 408.41471(1) and California Standards Section 8440.

Proposed new paragraph (o)(2)(i)(B) would require scalers and inspectors to work from a protected location during their examination of the work area. This provision was developed after OSHA's analysis of an accident in Washington, D.C., in February 1972 (Ex. 12:8) in which a man checking the overhead on a tunnel construction job was crushed by a boulder, and two others working with him were injured. The ACCSH recommended that this requirement be included in this proposal. The proposal is more comprehensive than the California Section 8450.(g) which has similar protection required for drill operations, and Section 8441.(e) which calls for similar protection of employees installing tunnel systems.

Paragraphs (o)(2)(ii) and (o)(2)(iii) are restatements of the existing paragraph (h)(2)(ii) divided into two separate requirements for clarification. Both address the hazards of falling materials which may be created by the shifting of earth. The provisions require the underground areas to be checked and supported to make the workplace safe. Both Michigan Rule 408.41471(l) and California Standards Section 8440 have similar requirements, except that California also requires the keeping of records of such inspections.

Paragraph (o)(2)(iv), an editorial change of the existing requirement of (h)(2)(iii), addresses the use of rock bolts which are used to maintain the stability of the underground sides and roof. It requires the use of torque wrenches to ensure the proper torque and maintenance of rock bolts. An exception of this required use appears in a note which states that a torque wrench will not be needed after installation for untensioned dowels, since resin set dowels function by having the void containing the dowel (or bolt) filled to hold the material and dowel effectively. The following authorities have the same requirements for torque wrenches and testing: COE Section 24.A.14; BOR Section 23.10.4; and Michigan Rule 408.41471(3).

New paragraph (o)(2)(v) proposes that the torque bolt tension assignments required by paragraph (o)(2)(iv) be maintained onsite to ensure a means for determining that the rock bolts are properly tensioned. California Standards Section 8441(d) requires that a much more extensive ground support plan be available at the jobsite.

New paragraph (o)(2)(vi), derived from California Section 8441.(e), provides for temporary roof supports to protect employees who are either working beyond or installing permanent roof supports.

Paragraph (o)(2)(vii) is a restatement of an existing requirement in paragraph (h)(2)(v). It requires the placement of supports in tunnels so they are anchored and braced to protect against collapse. Such hazards are well-documented in accident data. The following agencies have similar requirements: BOR Section 23.10.6; COE Section 24.B.08; and California Standards Section 8441.(b).

Paragraph (o)(2)(viii) is an editorial change to the existing requirement of (h)(2)(iv). It requires that the new support be installed prior to the removal of an existing damaged support where feasible. This is to reduce the potential for ground shifting and collapse when an existing support is being removed. If a new member is installed before the old one is removed, the ground is never totally unsupported. The same requirements exist in BOR Section 23.10.5; COE Section 24.B.09; and Michigan Rule 408.41471.(4).

Paragraph (o)(2)(ix) is a new requirement to ensure that employees working in locations beyond support replacement operations will not be trapped should ground collapse occur during those operations. Support replacement efforts often allow supported ground to move, thus creating a greater potential for ground collapse during the operation. Therefore, OSHA is proposing that the employer use a shield or other suitable means to provide a safe travelway for employees to exit dead-end areas beyond support replacement activities.

OSHA solicits comments on the replacement of supports and appropriate precautions to be taken. Are there situations in which employees should be prohibited from working beyond support repairs or replacements? Are there certain types of repairs or replacement operations which would not endanger employees working beyond them in dead-end locations? Have there been incidents of employees being trapped, injured or suffocated, etc., when working beyond support replacement operations? Any comments, suggestions or data related to these issues would aid OSHA in defining the content and language of the final rule.

Paragraph (o)(3)(i) requres shafts and wells to be supported to protect the workers from the possibility of the shaft collapsing. It is a restatement of the existing requirement in paragraph (h)(3)(iii) and is similar to Michigan Rule 408.41472(3).

Paragraph (o)(3)(ii)(A) is a restatement of an existing requirement in paragraph (h)(3)(ii) and is in accord with similar requirements of COE Section 23.C.01; and Michigan Rule 408.41472(3). This paragraph addresses the hazards of shaft collapse and gives the minimum requirement for shaft supports for protection of employees. ANSI Sections 4.9.1 and .2 require shaft liner, but have no 5 feet criterion.

The purpose of paragraph (o)(3)(ii)(B) is to extend the shaft bracing or casing above the shaft opening in order to prevent the workers and equipment from falling into the shaft. It would also protect employees in the shaft from flooding and falling objects. The casing height has been raised from 1 foot as required by the existing paragraph (h)(3)(ii) to 42", which will also prevent any tripping hazards. The 42" height is consistent with OSHA's requirements for guardrails. Likewise it is identical to requirements of BOR Section 23.12.2 and the Ontario Occupational Health and Safety Act, 1978 and Statutes of Ontario, 1978, Chapter 83, and 205–(1). California Standards Section 8494.(d) only requires means to prevent equipment from rolling into shafts.

Paragraph (o)(3)(iii) restates the existing requirements of paragraph (h)(3)(iv). This requires that each shaft be inspected by a competent person after every blasting operation to ensure that it is a safe workplace. If any part of

the shaft has loosened, the employer must make the necessary repairs before employee re-entry. It is supported by similar requirements of COE Section 23.C.15; BOR Section 23.12.6; and Michigan Rule 408.41472(4).

Paragraph (p)—Blasting. Proposed paragraph (p)(1) is a restatement of paragraph (j) of the existing standard, noting Subpart U's coverage of blasting and explosives in construction, and imposes no new requirements on employers and employees.

The new requirement in paragraph (p)(2) is intended to remind employers that blasters working with explosives must keep wires clear of electrical lines, pipes and other conductive materials to prevent employee electrocution or premature detonation of the explosives. This is a partial restatement of paragraph § 1926.900(k) which is currently referenced in the existing tunnels and shafts standard, but which does not cover the hazard of electrocution. The revision is necessary because an electrical current may cause premature detonations and employee injury. (See California Standards Section 8548.(f); COE Section 24.C.06: and MSHA § 57.6–122 for similar requirements.)

Paragraph (q)—Drilling. The proposed requirements of paragraphs (q)(1) through (q)(8)(iv)(A) are restatements of paragraphs (i)(1) through (i)(12) of the existing standards, respectively, and deal with drilling operations. The hazards to which these provisions are addressed have continued to be associated with underground construction.

Proposed new paragraph (q)(8)(iv)(B), which requires jumbo wheels to be chocked while employees are working on them, derives from Michigan Rule 408.41473(11). It has been added because movement of the drill jumbo can cause employees to lose their balance and fall into the working equipment or off the jumbo itself if the wheels are not stabilized.

Paragraphs (q)(8)(v) (A) and (B) requires walking and working surfaces of jumbos to be maintained free of slipping and tripping hazards, whereas (B) requires the jumbo decks and stairtreads to be designed to be slip-resistant and secured in a manner to prevent accidental displacement. They are derived from COE Section 24.A.10 and 24.A.11 and Michigan Rule 408.4173(7). These requirements are also in accord with California Standards Section 8450(f) and BOR Section 23.9.3; they address tripping and falling hazards caused both by poor housekeeping and by improperly designed or maintained walking and working surfaces.

Paragraphs (q)(9) requires that scaling bars in good condition be available for scaling operations, and is a restatement of existing paragraph (i)(11).

Proposed paragraph (q)(10)(i) is a restatement of current paragraph (i)(13) which requires that misfires be removed or refired prior to any drilling, and prohibits drilling through muck or water which could contain unfired explosives. These precautions cover the hazard of inadvertently drilling into explosives.

Proposed paragraph (q)(10)(ii) is a new provision which was recommended by the ACCSH (Ex. 5, pp. 75–78). It addresses the hazard of having employees in the shaft bottom area while powered mechanical equipment is used to clear muck which contains unfired explosives. It requires those employees to be protected either by location or by suitable barriers during muck removal.

Paragraph (q)(11) which requires the posting of signs to identify the location of hidden air lines, is a restatement of paragraph (i)(4) of the existing standard. It is intended to prevent unknowing employees from cutting into or breaking high pressure air lines that are buried or otherwise hidden by water and/or debris covering the tunnel invert.

Paragraph (r)—Haulage. Most of the present requirement from paragraph (k) for haulage are proposed to be continued, with some word changes and reorganization.

Paragraphs (r)(1)(i) and (ii) restate the present requirement (paragraph (k)(1)) to ensure that haulage equipment is maintained in safe operating condition. Requiring correction of defects which affect safety before the equipment is used should reduce the potential for accidents. The same requirements are in BOR Section 23.11.1; COE Sections 18.A02, .02, .03, .04, and 19.A.04; and Michigan Rule 408.41475.(1).

The requirement in (r)(2)(i) for all mobile haulage equipment to have suitable brakes is an editorial change to the existing requirement (k)(2). Mobile haulage equipment is designed by the manufacturer to work up to a given degree of grade and have rated stopping distances, etc., as defined in other standards as referenced in 1926.602 or subsequent documents published by the Society of Automotive Engineers (SAE) (See California Standards Section 8483.(c); Michigan Rule 408.41475(4); and MSHA § 57.9–3.) Employers are hereby directed that when they plan to use a piece of equipment, they need to ascertain that the brakes are suitable for the conditions of use to which the machine has been assigned. Thus, if a job has extremely long grades that are beyond the capacities of a standard braking system, the employer would need either to have the equipment fitted with brakes adequate for the job, or make other arrangements that would prevent overloading the machine's braking capacity. The existing rule has been edited for clarity by changing the undefined word "adequate" to "suitable" as defined in § 1926.23(r).

The requirement of (r)(2)(ii) is new in this section and requires mobile equipment to be stopped for manual connecting or servicing. The requirement is intended to reduce the number of injuries and fatalities which have occurred over the years when employees have been caught between rail cars and other mobile machinery while hooking them together or servicing components (Ex. 12.35, pp. 19–29). Similar requirements are in California Standards Section 8474.(b); COR Section 18.A.27; and MSHA § 57.9–5, –51, –65, and § 57.9–97 and are all intended to prevent the same types of injuries.

The requirements of (r)(3) (i) and (ii) are rewritten and reformatted from the present (k)(3) for clarity. In (i), powered mobile haulage equipment is required to have audible warning devices. Paragraph (ii) requires that lights be turned on at both ends of equipment during use. (This distinguishes operating equipment from parked equipment, which is required by § 1926.600(a)(1) to be marked by reflectors or barricades.) The same requirements are found in ANSI Section 9.4.1 and .5; Michigan Rule 408.4175(4); California Section 8483.(f), (d), and 8472.(a), (b), and (c); MSHA § 57.9–5, and .9–9; and BOR Section 23.11.2.

The requirement of (r)(4)(i) is new and it extends the concepts of falling object protection (FOPS) that is afforded to operators on earthmoving and haulage machines covered in § 1926.1000(a)(1) to all powered mobile haulage equipment purchased after the effective date of this standard. OSHA understands that some manufacturers of rollover protection structures (ROPS) addressed in § 1926.1000 and .1001, have incorporated the FOPS protection of SAE J231 into their ROPS systems. Because the same hazards would exist for these mobile machines, it is logical to extend the same protection to the locomotives and man-cars used in underground construction.

Many locomotives used in metal and non-metal mining and some in coal mining have already been equipped with cabs or canopies which meet or exceed SAE J231. These are the same types of locomotives used in underground

construction. Although many underground construction employers have purchased new locomotives with the cab or canopy already installed, OSHA believes some users have chosen to add cabs of sufficient strength to their locomotives after purchase.

Most man-cars currently have both a sturdy top and sides. Those made by the equipment manufacturers for users in underground work have tops that exceed the proposed strength requirement for FOPS. The proposal would require that all FOPS, including those built by users, meet the FOPS strength requirement of SAE J231. Similar requirements for man-cars are in BOR Section 23.11.4 and Michigan Rule 408.41475(5) except that either specifies the criteria of SAE J231–1976.

OSHA believes that FOPS protection is needed for operators and passengers in all powered mobile haulage equipment to protect employees against the hazards of roof falls or other falling objects such as timbers. OSHA also believes that the canopies or cabs which provide the FOPS protection would have the additional benefit of keeping employees from extending their bodies outside the cab, thus reducing the potential for struck-by and caught-between injuries common to equipment operated in the close quarters that prevail in most underground construction.

The proposal would require FOPS on all powered mobile haulage equipment purchased after the effective date of the standard. However, OSHA is considering whether the final rule should also require FOPS to be installed on existing equipment. Comment is requested on the feasibility of such a requirement. Does equipment exist that cannot be retrofitted with FOPS? If so, what are the factors that would prohibit existing equipment from being retrofitted with FOPS that meet the SAE J231–1976 criteria?

OSHA solicits comments on FOPS currently in used in underground construction, and the strength factors possessed by these protective devices. OSHA also requests information on accidents and injuries which have occurred on equipment with and without FOPS meeting the proposed requirements.

Proposed paragraph (r)(4)(ii) is an editorial change of the present § 1926.800(k)(4). Windows or cab glass are not required, but when glazing is used, it must be a safety type and be kept clear and in good condition. The same requirements are in California Section 8483.(i); BOR Section 19.4.3; and MSHA § 57.9–11.

The requirement of (r)(5) is an editorial change of the present rule in (k)(5) of this section. Antirollback devices or brakes are required in order to ensure that loaded inclined conveyors will not inadvertently reverse their travel direction causing material to pile up. Such piled up material could endanger employees underground by blocking access or egress to locations beyond the lower end of such inclined conveyors. Michigan Rule 408.41475(8); COE Section 18.K.03; and MSHA § 57.9–13 contain parallel requirements.

The requirement of (r)(6)(i)(A) is reworded from the existing (k)(6) in order to clarify the requirement. While the types of conveyors mentioned are not generally used in tunnel work, recent innovations and jobsite muck-handling volume demands may encourage wider usage as conveyors become more economically feasible. The hazards associated with conveyors, such as pinchpoints, materials falling or rolling back, restricted openings and passage points are made more serious by the limited workspace available in underground construction. While this requirement restricts any use of material conveyors not designed for transport of persons, it is not intended to prevent the use of escalators or horizontal people movers. The same requirements are in MSHA § 57.9–14; Michigan Rule 408.41475(9); COE Section 18.K.07; and BOR Section 18.15.13.

Proposed new paragraph (r)(6)(i)(B) prohibits the use of manlifts in underground construction. Such a general prohibition in construction is contained in § 1926.552. However, in underground construction, as noted below, proposed paragraph (t) allows the employer not to comply with § 1926.552 if he meets the proposed hoisting requirements in (t). Therefore, it is necessary to repeat the prohibition of manlifts here to assure its continuing application to all underground operations. A reference to § 1926.555 is also included here as a note to point out that the use of conveyors in construction is covered in detail in that section.

Paragraph (r)(6)(ii) is a restatement of § 1926.601(b)(8) and is included to emphasize its importance in the underground workplace. It requires that employees be transported on equipment only if it is equipped with seating and provides employees protection from being struck, crushed or caught between equipment or surfaces. Thus, employee passengers being transported on vehicles of any type will be ensured a safe means of transport on the job. This proposal is not intended to prevent employees from performing specific work assignments, such as train crewmen standing on properly designed railcar platforms with suitable handholds for braking and switching activities, at those locations requiring such work. Rules covering the same hazards, although worded differently from this proposal, are in MSHA § 57.9–40, –41, and –67; BOR Section 19.2.8, 19.5.3; California Section 8473.(f), .(g); and COE Section 19.C.02.

The requirement of (r)(7) is a modification of the present (k)(8) to ensure that any unattended mobile equipment will be prevented from moving away from the stopped or stopping position when the operator leaves the operating position for any reason. Improperly stopped or parked unattended machines could be a source of severe injuries or fatalities. Rules covering the same hazards are in MSHA § 57.9–36, –37; BOR Section 19.2.5; COE Section 19.B.05; and Michigan Rule 408.41475(6), while ANSI Section 9.4.2 and California Section 8471.(c) apply only to locomotives.

The requirement of proposed paragraph (r)(8) is new and derives from the Bureau of Mines Bulletin 644 (Ex. 12:34, p. 28, No. 43), which was developed for the use of tunneling contractors. While trains using trolley circuits are not generally used in tunnel and underground construction, they may be used when certain jobsites such as mines being converted to new uses are in a construction phase of the conversion. OSHA's intent is to provide proper protection when they are used because of the hazards of trolley circuits. The bonding of each rail and cross-bonding at every 200 feet of track would ensure proper grounding of the system and reduces the hazard of electrocution or burns to employees working in proximity to the rail system. Michigan Rule 408.41475(7) recognizes the use of rails as a ground return for trolley wires.

The requirements of paragraphs (r) (9), (10), and (11) are the same as existing paragraphs (k) (9), (10), and (11), respectively, with some editorial clarification. These requirements are intended to ensure that employees will be protected from being caught between, crushed or maimed and injured by the improper control of the equipment or materials being hauled. The requirements found in Michigan Rule 408.41475 (10), (11) and (12); California Section 8473.(d); ANSI Section 9.5; COE Section 24.D.05, and .07; and MSHA § 57.9–42 and –45 also cover these hazards.

The proposed requirements of paragraphs (r)(12) (i), (ii) and (iii) are new. The requirement of paragraph

(r)(12)(i) for automatic coupling devices on rail cars is intended to reduce the need for employees to reach between locomotives and train cars to hook or unhook connecting links. The manual hooking and unhooking of train units with link and pin couplers has been the source of amputations, caught-between and crushed-between injuries since the introduction of such couplers. OSHA believes that automatic couplers will reduce employee exposure by making it unnecessary for employees to reach between the cars and locomotives (Ex. 5, pp. 80–83; and Ex. 12:35). Similar requirements are in ANSI Section 9.6; BOR Section 23.11.3; COE Section 24.D.05; and California 8474.(a). The requirement for automatic couplers was also recommended by several commentors responding to the 1974 proposal (Ex. 1:17, Nos. 6 and 31). The exception for end-dump muck cars of less than one and one-half cubic yards capacity was adopted from ANSI Section 9.6 and a provision of similar intent in California 8474.(a). Such an exception is proposed because these types of cars are not frequently coupled.

OSHA has been informed that automatic couplers have been known to separate inadvertently when tracks are inadequately maintained, or if the couplers are improperly designed for the change in grade or curves involved. OSHA requests information on the frequency of this occurrence and its impact on employee safety, as well as steps that can be taken to prevent inadvertent uncoupling.

The proposed requirement of paragraph (r)(12)(ii) for mancars or powder cars to be connected by safety chains, or an equivalent device, is intended to protect employees from the hazards of a runaway car collision if a coupler breaks or separates. In addition to preventing the collision itself, the standard would prevent powder cars from exploding as a result of a collision. It is proposed as a response to public comments (Ex. 1:17, Nos. 1, 17, and 34). The ACCSH also recommended that these requirements be included in the proposal (Ex. 4, p. 73).

Proposed paragraph (r)(12)(iii) requires that haulage cars be connected by safety chains or other connections when the grade exceeds one percent. Without this protection, the employees downgrade from a moving train would be endangered if the cars became uncoupled. An example of such an occurrence, where a train came uncoupled and the additional connecting device (cable) failed, happened on June 14, 1980. In a water tunnel being constructed under the Bronx, two railcars carrying concrete became uncoupled from the locomotive. The cars rolled a distance of two miles and struck a scaffold, causing two men on the scaffold to fall 18 feet and sustain serious injuries. There were another five men on the ground below the scaffold who were less severely injured. (See Ex. 12:33.) A safety chain or other connection of equivalent strength to the coupler would prevent such accidents. Requirements for safety chains are in Michigan Rule 408.41475(17) and California Section 8474.(e).

OSHA solicits comments on the hazards associated with the uncoupling of railcars and the use of the safeties being proposed for man-cars, explosives cars and trains operating on grades. Have incidents occurred where uncoupled man-cars caused injuries to employees, or other cars separated from a train on grades resulted in injuries and fatalities?

The requirement of paragraph (r)(13) is reworded from the present (k)(12) for clarification and to prevent duplication of efforts. The intent of this requirement is to ensure that parked railcars will not roll from the parked location. It is recognized that in some cases, a railblock or chock may be needed to supplement a railcar's brakes. However, OSHA intends only that some means be used to ensure that parked railcars remain at their parked positions and not that dual provision be required when a railcar is equipped with brakes which will hold the railcar in its parked location. This hazard is covered by similar requirements in ANSI Section 9.3; BOR Section 19.2.5; COE Section 18.A.31; MSHA § 57.9–47; California Section 8474.(e); and Michigan Rule 408.41475(13). These rules are all worded differently but are consistent in intent.

The requirement of paragraph (r)(14) (existing (k)(13)) remains in the proposal to ensure the continued protection of employees who would be endangered by cars over-running the end of the track or overturning at track dumping areas. Similar requirements, several with identical language, are found in BOR Section 23.11.7; COE Section 24.D.07; MSHA § 57.9–54; and Michigan Rule 408.41475(14).

The requirement of paragraph (r)(15) is an editorial change from the present (k)(14) and is retained to maintain the protection afforded employees by preventing railcars from running off track ends. Rules covering this same hazard are in ANSI Section 9.1 (last sentence); Michigan Rule 408.41475(14); and MSHA § 57.9–56.

The requirement of paragraph (r)(16)(i) limits items that may be carried in mancars to small hand tools, lunchpails, or similar small items, and is changed from the present requirement of paragraph (k)(15) which does not include locomotive tops as a transport area. This provision protects the operator and employees from serious harm as a result of being struck by small dangerous items transported by employees which may shift or become dislodged during travel. Similar requirements, although worded differently, that cover this hazard are in ANSI Section 9.4.3; BOR Section 23.11.4; COE 19.C.04; California Section 8473.(c); Michigan Rule 408.41475(15); and MSHA § 57.9–96 and –99.

The requirement of proposed new paragraph (r)(16)(ii) is necessary due to the inclusion of locomotive tops in (r)(16)(i). If locomotive tops are used to carry such small materials, provisions must be made to retain them while traveling. California Rule 8471.(e) covers the same hazard and requires locomotive tops to be capable of retaining such materials.

The requirements of paragraph (r)(17) (i) and (ii) are new. The ACCSH's recommendation that occupied mancars be pulled and not pushed was made to prevent the locomotive or other components of a train from crushing the employees should a collision or runaway situation occur (Ex. 1:8, pp. 244–245). This provision would also assure that the operator's view is not obstructed by passengers riding in a mancar.

The requirement of proposed paragraph (r)(17)(ii) helps to carry out the intent of paragraph (r)(17)(i) by mandating that only mancars shall make up a man trip. This would eliminate other cars and cargoes compounding the hazard should a collision, derailment or runaway situation occur. OSHA is aware that there are instances where there is insufficient room in the tunnel for switching facilities. It has been suggested that one method of complying with this proposed provision in such a situation would be to connect a mancar on each end of a locomotive to facilitate bringing employees back from the face at shift change. This would not violate the intent of (r)(17)(ii) as long as the locomotive always pulls the occupied mancar.

The California Standards Section 8473.(a) requires that the regular transportation of tunnel crews be in trains made up for that purpose only. That section also provides that where switching facilities are available, the mancars shall be pulled, not pushed, by the locomotive.

The Bureau of Mines recommends that, in tunneling, man trips always should be pulled and should consist of mancars only (Ex. 12:34, p. 19).

MSHA § 57.9–99 states that man trips shall be operated independently of ore and supply trips.

OSHA solicits comments on the hazards associated with mancars being pushed, and seeks information on procedures which can be used for man trips in tunnels where there is only a single track without room for a switch. OSHA also solicits comments on any methods of providing equivalent protection while hauling occupied mancars.

Paragraph (s)—Electrical safety. Proposed paragraphs (s)(1), (s)(2), and (s)(4) are restatements of the existing requirements found in paragraphs (l)(1), (l)(2), and (l)(3), respectively. Proposed paragraph (s)(1) directs the employer to Subpart K of Part 1926 for electrical safety requirements. Proposed paragraphs (s)(2) and (s)(4) deal with recognized tunnel and shaft hazards.

The only new requirement proposed in paragraph (s) is that of paragraph (s)(3) which deals with lighting circuits. It would require circuits to be out of the way of equipment and personnel being moved. Damaged circuits and fixtures present shock and burn hazards, and loss of lighting may occasion employee injuries due to reduced visibility in temporary darkness. This is a clarification and restatement of requirements found in paragraph (c) of Subpart K; it places no additional burden on employers or employees. (See BOR Secton 23.1.4 and California Section 8460.(c) for requirements that address the same hazard.)

Paragraph (t)—Hoisting. The proposed hoisting section has received extensive review by the ACCSH in the course of this rulemaking (Ex. 1:12, pp. 12–53; Ex. 1:13, pp. 5–89; Ex. 5, pp. 94–118). Source documents considered by the ACCSH have included, in addition to the ANSI, Michigan, New York and California standards, relevant sections of the Corp of Engineers, Bureau of Reclamation, and Atomic Energy Commission (November, 1971) standards. OSHA has also evaluated and considered all comments on this section received in connection with the 1974 proposal.

Proposed paragraph (t) is much more extensive in its handling of underground hoisting operations than is current paragraph (m). The proposal is intended to provided more comprehensive coverage of underground hoisting, which presents complicated and unique conditions not encountered elsewhere in construction. Unlike above ground hoisting, where the hoistway is not encased by the earth and in most cases is not the ony means of access for employees and materials, underground construction hoisting involves the unique hazards of both a constricted working environment and limited access to that environment.

In underground operations, the shaft is subject to radical climate changes. Air temperature and humidity from the surface can cause hazardous environmental conditions when vented through the shaft to the underground areas of the jobsite. Sometimes moisture from the surface air forms clouds and fog which reduce visibility, or form ice on many of the below ground surfaces, including the hoist system components. The ever-changing climatic conditions in the shaft also cause expansion and contraction of the hoist system components which may also affect the hoist system functions. The unique problems of the underground hoisting environment call for additional safeguards to protect employees.

OSHA's existing personnel and material hoist standards in Subpart N (§ 1926.552) are primarily aimed at the type of hoist commonly found at above ground contruction. These rules do not address many of the unique problems of underground hoists, such as the operation of a hoist that is being used in a shaft sinking operation. In addition, the crane rules in Subpart N (§ 1926.550) do not currently address the practice of hoisting personnel (although OSHA is currently in the process of revising Subpart N so that it will address this issue) which is fairly common in shaft sinking operations. When that revision of Subpart N has been completed, appropriate changes will be made to this paragraph.

Paragraph (t) has been organized so that the requirements that apply to all hoisting performed by both cranes and hoists are contained in paragraph (t)(1). Paragraph (t)(2) contains additional requirements that apply to both cranes and hoists, but only when hoisting personnel. Paragraph (t)(3) contains those provisions that are specifically for cranes, while (t)(4) contains those provisions that apply only to hoists. This format is different from the present paragraph (m) and has been developed to assist the employer in determining which provisions apply to his hoisting operations.

In brief, the general construction requirements for cranes, material hoists, and personnel hoists in Subpart N do not address the unique problems of limited access and egress that are encountered in underground construction. These problems will often necessitate the use of a single hoisting mechanism to hoist employees and material to and from the active work area. Because the provisions of §§ 1926.550 and .552 do not address these and other problems associated with the underground workplace, it is appropriate for OSHA to propose additional requirements in paragraph (t) of the underground operations standards to assure that the necessary hoisting operations can be performed safely. As noted below, the proposed provisions would either supplement or supplant the crane and hoist requirements in Subpart N, as noted.

General requirements for the use of cranes in construction are found in § 1926.550, and would continue to apply to underground construction in their entirety. The provisions on cranes which are contained in proposed paragraph (t) contain additional requirements for underground construction, including necessary safeguards for the use of cranes in hoisting of personnel. OSHA believes that it is necessary to allow the use of cranes to hoist personnel to and from underground operations, under carefully controlled conditions. The proposal contains requirements which OSHA believes to be essential for the safe performance of this hoisting operation, as will be discussed below. The Agency solicits public comment on practices and procedures which may be necessary to assure safety in the use of cranes to hoist employees in underground construction.

The standards on the use of material hoists in general construction, which are found in § 1926.552 (a) and (b), would continue to apply to underground construction, except as modified by proposed paragraph (t). Section 1926.552(b) currently prohibits employees from riding on material hoists, except for inspection and maintenance. For the reasons discussed above, OSHA is proposing to allow the use of a single hoist to hoist both employees and materials, provided that the hoist meets all applicable requirements for personnel hoists when used for personnel, and that personnel and materials are never hoisted together on a single lift. The specific hoist provisions contained in proposed paragraph (t) are discussed in detail below.

In addition, the proposal would continue to allow the employer to perform personnel hoisting in accordance with the general construction provisions of § 1926.552 (a) and (c) (personnel hoists) or § 1926.552 (a) and (d) (elevators), in lieu of complying with the personnel hoisting

requirements proposed in paragraph (t). The general construction provisions, which are directed at less restricted workplace conditions and access than are found in underground construction, are not generally feasible for underground operations. However, in those limited circumstances in which environmental and job conditions may permit their use, the personnel hoist and elevator provisions of § 1926.552 will provide protection at least equivalent to that of the proposed paragraph (t).

The opening statement in paragraph (t) contains a cross-reference to Subpart N (§§ 1926.550–.556) which reminds employers that general and specific requirements applicable to all cranes and hoists in construction are found in Subpart N of this Part. These requirements would continue to apply to all cranes and hoists in underground construction, unless modified by a specific provision in this proposed paragraph (t).

Paragraph (t)(l) *General requirements for cranes and hoists* sets out the general requirements for all hoisting to or in underground locations. These requirements apply both to personnel and material hoisting by cranes and hoists. Paragraph (t)(l) has been divided into four divisions identified by Roman numerals and titles to assist in identifying respective subject matter of the titled divisions.

Paragraph (t)(l)(i) *Design* contains those general requirements related to the design of all cranes and hoist facilities used in underground service.

Paragraph (t)(1)(i)(A) requires a roof or hoist house to protect the hoist equipment and the operator from inclement weather. This is a revision of § 1926.552(b)(3) and (4) which require overhead protection for hoists. The proposed standard will extend the application to both cranes and hoists. Such operator and equipment protection will prevent weather conditions from interfering with the operation of the hoisting facilities. The present requirements of ANSI B30.5 (referenced by § 1926.550(b)(2))specify cab and roof criteria for mobile cranes which would satisfy this requirement. Requirements in COE Section 18.1.15 and BOR Sections 18.10.9, and 18.11.7 require overhead protection and the Michigan Rule 408.41477(4) requires a hoist house to protect against inclement weather.

Proposed paragraph (t)(1)(i)(B) requires what is commonly called a "deadman control." The intent of this requirement , which is found in the current § 1926.800(m)(2), is to assure that the travel of a hoist line drum stops when the operator releases the control or throttle. This prevents hoist movement unless the operator places his hand on the controls to activate them. Similar requirements are in BOR Sections 18.10.13, and 23.12.3; ANSI Section 8.3.2; Michigan Rule 408.41477(7); and California Section 8493.(b)(1).

Proposed paragraph (t)(1)(i)(C) is a revision of current paragraph (m)(1) which would prohibit lowering of the load against either a brake or friction with the drum in free-wheeling. Even though certain cranes or hoists may have a means to allow a drum to free-wheel against a brake or friction, that method of operation is prohibited excerpt for clam-shell excavation. This prohibition will require loads to be powered both up and down which will protect employees from being dropped or being injured because a load fell that was controlled only by brakes or friction. Requirements that address the same hazard are found in BOR Section 23.12.3(b); ANSI Section 8.3.3; Michigan Rule 408.41478(b); and California Section 8493.(b)(3).

Proposed paragraph (t)(1)(i)(D)(*1*) restricts the travel speed to that which the hoist system and its components (including the rail system for guided hoisting conveyances) have been designed. Governors used on cranes or hoists in underground work will have to be set to limit the travel speed to the safe speed established by the designer. (Hoistng speed requirements being proposed for personnel hoisting are more restrictive than those for material and are set forth below in proposed paragraphs (t)(2) and (t)(4). Whenever the alignment of the hoist shaft installation has been adversely affected by environmental conditions, a further reduction of hoisting speeds is required by proposed paragraph (t)(1)(i)(D)(*2*), to ensure that the employees will not be harmed by accidents that are caused by the use of hoisting speeds in excess of equipment capabilities, environmental conditions, and physical restrictions of the jobsite. Similar requirements restricting travel speeds to the design speed are found in ANSI 8.3.4; California Standards Section 8493.(b)(4); BOR 18.1; MSHA 57.19–7, and Michigan Rule 408.41477(1).

Personnel hoisting in underground locations often requires employees to be transported on the same hoists used to handle muck and material. Proposed paragraph (t)(1)(i)(E)(*1*) requires that where a single hoist or crane is used for both personnel hoisting and material or muck hoisting, the rules for personnel hoisting be fully complied with whenever men are in the cage or skip. Such requirements are contained in MSHA regulations (MSHA § 57.19) and such practices are common to underground construction. The personnel hoisting requirements impose safety factors of design and engineering which assure a means of providing safe transport that exceeds the material hoisting requirements. Requirements covering this hoist usage are in Michigan Rule 408.41478 and BOR 23.12.3.

Paragraph (t)(1)(i)(E)(*2*) proposes to permit hoisting of materals at higher speeds than used for personnel, provided that the equipment has been designed for those speeds and that shaft conditions allow their safe use. (See Ex. 1:28, pp. 169–170.) If the lower speeds which are imposed for personnel hoisting are also imposed for material hoisting, there can be a loss of material hoisting efficiency. OSHA believes that such losses are unecessary provided that hoist components and shaft conditions permit greater speeds to be used safely, without harm to the hoisting facility components. The introductory paragraph to MSHA § 57.19 states that where persons may be endangered by material hoists, the appropriate man-hoisting standard should be applied. Michigan Rule 408.41476(4) requires material hoists to comply with the personnel hoist rules, if used to transport personnel.

The requirements of proposed (t)(1)(i)(F) replace the language of paragraphs (m) (8) and (9) in the present rules with criteria to be met in the construction of cages or skips on which employees ride or work. These criteria are intended to provide comparable protection to that of personnel hoist cages in surface construction, with accommodations for the problems encountered in tunnel shaft sinking and use. (See Ex. 1:13, pp. 47–52.)

The requirements of proposed paragraph (t)(1)(i)(F)(*1*) call for sides to be of strength and qualities required by other OSHA regulations (§ 1926.552(b)(5)(ii)). OSHA's current material hoist regulations specify the same size, strength and height enclosure as does this proposal. The proposed allowance for a lower side enclosure height responds to the need in some jobsites to use the cage as a work platform. The present requirement does not provide for using the mancage in this manner. As proposed, the cage sides would provide full passenger protection during hoisting operations. The sides may have removable or slideaway sections above the 42" height that can be removed once the motion of the cage is stopped to accommodate shaft maintenance or repair work.

Proposed paragraph (t)(1)(i)(F)(*2*) maintains the present requirement for a door which has a positive locking device and adds the provision that the door be designed to prevent its being opened outwardly. The reason for the latter requirement is that a door opening outwardly would be more likely to allow passengers to fall into the shaftway in the event of a mishap. (See Ex. 12:30; and the related incident in the Hazards section above.) In addition, if the door were to open while the cage was moving, it could catch on the shaft components, perhaps damaging whatever it might catch against, or causing injury to employees below and within the cage. Requirements in Michigan Rule 408.41478(d) and COE Section 23.C.07 do not require doors, but specify a positive lock if there is a door.

Paragraph (t)(1)(i)(F)(*3*) requires a protective canopy, and sets forth criteria for its design and construction. The roof must be sloped to allow for muck and other falling objects to be deflected and to reduce build-up of debris on the roof. The canopy must be constructed of at least 3/16 inch steel plate, or a material equivalent in strength and impact resistance, and must allow for emergency escape. (See BOR Section 23.12.3; ANSI Section 8.3.5; California Section 8493.(c)(2); and MSHA § 57.19–50 which have similar requirements.)

The requirement of (t)(1)(i)(F)(*4*)(*i*) would call for an interlock on any hoist cage which will prevent its movement when the cage door is opened. The interlock would prevent employees from being crushed or struck by a moving cage. An alternative to the interlock is allowed by proposed paragraph (t)(1)(i)(F)(*4*)(*ii*) which provides for an attendant to ascertain that the door is latched and to signal the hoist operator that it is safe to move the cage. COE Section 18.H.06; BOR Section 18.10.8; and ANSI Section 8.3.6 all require such interlocks.

The foregoing provision accommodates both hoist and crane handling of mancages and recognizes that an interlock system may not always be practical for crane hoisting of mancages. OSHA considered requiring an attendant at all landings, regardless of the use of an interlock system, to oversee loading and unloading, but believes that requiring both an interlock and an attendant is redundant. Therefore, the OSHA proposal does not require both, but allows the employer a choice between the two. OSHA feels that either methods will provide equivalent employee safety since both are meant to prevent premature movement of cages.

Paragraph (t)(1)(ii)—Operation and maintenance requirements. This paragraph provides the general operation and maintenance requirements applicable to all cranes and hoists used for both material and personnel hoisting. (Additional operation and maintenance requirements which are applicable only to hoists, or to cranes, or for hoisting of personnel are contained later in paragraph (t).)

In proposed paragraphs (t)(1)(ii)(A) (*1*) and (*2*), respectively, employers would be required to ensure that the hoist operator, and other involved personnel, are notified that employees are about to commence work in the hoistway or adjacent area in the shaft. The hoist operator and other involved personnel are required to be given "suitable" (as defined in § 1926.32(r)) instructions. "Suitable" instructions could include the number of employees involved in the work and the type, location, and duration of such work. This it to provide a means of safe access for the employees involved and to prevent them from being struck or crushed by the conveyance or other objects such as tools or materials related to the work in the shaft. Other personnel would be informed that work was underway in the shaft by signs located as prescribed.

Paragraph (t)(1)(ii)(B) is a new provision that would require that the crane or hoist operator remain within visual and audible signal range of the operator's station at all times when employees underground are dependent on the hoist for egress. The operator must be close enough to receive signals from the shaft in order to be able to respond in an emergency to evacuate employees from the work place, or to lower equipment to the underground. Similar requirements to (t)(1)(ii)(B) are in California Tunnel Orders Section 8500.(g) and MSHA § 57.19–55 for Metal and Non-Metal Mining requirements.

The requirements in paragraph (t)(1)(ii)(C) specify that load capacities, operating speeds, and warnings and instructions be posted at locations where the hoisting operator and personnel in the shaft can see them. Section § 1926.552(a)(2) and § 1926.550(a)(2), contain similar requirements for personnel and material hoists, and for cranes, respectively, used above ground. Posting these limits and instructions puts employers and employees on notice of the environmental and design limitations of the hoistway and hoisting equipment that must be exceeded. Parallel requirements are also in the present California standards Section 8498.(d), 8501.(b); ANSI A10.16 Section 8.4.1; Michigan Rule 408.41477(2), Corps of Engineers Section 18.I.10; and Bureau of Reclamation Section 18.10.3.

Paragraph (t)(1)(ii)(D)(*1*) would mandate that employers provide a warning light at shaft bottoms and at below ground shaft entrances whenever the hoistway is not fully enclosed to warn employees that a hoist load is being moved in the shaftway. The present § 1926.552 hoisting requirements provide protection by requiring cages and hoistways to be fully enclosed, and the referenced ANSI A10.5–1969, in Section 24.3, requires overhead protection at landings for similar situations. While the requirements in § 1926.552 are predicated on an enclosed hoistway and controlled landing level areas, underground construction hoists may not be constructed in the same way. Therefore, an alternate method of protecting the employee is needed where design protections are limited. This proposal provided a visual warning as a comparale means of safety. This new requirement, which was recommended by the ACCSH (Ex. 5, pp. 97–99), would protect employees from being struck by the lift itself, from material dislodged from a load being hoisted, or from being crushed by the entire lift in cases where the load rigging or line fails.

Paragraph (t)(1)(ii)(D)(*2*) is new. It requires the employer to use a procedure that will protect the employees at a shaft botton from the hazards of a hoist load or conveyance being lowered to them. Existing OSHA requirements do not address this hazard. The proposal would provide for stoppage of the load at least 15 feet above the shaft botton, and for the operator to lower it to the bottom only after being signaled to do so by the signalman at the botton. This would assure that employees are alerted and can get out of the way of the load before it is landed on the shaft botton. This requirement is also contained in BOR Section 23.12.4; California Section 8494.7(b); and ANSI Section 8.4.2.

Proposed paragraph (t)(1)(ii)(E) would prohibit employees from riding on the top of any cage, ski, or bucket except those employees performing repair or maintenance work from the top of the conveyance who are protected by safety belts and lanyards. This is a revision of paragraph (h)(3)(v) of the existing regulations which requires employees on skips and platforms to wear safety belts unless guardrails or enclosed cages are used. The current rule does not limit the riding to the performance of inspections or maintenance. OSHA has changed to word "platform" to "skip" to

be consistent with the rest of this section. An example of the type of service that might have to be done from the top of a cage is inspecting or repairing the rails and the guide system or lubricating sheaves on the block. Present rules in § 1926.552 for hoists have the same requirement, but do not address cranes.

Proposed paragraph (t)(1)(ii)(F) prohibits the hoisting of employees and material on the same lift. This provision ensures that employees would be protected from being injured by shifting cargo if the lift or system were to malfunction. Small handtools, lunch pails, and other suppplies would be permitted provided they are secured and would not create a hazard to employees in the lift or in the shaft below. The exception states that cages or skips that must be controlled by an operator within the cage may be used to hoist materials provided that the materials are secured or loaded in a manner that does not endanger the operator. This exception allows only the operator to ride with materials, and no other employees are permitted. When an operator must ride with materials, all personnel hoisting requirements would apply. The ANSI standard (Section 8.4.5) has a parallel requirement.

Proposed paragraph (t)(1)(ii)(G) is new. It would require that any load raised or lowered in the shaft be loaded on the conveyance or suspended appropriately in rigging so that hoisting or lowering will not cause the load to be upset or dislodged. This should also prevent the load from catching against and possibly damaging hoist shaft components such as braces and rail supports. This should reduce the potential for employees being struck by falling objects and debris, as well as reduce the exposure to falling objects that occurs when any damaged shaft conponents must be repaired.

Paragraph (t)(1)(ii)(H) forbids cranes or hoists to pass materials, tools or equipment over personnel. It is intended to ensure that employees at shaft bottons and along the hoisting area are not exposed to hazards from activities occurring above them, such as load handling, or repair, maintenance or installation work in the shaft. OSHA's existing requirements for cranes (§ 1926.550(b)(2), which references ANSI B30.5–3.2f) provides that "the operator should avoid carrying loads over people." The current material and personnel hoist requirements require overhead protection to protect employees from falling objects. BOR Section 23.12.4; California Section 8500.(j) and Michigan Rule 408.41476(6) require similar protection but approach the problem in different ways. The BOR requires a barrier to protect the workers at the botton of the shaft. California states that when employees are not protected by a bulkhead, the cage, skip or bucket shall not be moved until the employees in the shaft are clear. Michigan requires employees at the bottom either to be protected from overhead movement, or to vacate the shaft during operations that may be hazardous.

Paragraph (t)(1)(ii)(I) requires a trail run of a cage or skip that has either been out of service for one complete shift, or has been repaired or adjusted, to ensure that the hoist system is safe for continued use. Similar requirements are found in MSHA § 57.19–130; and Michigan Rule 408.41476(1). This provision complements OSHA's proposed paragraph (t)(4)(i)(H) which would require visual inspection of hoisting equipment at the beginning of the shift or during use.

Paragraph (t)(l)(ii)(J) would ensure that identified hazardous conditions are corrected before equipment is used. Injuries caused by hoisting equipment failures or malfunctions are often severe or fatal. Similar requirements are in § 1926.550 (a)(5); the referenced ANSI A10.5 Section 18.20; BOR Section 18.1.5; MSHA § 57.19–120; and Michigan Rule 408.41476(3). (See Ex. 12:32 and the Hazards section above.) Compliance with this requirement may also actually reduce overall job costs by eliminating more serious delays that are probable when hazardous conditions are neglected.

Proposed new paragraph (t)(l)(ii)(K) requires that limit switches not be used as a substitute for operational controls. Limit switches are designed to limit the travel of loads or conveyances at the top or bottom of the hoistway, as a backup means of protection when operational controls fail to function properly. They are not designed to be used as substitutes for those operational control functions because such use could cause them to fail prematurely. This, in turn, could cause accidents by rendering the back-up system incapable of limiting travel if regular controls were to fail during hoisting activities. A similar requirement is in the April 1, 1971 Washington, D.C. regulations (Sec. 808.2(b)). The Safety Code for Elevators (ANSI A17.1), referenced in § 1926.552(d), requires final terminal stopping devices in addition to the normal operational controls. These devices are installed to serve the same emergency stopping function as the limit switches proposed by OSHA, and can operate onlky in that function.

Paragraph (t)(l)(iii), *Wire rope and connections*, contains the requirements for calculating wire rope safety factors, the criteria for determining wire rope use or removal, and the required conditions and connection components for wire rope hoisting in underground locations.

The requirement of porposed (t)(l)(iii)(A) to provide a minimum safety factor of 5 for material hoisting is different than the material hoist safety factor of 7 specified in § 1926.552(b)(ANSI A10.5–16.1), which relates to types of hoists and components not generally compatible with shaft sinking and underground construction. Hoists used in underground construction may require longer ropes than are used in the hoists generally covered by § 1926.552(b). The weight of these longer ropes increases the total weight of the load and would make a safety factor of 7 not feasible. (California Section 8495 and Michigan Rule 408.41477(1)) also specify a safety factor of 5.)

Proposed paragraph (t)(l)(iii)(B) requires a wire rope safety factor of 10 for hoisting personnel with cranes or hoists. The current sections § 1926.800 and .550 do not specify wire rope safety factors for cranes hoisting personnel. The OSHA personnel hoisting regulations (§ 1926.552(c)(14)(iii)) and ANSI A10.4(1975) Table 5, specify various safety factors ranging from 7.6 to 10.7 for travel speeds from 50 to 600 feet per minute. The ACCSH concurred with OSHA's 1974 proposal of a safety factor of 10 (Ex. 5, pp. 73, 100–105). California (8494.3) requires a safety factor of 10 or more for all parts of the rigging when men are being transported. OSHA solicits comment on the adequacy of a safety factor of 10 for wire rope when hoisting personnel. Do data exist that support varying safety factors dependent upon either travel speeds or depth of shaft?

Paragraph (t)(l)(iii)(C) indicates, for the concerned interests such as designer, inspector, employer or user, how to determine the required safety factor, and provides a formula for making that determination. Methods to determine deceleration and acceleration that were obtained from ANSI M11.1–1960 are also included. California Section 8495.(a) requires essentially the same formula for determining safety factors, but gives a different method for arriving at the acceleration or deceleration rate.

Paragraph (t)(l)(iii)(D) of this paragraph defines certain conditions

which require wire rope used for hoisting to be removed from service. The requirements are similar to the hoist rope rules in Subpart N except that a valley break has been included. The term "valley break" has been coined since the promulgation of OHSA's Subpart N and is used to identify a specific type of break in the rope. A "valley break," as defined in BOR 17.3.10, is a wire break occurring in the valley between two adjacent strands. The hazards associated with wire rope failures often are severe, and the underground hoisting environment appears to increase the degree of potential for wire rope failure. Similar requirements are in COE Section 17.C.02; BOR Section 17.3.10; Michigan Rule 408.41476(10) and ANSI A10.4–25.11).

Paragraph (t)(l)(iii)(E)(*1*) requires that the wire rope end fastenings be securely attached at both ends of any hoisting rope. This notifies the employer that makeshift rope end fastening such as knots, overlays and tucks, and mismatched fittings are not acceptable in underground hoist service. This paragraph also requires that at least three turns of rope remain on the winding drum of conventional hoist drums so that the rope end fastening at the drum will not be subjected to damage from applying the stress of the rope load against the drum fastening point. Similar requirements are found in MSHA § 57.19–22; BOR Section 17.3.2; and California Section 8495.(b).

Paragraph (t)(l)(iii)(E)(*2*) proposes to require that when wire rope wedge sockets are used to fasten the hoist rope to the load or cage, a means be provided to retain the wedge and rope in correct position to seat the wedge upon application of a load to the rope. Wire ropes have had a history of separating from the wedge socket prior to becoming properly seated because no means of retaining the socket wedge was used. There are a number of methods for providing this protection to wedge socket wire rope connections, including fastening the rope dead-end to the live side of the rope. OSHA welcomes comments as to methods which are available to provide the protection required by this proposed paragraph. Comments on why some of the means observed in use are unsatisfactory will also be helpful in determining the final rule. Examples of available wedge socket retention methods are contained in the Rigging Manual of the Construction Safety Association of Ontario, Canada, Figure 1.70 (Ex. 17:2, p. 45), and the Wire Rope Users Manual, Figure 25 (Ex. 17:1, p. 34).

Paragraph (t)(l)(iii)(F) restates the requirement of § 1926.251(c)(4)(ii) for one continuous rope without knot or splice to be used in any hoisting, lowering or pulling of loads. The exception for eye splices and continuous type slings is maintained. This provision ensures that the long ropes often necessary for hoisting in underground constructioin will always be single piece continuous ropes. This is to ensure that employees in underground locations will not be subjected to the hazards occasioned by hoist rope separations in underground shafts.

Proposed new paragraph (t)(l)(iii)(G)(*1*) requires the connection between the hoisting rope and the conveyance to be compatible with the type of rope being used. This rule is directed at reducing the hazard of wire rope separations at the connection point. Spin-type fittings work with certain rope constructions, whereas non-spin connections are required for other rope constructions to ensure that the rope will not unwind itself and lose its factor of safety. In the 1974 proposal, spin-type connectors were to be prohibited for all underground service. Spin-type connectors are not acceptable for rotation resistant ropes. However, commenters noted that spin-type connections were appropriate on certain other types of wire rope in use; for example 6x19 regular lay or 6x25 filler (Ex. 1:16, 17, No. 6, 17, 31 and 45). Therefore, this proposal permits spin-type connections where compatible with the type of rope being used. The employer is to be responsible for ascertaining which rope is to be used and the type of fitting that is functionally appropriate for that rope.

Paragraph (t)(l)(iii)(G)(*2*) requires that spin-type connections be kept free of contaminants that might interfere with proper functioning. Dirt, oil, cement, water, and spilled muck are examples of commonly found materials in the underground that could interfere. These substances might cause the swivel joint to malfunction, causing rope damage and increasing the potential premature rope failure.

Proposed paragraph (t)(1)(iii)(G)(*3*) requires that the hoist connection will serve its intended purpose and will not inadvertently release a cage platform or lift. It would prohibit the use of open throat hooks and other connections which could release in any of the circumstances specified. By requiring fully closed connection attachments and predetermined evaluation of connector components, employers will reduce potential for separation of the load from the hoist line. Similar requirements are found in the California Sections 8494.(a)(2) and 8495.(b) and (g) and Michigan Rule 408.41478(g).

Proposed paragraph (t)(1)(iii)(H)(*1*) requires a bridle between the cage (skip) and the hoist line to provide a back-up protection for the hoist rope connection to the cage. This would ensure that the cage remains suspended on the hoist line, and would prevent it from dropping if the main connection were to separate for any reason. The bridle would normally consist of separate lugs on the cage frame with chains or wire rope connected to a sleeve on the hoist cable or resting against the rope socket with attachment points. California Section 8493.3(c)(4) and BOR Section 23.12.3a.(2) have a requirement for a safety back-up in the event the primary connection fails.

Paragraph (t)(1)(iii)(H)(*2*) would require the safety bridle to have the strength characteristics necessary to ensure that it could perform its function in an emergency. The proposed 150 percent capacity is consistent with the capacity of the brakes required for personnel hoist driving machines. This capacity includes a margin of safety to ensure that the rated load can be held should the primary hoist rope connection fail.

Proposed new paragraphs (t)(1)(iv), *Guides and safeties*, provided for the use of guides and safeties during the shaft development (sinking) stage, in completed shafts, and in shafts being used as completed shafts. "Shafts used as completed shafts" refers to those in which further sinking operations are postponed while a level is being developed. Later, those shafts will be sunk to deeper depths. The guides restrain cages, skips and buckets from oscillating, rotating and/or bumping against shaft surfaces or components, and assist the safeties in arresting the conveyance from falling in the event of rope separation or other failure that would cause the conveyance to free fall. The provision should reduce the potential of employees being injured by cage upsets, oscillation, and/or jostling, or from employees being struck by or against cage sides. It should also reduce the probability of dislodging shaft and excavation components that could either strike employees in adjacent areas below or endanger the stability of the shaft.

In 1974, OSHA proposed that when sinking shafts greater than 50 feet in depth, hoist systems shall be guided by rails or cables. When sinking shafts 50 feet or less in depth, no guide system was proposed. That proposed requirement parallels current rules in

the California Section 8493.(a); BOR Section 23.12.3d; and the ANSI A10.16 Section 8.3.1. However, several commenters (Ex. 1:17) reported that a greater shaft depth was needed to permit blasting in order to prevent damage to a guide system. Other commenters indicated that the guide rails for certain hoist systems are available in 30-foot lengths and would ordinarily be installed to come to a depth of 60 feet on first installation. OSHA has, therefore, proposed a 75-foot depth, which will both prevent damage to the guide system during blasting and provide sufficient room to install rails (if that type of guide system were used) (Ex. 1:17 (No. 40); 28, pp. 97, 142, and 168). The Agency solicits comments on whether the 75-foot depth is sufficiently protective, and whether there are circumstances in which guide systems should be required at lesser depths.

When sinking shafts 75 feet or less in depth, paragraph (t)(1)(iv)(A) permits crane or hoist loads, cages, or skips to be freely suspended, provided they will not strike against protrusions, shoring or other objects in the shaft or hoistway. Where the site conditions and equipment cannot be cleared with each hoisted (raised or lowered) load, then some means of preventing the load from swinging, bumping or snagging against the sides has to be installed, such as fenders, guide rails or ropes. Any combination of them will ensure safe operation. This paragraph provides a choice of methods to guide the conveyance while excavation proceeds to a depth where a guide system can feasibly be installed (75 feet).

Paragraph (t)(1)(iv)(B) requires a rail or wire rope guide system to be used when sinking shafts more than 5-feet deep. Once a depth of 75 feet has been attained, a rail or guide system must be installed to guide the cage to within a rail length from the bottom. Thus, employees can be protected for the major length of the hoistway without the guide systems interfering with the shaft extension activities. The distance of a rail length from the bottom will prevent damage to the guide system resulting from the shaft sinking operation.

Proposed paragraph (t)(1)(iv)(C) requires that cages, skips and buckets in all completed shafts be fully rope- or rail-guided. This requirement also applies to all shafts being used as completed shafts, since they are essentially the same as completed shafts, except that their bottom will be sunk deeper at a later time.

Proposed new paragraph (t)(1)(iv)(D) requires that cages, skips or buckets operating at any depth on guide systems shall also be equipped with broken-rope safety latches, dogs, or equivalent devices capable of stopping the conveyance at 150 percent of rated load. The reason for requiring higher stopping capability is underground shafts than the 100-percent capacity normally required for above ground operations is the hostile environment generally encountered underground. Some common underground conditions which may adversely effect the operation of the safeties are temperature inversions from below ground to above ground; shaft conditions such as spillage of muck, cement, or lubricants; and water dripping and ice formations on cage mechanisms or rails. Such conditions could render standard strength equipment less effective by reducing its gripping ability. The use of higher design factors is intended to provide a margin of safety to deal with those environmental interferences. Rules in COE Section 18.1.03; BOR Section 11.11.9; ANSI Section 8.1; Michigan Rule 408.1001; and California Section 8493.(c)(1) all require safety devices. Some of these rules refer to ANSI A10.4 or .5, which require that safeties be designed to stop and hold a conveyance with the rated load. Those listed rules do not refer to ANSI A10.4 or .5 contain language similar to the ANSI rule in that the safeties must hold 100 percent of the maximum load.

OSHA is proposing that these broken-rope safety devices be capable of stopping and holding 150 percent of the maximum rated load. That percentage provides a margin of safety for workers and is also consistent with the proposed capacity for the safety bridle and the two brakes on personnel hoist driving machines.

Paragraph (t)(2) titled *Cranes and hoists for personnel* contains those unique requirements related only to hoisting of personnel by both cranes and hoists.

Proposed paragraph (t)(2)(i) is a revision of (m)(1) that applies only to personnel. It is a design criterion that requires power-controlled rotation of the hoist rope winding drum for both directions of drum rotation. This design criterion would provide hoist conveyance speed control for reducing the hazards of excessive speed in the down direction, as well as preventing a disengagement of the drum which could precipitate the free fall of the conveyance. Additionally, this requirement mandates an automatic application of the brakes upon power release or failure in order to stop the conveyance instead of allowing it to free fall. California Section 8493.(b)(3) requires power up and down features on personnel hoists. ANSI Section 8.3.3 requires power up and down in access shafts.

Proposed paragraph (t)(2)(ii) requires personnel hoists to have two means of stopping the load, each of which must be able to stop and hold 150 percent of the hoist's rated capacity. The use of back-up systems will ensure that the conveyance or load that is being handled will not fall and injure employees, either on the conveyance or at the landing(s). While this wording allows the use of machines with two brakes, it will not prohibit the use of other equivalent stopping mechanisms, such as the control system of a hydraulic motor. The ACCSH discussed the 150 percent braking capability and supported such a proposal (Ex. 1:15, p. 79). A Note is included to prevent confusion about acceptable braking means. Broken rope safeties cannot be used as one of the brakes as they only function when the rope breaks and the cage starts to free fall. The two brakes required by this paragraph are designed to stop the cage with the wire rope intact, but would be of no use should the wire rope or its connection fail.

Where ANSI A10.5–18.2 requires 125 percent capacity for material hoists, OSHA believes that additional capacity should be required for hoisting personnel. ANSI A10.4 for personnel hoists does not specify the capacity of the brakes. Similar requirements for two brakes are in BOR Sections 18.10.11 and California Section 8493.(b)(2), although neither specifies the 150 percent capacity. Brakes having 150 percent of the rated capacity are required by both New Jersey (Rule 20.11) and Michigan (R408.2008, Rule 1008).

The proposed new requirement of (t)(2)(iii), mandating a safety factor of 10 or more for certain critical components of rigging and suspension systems when transporting personnel, comes from a similar requirement in California Section 8494.(a)(3). This requirement will compel employers to reduce the load ratings of material handling cranes and hoists during the hoisting of employees, thus also reducing the potential for equipment failures. Section 1926.552(c)(14)(iii), which covers personnel hoists but not cranes, requires safety factors between 7.6 and 10.7, depending on the travel speed. The proposed provision recognizes the need to provide this degree of protection for employees being hoisted by cranes, as well, and would require that mobile cranes be derated during manhoisting operations.

The requirement of proposed new paragraph (t)(2)(iv) limiting hoisting of employees to 200 feet per minute was

developed in 1972 by the ACCSH subcommittee on hoisting (Ex. 1:12). A similar requirement is in BOR Section 18.10.14. Controls for personnel hoisting on hoist systems are more sophisticated and extensive in their application than those in use on cranes. In addition, cranes in general cannot accommodate the types of controls used on hoists for line speed, slow down or acceleration devices. OSHA is proposing to limit line speed for hoisting employees to 200 feet per minute, except as allowed for hoists in paragraph (t)(4)(ii). This limitation should eliminate the potential for being injured by excessive hoist speeds. It will also allow the crane operator to control the cage more effectively while it is occupied by employees.

Paragraph (t)(3) titled *Cranes* contains specific requirements for equipment components of cranes.

Proposed new paragraph (t)(3)(i) requires a reliable line out indicator with an accuracy of ± one percent to be in view of the crane operator at all times to assist the operator in knowing the vertical location of the cage, skip or load in the shaft. The requirement is for both personnel and material hoisting. There are several systems available that can be used for this service. The devices used on many hoists to provide landing level indication are mounted on hoist assemblies that are the same type as those used in cranes. Other devices with similar capability and apparently greater accuracy are currently in use for off-shore drilling activities, but OSHA feels that the proposed degree of accuracy is sufficient.

This is a new requirement intended to reduce the hazard to the employee of being injured by preventing thew skip or cage from being dumped over while being raised to or lowered from underground locations by a crane. It is also intended to prevent a load from being hung up on the excavation projections and dumping its contents on employees below. Another benefit would be that an oprator would be assisted in exercising better controls of loads being lowered to underground locations, thus reducing the potential for harm to those below who may have to receive and unhook the load. The indicator would also assist the operator in the safe handling of crane loads near fixed obstructions.

MSHA requires an accurate and reliable indicator of the position of the cage, skip, bucket, or cars in the shaft (MSHA § 57.19–9). They do not state what degree of accuracy is desired.

OSHA solicits information on accidents in which cages, skips, or other loads either have caught on projections or have landed too hard, and whether the proposed requirement might have prevented those accidents.

Paragraph (t)(3)(ii), a new provision, would mandate that cranes be fitted with a limit switch, commonly called an "anti-two blocking device," to prevent overtravel of the hoistline loadblock or hook at the boom tip. Overtravel of the loadblock or hook may cause cable separations which can result in the crane dropping the load, or in pulling the boom back over the crane. Such overtravel can injure or kill emplolyees in its path. Limit switches have been required on a variety of cranes and overhead hoists for some years in this country (See ANSI B30.2, .3, and .15; and BOR Sections 18.3.7 and 18.7.4). However, the only *mobile* cranes requiring limit switches are certain hydraulic mobile cranes built to meet ANSI standard B30.15 (1973). Anti-two blocking limit switches should eliminate loadblock boom tip contact which can result in fallen loads. OSHA solicts data on the types of limit switches currently available and on their effectiveness in preventing overtravel at the boom tip.

The requirements of (t)(4), *Hoists*, addresses the requirements that apply to all hoists, and covers both design and opertional activities. Some of the requirements are new and others are revisions of rules from § 1926.552 which relate only to underground construction hoists.

The requirement of (t)(4)(i)(A) is intended to ensure that the design of any hoist system to be used underground will be compatible with the environment and capable of handling the potential loads under all operating conditions. The engineering design must meet the safety provisions required by the regulations engineering design must meet the safety provisions required by the regulations as well as those of accepted engineering practice. Similar requirements are in BOR Section 23.12.3.

Paragraph (t)(4)(i)(B) would require operator controls to be located so that an operator can perform all necessary moves for safe operation or emergency shut-down. In addition to providing adequate access to controls, this provision is intended to ensure that any operator motions or position changes will not inadvertently release a brake or activate a control that will disrupt safe operations. Improperly located controls can cause the operator to bump or drag against some of the controls, endangering both the operator and employees in the vicinity of the load being handled. COE Section 18.L.02 and Michigan Rule 408.41477(6) require such locations for operators' controls.

Paragraph (t)(4)(i)(C) proposes to require each hoist system to be equipped with upper and lower limit switches to prevent hoist conveyance overtravel in the hoistway. Such limit switches would prevent the conveyance from running past the upper and lower landing levels of the hoistway. This would eliminate the potential for employees being injured by the shock of the conveyances suddenly striking the bottom of the hoistway or striking the headframe, or by damage to the hoisting equipment. Similar requirements for limit switches are in COE Section 18.H.11; BOR Section 18.10.15; ANSI Section 8.3.4; and California Section 8493.(b)(4).

The proposed (t)(4)(i)(D) for landing level indicators is intended to assist the operator in placing the cage or lift at the appropriate level for loading and unloading the cage. This provision is intended to ensure that platform surfaces match the landing levels. This should reduce tripping, falling, and physical strains and sprains incurred when employees are moving loads on or off the lift. The use of markings on the hoist rope for landing level stops is prohibited because such markings are subject to wear and are unreliable. Similar requirements for indicators are in BOS Section 18.11.15; Michigan Rule 408.41477(10); and MSHA Section § 57.19.9. The Bureau of Mines recommended that marking of the rope should not supplant the use of the indicator (Ex. 12:34, p. 20).

The requirement of (t)(4)(i)(E)(*1*) for glazing to be of safety glass or equivalent is consistent with OSHA's other requirements for construction operator locations such as 1926.550(a)(12) and .600(a)(5). Paragraph (E)(*2*) requires glazing to be free of distortions where operator observation of signals and work activity is necessary. (See Michigan Rule 408.41477(5) for similar requirements.)

The requirement of (t)(4)(i)(F) for a fire extinguisher to be mounted in the hoist house is consistent with similar requirements in § 1926.550(a)(14)(i) for cranes, and the most current ANSI A10.5 for material hoists. It is much safer for all concerned that the hoist operator or some other person have an opportunity to extinguish a blaze before the hoist is damaged and thus endanger both the operator and employees who may be trapped below ground. A similar requirement for a 2A:10 B:C extinguisher is found in Michigan Rule 408.41467(6).

Proposed paragraph (t)(4)(G)(*1*) requires periodic load tests of each hoist assembly to 100 percent of rated capacity. This is a reduction from the present requirement in (m)(6) of twice the maximum load and the change is

proposed since such loading may damage controls, resulting in malfunction and danger to employees. While certain components of a hoist system may well sustain twice the rated load, other components such as controller contact points, solenoids, relays and similar electrical equipment may not. The current ANSI A10.4 and A10.5 standards require testing at the rated load. When the ACCSH reviewed the proposal, some members suggested that 100 percent is too high for frequent drop testing because the rails may be damaged, while others suggested requiring a test at 125 percent of the rated load because even less sophisticated material hoists are tested at that load (See Ex. 5, pp. 104–109). Upon review of ANSI standards and ACCSH transcripts, OSHA believes that the ANSI test level of 100 percent is appropriate. Testing is necessary to ensure employee safety, and a drop test would only be necessary upon installation, after any repairs or alterations affecting the structural integrity or the operation of any safety device, and every three months during use.

OSHA welcomes comments on load testing for hoists in underground construction and the appropriate loads and intervals for such testing.

Proposed paragraph (t)(4)(G)(*2*) would require that a certification of each test be kept for the duration of the project and made available to the representative of the Secretary. This is to ensure that users of hoists for below ground service will perform the testing at the intervals required for such hoist use.

The requirement of proposed paragraph (t)(4)(i)(H) for a competent person visually to check the hoisting equipment is intended to ensure that the equipment remains functional and that hazardous conditions are corrected before employees can be harmed. This check would be conducted at the beginning of each shift and during use as necessary. Checks "during use" would be conducted when the competent person receives an indication, such as noise or vibration, that something may be wrong. This type of check should reduce the potential for wire rope failures, misalignments due to environmental changes, equipment defects and stress failures, foreign object interference and failures of safeties. BOR Section 18.1.5; Michigan Rule 408.41476(2); and California Sections 8500.(e) and 8501.(c) contain similar requirements that require inspections at the beginning of each shift or daily.

Proposed paragraph (t)(4)(i)(I) requires weekly actuation of all safety devices to ensure that functional safety components remain operational, and that failures and defects that may not have been observed during the visual check are found and corrected. This would include actuating such things as the upper and lower limit switches, gate and cage door interlocks, deadman control devices, allowing the broken rope devices to function, and determining that governor components are functional. Such checks can ensure that the safety devices are functionally intact without the more extensive aspects of a load test, and are intended to reduce the potential for employee injury from system malfunctions. OSHA § 1926.552(c)(17); Michigan Rule 408.41476(1); California Section 8502; and ANSI Section 8.5.3 have weekly inspection requirements. MSHA (§ 57.19–132(b)) requires weekly actuation of broken rope safeties and prescribes a recognized method for conducting such tests.

The requirement of proposed paragraph (t)(4)(i)(J) requires all hoist operators to be provided with a two-way closed-circuit communication system with speaker-microphones so the operator can communicate with each landing station. The requirement is consistent with the ANSI A10.5 code except that ANSI does not require a closed-circuit communication system for towers less that 50 feet where hand signals are clearly visible to the operator at all times. OSHA is proposing to require such a system at all times due to the differences of visibility between above-ground hoist towers and underground shaft hoists. Such closed-circuit systems are in extensive use on numerous hoists across the country. They function so that the operator can distinguish the landing with which he is in communication, and prevents communication with other landings from interfering with communication from the landing desired. This kind of system should help to protect employees from caught between, struck by and falling type injuries at hoist landings by reducing the potential for the operator to move the lift prematurely. BOR Section 18.11.16b, COE Section 18.H.01, and ANSI A10.5 Section 19 each require the same communication system. The COE and ANSI A10.16 each reference the present ANSI A10.4 and A10.5 for hoisting.

Paragraph (t)(4)(ii), *Travel speeds for personnel hoisting*, contains the line speed and control requirements which are specific to personnel hoisting facilities constructed for underground service. They are somewhat different than the alternative personnel hoist and elevator requirements of § 1926.552 (c) and (d) because of the differences in design between above ground and underground construction hoists.

The requirements of proposed paragraph (t)(4)(ii) specify the maximum travel speeds of cages and skips used in hoisting personnel. These limits are included here to ensure that the designer and the installer of hoist systems will include these parameters in the assignment of ratings and speeds.

The requirement of (t)(4)(ii)(A) is to limit travel speed to 200 feet per minute during shaft sinking operations where guides and safeties are not yet used. This requirement will ensure that operators can exercise sufficient control to minimize the hazards of unguided higher speeds during the first phase of shaft development (sinking operations), when guide systems, broken rope safety devices, and automatic slow down devices have not yet been placed in service. Hoisting speeds below 200 feet per minute should also help avoid the acceleration and deceleration accidents that higher line speeds might cause (Ex. 1:12, pp. 330–332). The 200 feet per minute line speed is similar to MSHA requirement § 57.19–76 for conveyances within 100 feet of the shaft bottom.

The governor controls required by the second sentence in (t)(4)(ii)(A) may be throttle linkage devices that will prevent the engine from exceeding the revolutions per minute that relate to the assigned travel speeds. This governor is a design feature that limits the speed to 200 feet per minute where no guides or safeties are used, and is an important safety feature in such a free-swinging system. Governor controls will prevent empoyees from being injured by excessive acceleration and deceleration as this regulated speed is too slow to allow either to develop. In other hoisting operations in similar environments, users have installed devices that reduce the throttle travel distance from the starting point at an appropriate mid-point in the control travel distance to accomplish the desired speed reduction. These types of controls are designed to be swiched into place when needed for manhoisting, and are turned out of the throttle rod path for any other material hoisting which may call for higher speeds (Ex. 15:4).

The requirements of paragraphs (t)(4(ii)(B), (C), and (D) are interdependent to ensure the use of controls for overspeed and acceleration and deceleration whenever speeds exceeding two hundred feet per minute are used for hoisting personnel.

Proposed (t)(4)(ii)(B) would permit speeds up to 600 feet per minute for shaft sinking operations provided the cage or skip is working in guides with suitable safeties functioning. However, as required by paragraph (t)(1)(i)(D)(*1*), discussed earlier, the speed of the cage or skip may not exceed the design capacity of the system and its components, including the limitations of the safeties. Thus, for those systems which use guide ropes instead of rails, some of the safeties working on rope guides may not permit line speeds in excess of 160 feet per minute due to the broken rope grab limitations on wire guide rope. Even though OSHA will allow travel speeds up to 600 feet per minute if the system is designed for those speeds, the type of safeties designed into the system may impose a slower design speed.

During sinking operations, the hoist will travel below the guides to the bottom of the shaft. Travel over that uncontrolled portion is covered by (t)(4)(ii)(A), limiting travel speed to 200 feet per minute.

The Bureau of Mines Information Circular 8365, "Recommended Safety Standards for Shaft Sinking," Rule 7.07, states that hoisting speed should not exceed 600 feet per minute when men are being raised or lowered on a cage.

Proposed new paragraph (t)(4)(ii)(C) applies to completed shafts (meaning that sinking operations are completed; however, the shaft does not have to be completely lined with the permanent liner). Rated speeds greater than 600 feet per minute will be allowed in such shafts. In completed shafts higher speeds are allowable due to the guide system being carried all the way to the bottom of the shaft. The engineer designing the system will determine the safe design speed for that hoist. OSHA is not proposing a limit for travel speeds in completed shafts, but such shafts would be subject to the additional controls in paragraph (t)(4)(ii)(D), discussed below.

MSHA § 57.19–61 limits the travel speed for personnel hoisting to 2,500 feet per minute, except in an emergency. OSHA requests comment on whether it should set a maximum limit for travel speeds of underground personnel hoists.

The requirements of proposed paragraph (t)(4)(ii)(D) address the hazards of overspeed, acceleration and deceleration in shafts where the hoist travels in excess of 200 feet per minute. This provision is based on the consideration that some shafts may be several thousands of feet in depth, and that design engineers need to incorporate control devices compatible with higher hoisting speeds. Accordingly, proposed paragraph (t)(4)(ii)(D)(*1*) required overspeed governors that activate at 100 feet per minute over the rated speed. Similar requirements for overspeed devices are in MSHA § 57.19–7; BOR Section 18.10.10; California Section 8493.(b)(4); and ANSI Section 8.3.4. None of these rules, however, specify the speed at which the overspeed governors activate the stopping mechanism. OSHA solicts comment on the appropriate speed for such activation.

The requirement of (t)(4)(ii)(D)(*2*) for slow-down devices has been included to reduce the potential of employees being injured by excessive acceleration and deceleration of the mancages. The maximum acceleration and deceleration rates are the same as those set forth for shaft hoists in ANSI M11.1 and in MSHA § 57.19–62. The devices used to control acceleration and deceleration on underground hoists may differ from those required on personnel hoists for general construction workplaces by § 1926.552(c). Although the provisions of § 1926.552(c) may be complied with in lieu of proposed paragraph (t), such hoists are not generally designed to deal with the unique enironmental and working conditions encountered in underground construction, as discussed above (Ex. 1:17, Nos. 14, 15, 17, 34, 45, and 46).

Paragraph (u)—Gassy Operations—Additional Requirements. This paragraph contains additional provisions for determining if an underground operation is gassy, and how to protect the employees in such operations from the hazards of a fire or explosion.

OSHA's current § 1926.800 has some provisions that cover the unique hazards encountered in gassy operations, but they are located in several different places in that section. This proposal revises and consolidates the current provisions on gassy operations into a single paragraph (u), and adds several new provisions. These proposed provisions reflect OSHA's review of the hazards of gassy operations and the need for additional protection for employees.

The tunneling disasters in 1971 in Sylmar, California (17 fatalities) and Port Huron, Michigan (22 fatalities), both involved gassy operations (See Section II, Hazards). These disasters were the catalysts for State and Federal reviews of regulations and evaluations of the cause of these disasters. For example, a special committee of the Califorina legislature held hearings on the Sylmar tunnel fire (Ex. 12:3 and 4). The results of those hearings and recommendations made by the ACCSH have been considered by OSHA in drafting this proposed paragraph covering gassy locations. In addition, as noted earlier, OSHA has referred the relevant issues to ACCSH for its recommendations several times since 1971.

In 1979, the ACCSH recommended to OSHA that additional requirements be added to the Proposed Standard for underground construction to cover gassy operations, and that such provisions be given more prominence within the standard. In addition, they recommended that OSHA review the current standards of the States of California and Michigan, and extract appropriate provisions of those standards for inclusion in its proposal (Ex. 5, p. 49).

OSHA agrees with ACCSH that the hazards of gassy operations are unique, and is proposing specific requirements to cover these hazards. These proposed requirements are based on the California and Michigan standards on gassy operations (Ex. 14:4 and 5). OSHA also used Bureau of Mines Bulletin 644 in preparing this paragraph (Ex. 12:34).

The proposed requirements for gassy operations are placed in a separate pargraph (u) at the end of section § 1926.800 for two reasons: first, to recognize the uniqueness and severity of the hazards covered by those requirements; second, to emphasize that the requirements for gassy operations are intended to apply to such operations in addition to the provisions in paragraphs (a) through (t).

Paragraph (u)(1) contains the provisions that inform employers of the conditions which require them to operate a job as "gassy." The following discussion outlines the application of the balance of paragraph (u).

Paragraph (u)(1)(i) refers to the specific air monitoring requirements in paragraph (j)(1)(xii), as discussed earlier. If those tests indicate that a gassy condition exists, then the operation must be identified as gassy and handled accordingly. Air monitoring is the principal criterion for the determination of a gassy operation. The additional air monitoring requirements derived from the California Standard have been included in paragraph (j)(2) to consolidate monitoring requirements for underground construction in one location. Employers involved with gassy operations would be required to comply with both the general air monitoring requirements in paragraph (j)(1) and the specific gassy operations monitoring requirements in paragraph (j)(2).

Proposed paragraph (u)(1)(ii) requires an underground operation to be operated as gassy when flammable gas

or petroleum vapors that emanate or are liberated from the worksite, are ignited. Should gas be released in a concentration sufficient to be ignited before it can be detected by the competent person, that emanation clearly indicates that the problem is serious enough to require the employer to identify the operation as gassy and initiate corrective action. This is one of the criteria for a gassy classification used by California (8422.(a)(4)), and is also included in Bureau of Mines Bulletin 644.

Paragraph (u)(1)(iii) requires that an underground operation connected to a known gassy area must also be operated as gassy, even though air monitoring may not have yet indicated the concentrations necessary to otherwise classify the operation as gassy. This criterion was derived from California 8422.(b).

Paragraph (u)(1)(iv), the last criterion for determining a gassy classification, is significant because information developed from previous experience provides an insight as to the levels or potential volume of gas that can be anticipated. Such information may be derived from the experience of previous underground construction jobs in that area, geological reports, test bore hole and soil analysis prior to the start of the job, or even the proximity of the job to possible gas-bearing areas, such as land fills, sewers and petroleum storage tanks. With this information, the job can be planned so that the employer may abate the hazard and protect his employees at the outset of the operation, rather than having to shut the job down when gas is first detected for a changeover to permissible equipment and implementation of the other provisions of paragraph (u). This criterion was taken from California 8422.(b), which states that the Division of Safety may use such criteria to classify a tunnel as gassy.

Although it appears that most gassy sites should remain gassy for the duration of the job, there may be exceptions where an isolated gas pocket encountered at some given point in a tunnel will bleed itself out that day or within several days (Ex. 1:28, p. 166). When such single occurrences either release the concentrations listed in paragraph (j)(1)(xii) or are ignited prior to detection, the site would be required to be declared gassy. OSHA solicits comment on whether an isolated pocket that exceeds the concentrations for a gassy classification warrants operating the entire job as gassy. If not, what criteria could be applied to determine that the release is from an isolated pocket of gas? Under what conditions could the job be declassified, and what procedures should then be followed to assure that hazardous concentrations of gas do not subsequently endanger employees? Would continuous monitoring provide sufficient protection?

Proposed paragraph (u)(2) requires acceptable equipment maintained in suitable condition to be used in gassy operations. Equipment certified as permissible by MSHA is one type of acceptable equipment. Permissible equipment is designed to prevent the ignition of a flammable atmosphere even though gas enters the piece of equipment. In the case of permissible electrical lighting, it is so designed that breaking the lamp or outer lens will not ignite the atmosphere. California Rule 7980 requires that all electrical equipment and machines, including diesel engines used in extra-hazardous tunnel operations, be permissible equipment.

In this proposal, OSHA allows for the use of equipment with equivalent safety to equipment which has been certified as permissible by MSHA, provided that it has been listed or labeled for the class and location required by Subpart K of this Part. Thus, the standard would allow the use of equipment such as switch gear, junction boxes, conduit, electric motors, etc., which have been listed or labeled under the hazardous location provisions of the National Electrical Code (NEC) for the atmospheric condition in the gassy tunnel in which it is to be used. Michigan rules 408.41466 (2) and (6) require equipment to be approved under the NEC hazardous locations rules.

Paragraph (u)(3) requires that mobile diesel-powered equipment selected for use in a gassy underground atmosphere be limited to those which are certified by MSHA for use in gassy atmosphere according to MSHA Schedule 31. This requirement is intended to ensure that mobile diesel machines will have the necessary safety designed into the machine whenever one is used in an underground gassy location. In this manner, OSHA is ensuring, as far as practicable, that ignition sources from diesel equipment in a gassy atmosphere are held to a minimum.

Currently, § 1926.800(c)(2)(vii) requires all mobile diesel equipment to meet the criteria of MSHA Schedule 24 (30 CFR Part 32), with no differentiation between gassy and non-gassy operations. However, OSHA believes that whereas Schedule 24 is sufficiently protective for non-gassy environments (see paragraph (k)(7)(ii)), it does not provide the needed protection for equipment used in gassy operations. Schedule 24 is primarily an air quality and heat reduction schedule which identifies the amount of extra air volume needed for each mobile diesel machine. Schedule 24 does not have the design requirements necessary to contain the sources of ignition that are present on such equipment. Therefore, OSHA has determined that MSHA Schedule 31, which covers Gassy Non-Coal Mines and Tunnels, is more appropriate and more protective. In addition to incorporating the provisions of Schedule 24, Schedule 31 identifies potential ignition sources on mobile diesel equipment and requires their containment so that the machine will not cause an ignition of the atmosphere, provided it is properly maintained.

Both Michigan Rule 325.50209 and California Rule 7980 require that diesel-powered equipment used underground conform to Schedule 31 during gassy operations.

Proposed paragraph (u)(4) requires each entrance to a gassy operation to be posted with signs. These signs must notify entrants that they are entering a gassy operation and the precautions to be observed. Such notification must include the precautions needed to prevent the ignition of the atmosphere should an ignitable level of gas occur. The sign will also put other people, who may be required to enter the site, on notice that special rules for employee protection apply. California Rule 8422.(c) requires a notice of the tunnel classification to be posted on-site.

The no-smoking rule proposed in paragraph (u)(5) might have saved some lives had it been enforced in several of the jobs where ignitions took place (Ex. 12:7, 15, and 17). This requirement for making the employer responsible for collecting personal sources of ignition such as lighters and matches is one of those from the California rules, Section 8425.(b)(Ex. 4, p. 49) recommended by the ACCSH to be included. While OSHA is proposing this total prohibition of smoking and carrying of matches and lighters in gassy operations, smoking is permitted in areas other than gassy operations that are free of fire and explosion hazards, as stated in paragraph (m)(4).

The requirement of proposed paragraph (u)(6) is for a fire watch to be provided as described in § 1926.352(e) during hot work in a gassy operation. OSHA recognizes that hot work will be necessary for maintenance work. However, due to the extreme hazard of gassy operations, hot work must be performed under carefully-controlled circumstances. Air monitoring to ensure that hot work is not performed in

hazardous atmospheres is required by proposed paragraph (j)(2)(iii). Such monitoring, coupled with a proper fire watch, should allow hot work to be conducted safely. Fire watches are required by Michigan Rule 408.41467, while California Rule 8425.(c) and Bureau of Mines Bulletin 644 permit welding to be performed only under direct supervision. OSHA solicits comments on the adequacy of its proposals to protect employees against the hazards inherent with hot work in gassy operations.

Proposed paragraph (u)(7) is a clarifcation of the present (c)(2)(vi) which essentially covers gassy operations. This clarification is needed to specify more clearly the intent of the current rule—that flammable gassy atmospheres must be exhausted through the vent line. This reduces the potential for pocketing of gas along the bore of the tunnel, thus also reducing the likelihood of an ignition. Another benefit of this clarification is the ability to monitor the percentage of gas in the exhaust air, so that appropriate action can be taken if a build-up of flammable gas occurs.

The vent lines in gassy operations must be equipped with explosion relief mechanisms, and the system must be constructed of fire-resistant material. These requirements should significantly reduce the hazards to employees if an ignition of gas occurs inside the vent line.

Explosion relief mechanisms allow pressure relief in the vent line and, thus, both contain the explosion and prevent the ignition of the surrounding atmosphere should it also have an excessive gas accumulation. Additionally, these design requirements further diminish hazards to employees by maintaining the ventilation system intact, even in the event of a fire or explosion, so that air contaminated with gases or smoke can be exhausted from the underground.

IV. Regulatory and Environmental Impact Assessment

OSHA adopted the current tunneling standard (29 CFR 1926.800) under Section 6(a) rulemaking authority, as an established Federal standard issued under the Construction Safety Act (40 U.S.C. 333). OSHA has assessed both the current and proposed standards under the Regulatory Flexibility Act of 1980 (5 U.S.C. 601 et. seq.) and has determined that the risks workers incur during underground construction warrant a revised standard. OSHA also certifies that the proposed standard will not have a significant economic impact on a substantial number of small entities. In addition, under Executive Order 12291 (46 FR 13197), OSHA has assessed the regulatory impact of its proposed revision of § 1926.800 and has determined that it does not contstitute a "major" action for the purpose of that Order.

From data obtained on site visits made to both large and small tunneling projects in 1979 and 1982, JRB Associates (under contract to OSHA), determined that 3,078 employees of small firms and 6,954 employees of large firms work underground. Using site visit data and data obtained from OSHA accident investigations, OSHA estimates that 16 fatalities and 1,244 lost-time injuries occurred among employees working below ground during 1982. In other words, there was an average of 12.4 lost-time accidents causing 176.9 lost workdays for every 100 full-time workers employed in underground construction. In comparison, the Bureau of Labor Statistics indicated that the lost-time accident rate for all construction in 1980 was 6.5, with 116.1 lost workdays for each 100 full-time workers.

Based on the causes of accidents described in the four data sets analyzed by JRB, and OSHA's regulatory analysis of the proposed standards, OSHA finds that full compliance with the proposal would prevent about 51 percent of all fatalities and about 17 percent of all lost-time injuries occurring during underground construction. As a result, an estimated 8 fatalities and 216 lost-time injuries could have been avoided during 1982.

For illustrative purposes, JRB estimated that in 1982, the average monetizable financial cost of a construction fatality was $260,021, and the financial cost of a nonfatal lost-time injury was $5,327. This figure does not account for all societal costs of workplace accidents because, while reflecting the values for emergency and professional medical services, continued outpatient care, drugs, therapy, home modifications, foregone earnings, and legal and court costs, they exclude other costs such as those associated with child care, disruption of family life, lost production time, damaged equipment, training employee replacements, and pain and suffering. In addition, individuals in the data bases that JRB used to estimate the average monetizable cost of nonfatal accidents suffered less severe injuries and earned lower wages than are indicated by data bases restricted to nonfatal accidents in underground construction. Moreover, by counting only those economic variables that impact the nation's Gross National Product (GNP), JRB's "human capital" calculations project much lower monetized benefits than the "willingness-to-pay" approach which is considered a more appropriate indicator of social values by most economists. OSHA does not endorse these or any other estimates of the value of employees lives, and does not utilize such estimates in its determinations of the scope, coverage, or other particulars of safety and health standards issued under the Act. However, the Agency is presenting this information to provide additional illustration of those potential benefits of OSHA standards which are not readily ascertainable.

To demonstrate these alternative methodologies, OSHA presents the monetized benefits based on published willingness-to-pay estimates as well as on JRB's human capital estimates. While the variation in these estimates is substantial, averaging the values indicates that full compliance with all of the provisions of this proposal would have led to monetizable benefits to employees in 1982 of about $9 million. The mid-point estimate for the incremental benefits, which are those attained from new provisions only, would have been about $4.5 million in 1982.

OSHA estimates that the annual total cost of achieving the level of compliance required by the proposal would have been $3.4 million in 1982, or $1.5 million for large firms and $1.9 million for small firms. If firms had already achieved compliance with OSHA's current standard, however, the annual incremental cost would be $2.7 million, or $1.8 million for small firms and $1 million for large firms. The present value of the total compliance costs that would be incurred by the underground construction industry from 1982 through 1994 is estimated to be $21.4 million in 1982 dollars. Consequently, the proposed regulation does not require a regulatory impact analysis under the cost criteria of Executive Order 12291.

Three provisions in the proposal account for about 50 percent of the annual compliance costs to large firms, and two provisions account for about 48 percent of the annual compliance costs for small firms. For large firms, about 26 percent of the annual compliance costs are due to provision (o)(2)(i) for the testing of the roof, face, and walls of the work areas. Approximately 15 percent of the annual compliance costs from provision (r)(17), which pertains to the pulling of mancars. The next most costly provision for large underground construction firms is (t)(1)(iv), shaft guides and safeties, and represents almost 10 percent of the annual compliance costs. For small firms, about

31 percent of the annual compliance costs are due to provision (i)(3), which requires a person to be above ground when employees are working underground. Provision (j)(1)(iv)(A) for atmospheric testing accounts for about 18 percent of the annual compliance costs.

The regulatory analysis also addresses the question of whether the industry could remain viable if (1) the costs of regulatory compliance were fully borne by the underground construction industry, or (2) the costs were fully passed on to the industry's customers. Based on the JRB analysis, OSHA determined that if all firms absorbed the impact of the Proposed Standard (i.e., no cost-pass-through) the total economic impact on large construction firms would be virtually undetectible. This would be due to the fact that (1) yearly compliance costs (estimated at $1.5 million in 1982) represent such a small percentage of the value of construction projects ($1.4 billion), (2) no substitutes for underground construction are readily available, (3) the rate of return for the industry is healthy and can absorb the small increases associated with the Proposed Standard, and (4) the Standard requires few large, long-term capital expenditures.

Pursuant to the Regulatory Flexibility Act of 1980, OSHA also analyzed the impact of the Proposal upon small businesses. For purposes of this initial Regulatory Flexibility Assessment, OSHA is defining a small business as one that has total annual sales of $3.5 million or less, assets of $1.5 million or less, and 19 or fewer employees. Using this definition, JRB has determined that there are 262 firms with total annual sales estimated at $279 million. Promulgation of this Proposal would cost these firms $1.86 million in 1982. Consequently, before-tax profits for the industry would decline from $70.5 to $68.6 million, or from an average of $269,000 per firm to an average of $262,000. After-tax profits, currently estimated to be $38.1 million, or an average of $145,400 per firm, are likely to drop to $141,600 as a result of complying with the Proposal. Most small firms, therefore, would not experience major economic disruption from the financial impacts of the Proposal Standard even though one firm out of the 262 could fail as a result of complying with this Proposal.

Finally, OSHA also examined the technological feasibility of the revised Proposal. The OSHA Proposal contains many paragraphs and provisions, such as (d) check-in/check-out, that are similar to provisions in the American National Standards Institute (ANSI) standards, and to the Michigan and California underground construction standards. Although some of the requirements, such as lineout indicators on cranes, do not reflect current industry practice, the Proposed Standard relies on current technology, requires no new or advanced technology to implement the revised provisions, and is therefore technologically feasible.

In conclusion, OSHA is confident that this Proposal will increase net benefits to society by using cost-effective rules to reduce underground construction hazards. It is a superior alternative to the existing regulatory environment and promulgation will prevent worker deaths, total disabilities, and other serious injuries at little cost to society. In addition, the Proposal does not impose significant costs on any one section of the economy, so that no individual group will be unduly burdened by compliance with the Proposal, and OSHA believes the Proposal to be technologically feasible.

This Proposal Rule and its major alternatives have been reviewed in accordance with the requirements of the National Environmental Policy Act (NEPA) of 1969 (72 U.S.C. 4321, et seq.), the Guidelines of the Council on Environmental Quality (CEQ) (40 CFR Part 1500), and OSHA's DOL NEPA Procedures (29 CFR Part 11). As a result of this review, the Assistant Secretary for OSHA has determined that the Proposed Rule will have no significant environmental impact.

Although safety standards rarely impact on air, water or soil quality, plant or animal life, the use of land or other aspects of the environment, it is appropriate to examine whether the Proposed revisions to the OSHA construction standards for underground construction (29 CFR 1926.800) will alter the environment external to the workplace.

Since activities in the vicinity of tunneling projects as well as the disposal of material removed from tunnels may impact on the local environment, one might assume that any change in the tunneling standards could result in some environmental impact. OSHA's Proposal contains provisions for work practices and procedures required to enhance worker safety and to reduce safety hazards such as fires and explosions in tunneling and other underground construction operations. There are requirements for emergency procedures, for illumination, for the handling of explosives and combustible liquids, for fire prevention and control, for performing welding, cutting, and hot work, etc. To the extent that such safety procedures are in place and are integrated into daily underground construction operations, the potential for occupational accidents, injuries, fires, and explosions will be reduced and the safety of the workplace will be enhanced. Similarly, the degree that fires and explosions are reduced, so too will be the potential for the release of harmful gases, vapors, or particulates into the ambient atmosphere. Although it is difficult to determine the extent of any such reductions, it can be assumed that any environmental impacts that may occur as a result of this proposal will be insignificant. Nor does there appear to be any reason to believe that there will be any adverse impacts on air, water, or soil quality beyond what will ordinarily occur from such underground construction activity. That is, the proposed standards will not alter the nature of construction activities adjacent to tunneling operations, nor further affect the makeup or disposal of the material removed from underground construction. Furthermore, to the extent that there are impacts on the local environment, site-specific assessments will continue to be performed by the respective authorities (e.g., EPA, MSHA, etc.) responsible for such projects.

Based on this and other information presented in this notice, OSHA concludes that there will be no significant environmental impacts as a result of this proposal. OSHA, of course, reserves the right to reevaluate this determination based on additional environmental data and evidence that may be presented in response to these proposed actions.

Copies of OSHA's Regulatory Impact, Regulatory Flexibility, and Environmental Impact Assessments are available for inspection and copying at the OSHA Docket Office. Comments from interested persons on any of these documents are solicited during the course of this rulemaking.

V. Public Participation

Interested persons are invited to submit written data, views and arguments with respect to this proposal. These comments must be postmarked by October 4, 1983 and submitted in quadruplicate to the Docket Officer, Docket S–370, U.S. Department of Labor, Occupational Safety and Health Administration, Room S–6212, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The data, views and arguments that are submitted will be available for public inspection and copying at the

above address. All timely submissions received will be made a part of the record of this proceeding.

Additionally, under Section 6(b)(3) of the OSH Act (29 U.S.C 657), Section 107 of the Construction Safety Act (41 U.S.C. 333), and 29 CFR 1911.11, interested persons may file objections to the proposal and request an informal hearing. The objections and hearing requests should be submitted in quadruplicate to the Docket Officer at the address above and must comply with the following conditions:

1. The objections must include the name, and address of the objector;
2. The objections must be postmarked by October 4, 1983;
3. The objections must specify with particularity the provisions of the proposed rule to which each objection is taken and must state the grounds therefor;
4. Each objection must be separately stated and numbered; and
5. The objections must be accompanied by a detailed summary of the evidence proposed to be adduced at the requested hearing.

VI. Recordkeeping

The proposed standard contains a "collection of information" (recordkeeping) requirement pertaining to air quality tests (§ 1926.800(j)(3)). In accordance with 5 CFR Part 1320 (48 FR 13666, Controlling Paperwork Burdens on the Public), OSHA has submitted the proposed recordkeeping requirement to the Office of Management and Budget (OMB) for review under Section 350(h) of the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.). Comments regarding the proposed recordkeeping requirement may be directed to the Office of Information and Regulatory Affair, OMB, Attention: Desk Officer for the Occupational Safety and Health Administration, Washington, D.C. 20503.

VII. List of Index Terms

List of Subjects in 29 CFR Part 1926

Construction safety, Construction industry, Electric power, Excavations, Explosives, Fire prevention, Flammable materials, Health, Protective equipment, Respiratory protection, Safety, Signs and symbols, Tools, Tunnels, Welding.

VIII. Authority

This document was prepared under the direction of Thorne G. Auchter, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue, N.W., Washington, D.C. 20210.

Accordingly, pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 Stat. 1593; 29 U.S.C. 655), section 107 of the Construction Safety Act (83 Stat. 96, 40 U.S.C. 333), Secretary of Labor's Order No. 8–76 (41 FR 25059), and 29 CFR Part 1911, it is proposed to amend 29 CFR Part 1926 as set forth below.

Signed at Washington, D.C., this 1st day of August, 1983.

Thorne G. Auchter,

Assistant Secretary of Labor.

PART 1926—[AMENDED]

29 CFR Part 1926 is proposed to be amended as follows:

1. By revising the title of Subpart S to read as follows:

Subpart S—Underground Construction, Caissons, Cofferdams and Compressed Air

2. By revising § 1926.800 to read as follows:

§ 1926.800 Underground construction.

(a) *Scope and application.* (1) This section applies to underground tunnels, shafts, chambers, passageways, and cut and covered excavations which have been covered sufficiently to present the underground construction hazards addressed in this section.

(2) This section does not apply to the following:

(i) surface excavation as addressed in Subpart P;

(ii) foundation operations for above ground structures that are not a part of a tunnel system; or

(iii) underground electrical transmission and distribution lines as covered in Subpart V.

Note.—The requirements of this section apply to underground construction in addition to applicable provisions of the other subparts of Part 1926. Other subparts are referred to in this section for informational purposes to ensure that the user understands the need to comply with other provisions in Part 1926.

(b) *Access and egress.* (1) Safe means of access and egress shall be provided and maintained to all work stations.

(2) Employers shall provide protection for employees walking in areas where mobile equipment are present, such as excavators, haulage machines and trains.

(3) Access to all underground openings shall be restricted by gates, doors, or barricades or controlled by an attendant. Unused chutes, manways, or other openings shall be tightly covered or bulkheaded, or fenced off, and shall be posted with signs. Completed or unused sections of the underground facility shall be barricaded and made off limits.

(c) *Subsidence areas.* Hazardous subsidence areas shall be barricaded and signs shall be posted to prevent entry, or they shall be appropriately controlled by means such as shoring or filling-in to ensure ground stability.

(d) *Check-in—check-out.* (1) At each above ground entrance, underground operations shall have a check-in—check-out system that will provide the employer with an accurate record of each person underground.

(2) In addition, each person underground shall have a means of positive identification, such as a metal disc, tag, or other device worn or carried by that person.

Exception: When underground facilities designed for human occupancy have been sufficiently developed so that the permanent environmental controls are effective and the construction activity will not cause any environmental or structural hazard to employees within the facilities, the check-in—check-out system and personal identification are not required, provided that occupancy limits of the facility are not exceeded.

(e) *Safety program.* (1) An outline of the accident prevention program required by § 1926.20(b) shall be available at the jobsite.

(2) The outline shall address at least the following:

(i) Air monitoring;
(ii) Ventilation;
(iii) Lighting;
(iv) Communications;
(v) Flood control;
(vi) Mechanical equipment;
(vii) Personal protective equipment;
(viii) Explosives; and
(ix) Emergency procedures.

(3) A copy of the outline shall be issued to and discussed with each employee.

(4) In addition to the safety training required by § 1926.21(b), the employer shall develop evacuation plans and procedures suitable for prevailing site conditions and shall instruct employees as to these plans and procedures.

(f) *Notification.* Oncoming shifts shall be informed as to any hazardous occurrences or conditions, including liberation of gas, equipment failures, earth or rock slides, cave-ins, floodings, fires or explosions, that have affected or might affect employee safety.

(g) *Communications.* (1) *General underground.* (i) When natural voice communication is insufficient, a power-assisted means of voice communication shall be provided between the work face, the bottom of the shaft, the hoisting station, and the surface.

(ii) Two effective means of communication, at least one of which shall be voice communication, shall be provided in all shafts being developed or used for access or service to underground locations. This requirement does not apply to ventilation service shafts and shafts not used for personnel access or hoisting.

(iii) For hoist operator communication, see paragraph (t)(4) of this section.

(iv) Powered communication systems shall be independent of the tunnel power supply and shall be installed so that the use of or disruption of any one phone or signal location will not disrupt the operation of the system from any other location.

(v) Communication systems shall be tested upon initial entry of each shift to the underground, and as often as necessary at later times to ensure they are in working order.

(vi) Employees working alone and out of the range of natural unassisted voice communication shall be provided with an effective means of obtaining assistance in an emergency.

(2) *Communications and coordination among employers.* Employers engaged in underground construction work shall establish and maintain direct communications for coordination of activities with other employers whose operations affect or may affect the safety of the employees underground.

(h) [Reserved].

(i) *Emergency provisions.* (1) *Hoisting capability.* The employer shall make advance arrangements for power-assisted lifting and lowering of personnel and emergency equipment during hoist failure or other underground emergency where hoisting would expedite emergency procedures. Such means shall be designed so that the load hoist drum is powered in both directions of rotation and the brake is automatically applied upon power release or failure.

(2) *Self-rescuers.* Self-rescuers having current approval from the National Institute for Occupational Safety and Health (NIOSH) and the Mine Safety and Health Administration (MSHA), and selected and maintained in accordance with paragraphs (b) and (c) of § 1926.103, shall be provided for all employees at work stations in underground areas where employees might be trapped by smoke or gas. Such employees must be trained in the use of self-rescuers.

(3) *Designated person.* At least one designated person shall be on duty above ground when any employees are working underground. Such person's primary duties shall include responsibility for securing immediate aid for employees underground in case of emergency.

(4) *Emergency lighting.* Each employee underground shall have an MSHA-approved portable hand or cap lamp in his work area for emergency use unless natural light or an emergency lighting system provides adequate illumination for escape.

(5) *Rescue crews.* (i) The employer shall ensure the availability of at least 2 five-person rescue teams, one on the jobsite or within one-half hour travel time from the entry point, and the other within two hours ground travel time.

(ii) The rescue team shall be trained annually, be qualified, and be equipped for the environmental conditions and hazards that may be encountered at that particular site, and must practice the use of self-contained breathing apparatus for at least 30 minutes every month.

(j) *Air quality and monitoring.* (1) *General.* (i) Air quality limits and control requirements for construction are found in § 9126.55. Employees may temporarily work in atmospheres having concentrations of airborne contaminants exceeding the limits of § 1926.55 provided they wear respiratory protective devices in accordance with § 1926.103, approved by NIOSH/MSHA for protection against the hazards involved, but only:

(A) In emergencies;

(B) While environmental controls are being established;

(C) When necessitated by the nature of the work, such as welding, sandblasting, lead burning, and painting; or

(D) In unusual circumstances where feasible engineering controls may not maintain air quality within the limits of § 1926.55.

(ii)(A) Air monitoring required by this section shall be performed by a "competent person" as defined in § 1926.32(f).

Note.—"Competent person" means one who is capable of identifying existing and predictable hazards in the surroundings or working conditions which are unsanitary, hazardous, or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate them (§ 1926.32(f)).

(B) Where this section requires monitoring to be performed "as often as necessary," the competent person shall consider at least the following factors in determining which substances to monitor and how frequently to perform such monitoring:

(1) Location of worksite: such factors as proximity to fuel tanks, sewers, gas lines, old landfills, coal deposits, and swamps;

(2) Geology: geological studies prior to and during the job, particularly involving the soil type and its permeability;

(3) History: knowledge of air containant problems in nearby jobs, changes in levels of substances monitored on the prior shift; and

(4) Work practices and workplace conditions: such factors as the use of diesel engines, use of explosives, volume and flow of ventilation, visible atmospheric conditions, the decompression of the atmosphere, and physical reactions of underground employees.

(iii) The atmosphere in all underground work areas shall contain at least 19.5 percent oxygen and the concentration of oxygen shall not exceed the atmospheric level.

(iv) (A) The atmosphere shall be tested quantitatively for oxygen, and for carbon monoxide, nitrogen dioxide, hydrogen sulfide, and other toxic gases, dusts, vapors, mists, and fumes as often as necessary to ensure that the limits of § 1926.55 are not exceeded. Tests for oxygen concentration shall be made before tests for contaminants are performed.

(B) The atmosphere shall be tested quantitatively for methane, petroleum vapors, and other flammable gases, as often as necessary:

(1) to determine whether action is to be taken under paragraphs (j)(1) (viii), (ix) and (x) of this section; and

(2) to determine whether an operation is to be considered gassy under paragraph(j)(1)(xii) of this section.

(C) If ventilating fans or compressors are diesel or gasoline engine driven, an initial test shall be made, with the engines operating, of the inlet air of the fan or compressor to ensure that the air supply is not contaminated by engine exhaust.

(D) Testing shall be performed as often as necessary to ensure that the ventilation requirements of paragraph(k) of this section are met.

(v) When tunnel boring machines are used, a continuous flammable gas monitor shall be operated at the face of each underground area, shaft, or tunnel with the sensor(s) placed as high and close to the front of the machine's cutterhead as practicable.

(vi) Whenever air monitoring indicates the presence of hydrogen sulfide, test procedures and schedules shall be as follows:

(A) A test shall be conducted in all underground work areas at the beginning and mid-point of each shift.

(B) If hydrogen sulfide is detected in an amount exceeding 5 ppm, a

continuous sampling and indicating hydrogen sulfide gas monitor shall be provided in each underground work area.

(C) The sensor shall be placed as close to the face being worked as is practicable.

(D) The monitor shall be designed, installed, and maintained to provide a visual and audible alarm when the gas readings reach 10 ppm.

Note.—10 ppm is the Permissible Exposure Limit specified by 1926.55.

(vii) When air monitoring results or other information indicate that air contaminants may be present in sufficient quanitity to be dangerous to life:

(A) A notice shall be prominently posted at all entrances to the worksite to inform all entrants of the hazardous condition, and

(B) All entrants shall be instructed as to the necessary precautions to be taken prior to entry and during site occupancy.

(viii) When 10 percent or more of the LEL of flammable gas or petroleum vapor is detected in any underground work area(s) or in the air return, any work therein shall be conducted with extreme care, and steps shall be taken to improve ventilation.

(ix) When 20 percent or more of the LEL of flammable gas or petroleum vapor is detected in any underground work area(s) or in the air return:

(A) All employees, except those necessary to eliminate the hazard, shall be withdrawn to a safe location above ground; and

(B) Electrical power, except for acceptable pumping and ventilation equipment, shall be cut off to the area endangered by the flammable gas or petroleum vapors until the concentration of such gas is reduced to less than 20 percent of the LEL.

Note.—For the purpose of this section, "acceptable" as applied to any device, equipment, or appliance means such device, equipment, or appliance is either approved and certified as permissible by MSHA and maintained in permissible condition, or is listed or labeled for the class and location under Subpart K of this Part.

(x) When 10 percent or more of the LEL of flammable gas or petroleum vapor is detected in the vicinity of welding, cutting, and hot work, such work shall be suspended until the concentration of such flammable gas or vapor is reduced to less than 10 percent of the LEL.

(xi) In tunnels driven by drill and blast methods, the air shall be tested for flammable gas or petroleum vapor prior to re-entry after blasting. Continuous monitoring shall be performed if flammable gas or petroleum vapor is detected when men are working underground in such tunnels.

(xii) Operations shall be considered gassy if monitoring performed under paragraphs (j)(1)(iv)(B) and (xi) of this section discloses either of the following conditions:

(A) A concentration of 20 percent or more of the LEL of petroleum vapors at three inches (76.2mm)±0.25 inch (6.35 mm) from the roof, face, floor or walls in any open workings; or

(B) A concentration of 5 percent or more of the LEL for methane, or 10 percent or more of the LEL for other flammable gases at twelve inches (304.8 mm)±0.25 inch (6.35 mm) from the roof, face, floor or walls in any open workings. Operations meeting either of these conditions shall be covered by paragraph (u) of this section, and shall be subject to the additional monitoring requirements of paragraph (j)(2) of this section.

(2) *Additional monitoring for gassy operations.* Operations which are considered gassy under the criteria set forth in paragraph (j)(1)(xii) or paragraph (u)(1) of this section shall be subject to the additional monitoring requirements of this paragraph. Additional monitoring in gassy operations shall be conducted as follows:

(i) A test for oxygen shall be conducted in all work areas at the beginning and midpoint of each shift.

(ii) Continuous automatic and manual gas monitoring equipment shall be provided for the heading, on the rib, and in the return air of tunnels using mechanical excavators. The continuous monitor shall signal the heading and shut down electric power in the tunnel, except for acceptable pumping and ventilation equipment, when 20 percent or more of the LEL is encountered. A manual gas monitor shall be used as needed to ensure that the assigned limits are not exceeded. In addition, a manual electrical shut down control shall be provided near the heading. (See Note to paragraph (j)(1)(ix)(B) of this section for definition of "acceptable.")

(iii) Local gas tests shall be made prior to and continuously during any welding, cutting, and hot work in order to assure compliance with paragraph (j)(1)(x) of this section.

(3) *Recordkeeping.* A record of all air quality tests shall be maintained above ground at the worksite and be made available to the Secretary upon request. The record shall include the location, date, time, substance monitored and results. Records shall be kept for (period of time).

(k) *Ventilation.* (1) A minimum of 200 cubic feet (5.7m³) of fresh air per minute shall be supplied for each employee underground.

(2) (i) The linear velocity of air flow in the tunnel bore and shafts and all other unsealed underground areas shall be at least 30 feet (9.15 m) per minute.

(ii) Where natural ventilation does not provide sufficient air quality and flow, mechanically induced primary ventilation shall be provided.

(iii) The direction of mechanical air flow shall be reversible by means of above ground controls.

(3) Ventilation doors, where used, shall be designed and installed so that they remain closed during their use, regardless of the direction of the air movement.

(4) When the ventilation has been reduced to the extent that hazardous levels of gases or petroleum vapors may have accumulated, a competent person shall test the involved areas after ventilation has been restored and shall determine that the atmosphere is within allowable levels before any other power, other than for acceptable equipment, is restored or work resumed. (See Note to paragraph (j)(1)(ix)(B) of this section for definition of "acceptable.")

(5) Whenever the main fan or fans have been shut down, only competent persons authorized to examine such areas shall be allowed underground until the fans have been started and all areas have been tested for gas and other contaminants, and declared safe.

(6) When drilling rock or concrete, appropriate dust control measures shall be taken to maintain dust levels within limits set in §1926.55. Such measures may include, but are not limited to, wet drilling, the use of vacuum collectors and water mix spray systems.

(7) (i) Internal combustion engineers, except diesel-powered engines on mobile equipment, are prohibited underground.

(ii) Mobile diesel-powered equipment used underground in atmospheres other than gassy operations as defined in paragraph (u)(1) of this section shall be approved and certificated under the provisions of 30 CFR, Part 32 (formerly Schedule 24) by MSHA, or shall be fully equivalent to MSHA certified equipment, and shall be maintained and operated in accordance with MSHA requirements.

(8) When mobile diesel equipment is in a position to interfere with or potentially reduce air flow, workplace air shall be tested and additional measures taken to ensure that

ventilation rates and air quality required by this section are maintained.

Note.—Each brake horsepower of a diesel engine requires at least 100 cubic feet (28.32 m^3) of air per minute for suitable operation in addition to the air requirements for personnel. Some engines may require a greater amount of air to ensure that the allowable levels of carbon monoxide, nitric oxide and nitrogen dioxide are not exceeded.

(l) *Illumination.* (1) Illumination requirements for underground operations are found in Table D–3 § 1926.56.

(2) Acceptable portable lighting equipment shall be used within 50 feet (15.24m) of any underground heading during explosives handling. (See Note to paragraph (j)(1)(ix)(B) of this section for definition of "acceptable.")

(m) *Fire prevention and control.* (1) Fire prevention and protection requirements for construction are found in Subpart F of this Part.

(2) Open flames and fires are prohibited in all underground operations except as prescribed for welding, cutting and hot work operations.

(3) (i) Smoking shall only be allowed in areas free of fire and explosion hazards.

(ii) Signs prohibiting smoking and open flames shall be posted so that they can be readily seen in areas having fire or explosion hazards.

(4) (i) Not more than a one day supply of diesel fuel for the underground equipment used at one worksite shall be stored at any given underground site.

(ii) The piping of diesel fuel from surface locations to below ground locations is prohibited.

(5) (i) Gasoline shall not be carried, stored, or used underground.

(ii) Acetylene, liquefied petroleum gases (LPG), and Methylacetylene Propadiene Stabilized (MPS) gas may be used underground only for welding, cutting, and hot work, and only in accordance with Subpart J of this Part and paragraphs (j), (k), (m) and (n) of this section.

(6) Oil, grease, and diesel fuel stored underground shall be kept in tightly sealed containers in fire-resistant areas at least 300 feet (91.44 m) from explosive magazines and 100 feet (30.48 m) from shaft stations and steeply inclined passageways. Storage areas shall be positioned or diked so that the contents of ruptured or overturned containers will not flow from the storage area.

(7) Requirements for flammable and combustible liquids stored above ground are found in (§ 1926.152(c). Flammable or combustible materials or supplies shall not be stored above ground within 100 feet (30.48 m) of the opening to any underground operation. Where this is not feasible, a fire-resistant barrier of not less than 1 hour rating shall be placed between the stored material and the opening.

(8) Fire-resistant hydraulic fluids shall be used in hydraulically-actuated underground machinery and equipment unless such equipment is protected by a fire suppression system or by multi-purpose fire extinguisher(s) rated at least 4A:40B:C, of sufficient capacity for the type and size of hydraulic equipment involved.

(9) (i) Electrical installations in storage areas used for oil, grease, or diesel fuel shall be used for lighting and lighting fixtures only.

(ii) Lighting fixtures in, or within 25 feet (7.62 m) of, such storage areas shall be approved for Class I, Division 2 locations, in accordance with Subpart K of this Part.

(10) Leaks and spills of flammable or combustible fluids shall be cleaned up as they occur and controlled until the cause is corrected.

(11) A fire extinguisher of at least 4A:40B:C rating or other equivalent extinguishing means shall be provided at the head pulley and at the tail pulley of belt conveyors underground.

(12) Any structures such as tunnel portal and shaft covers, or change houses, used within an underground operation or within 100 feet (30.48 m) of tunnels, portals, shafts or air vents shall be built of construction having a fire-resistance rating of at least one hour.

(n) *Welding, cutting, and hot work.* In addition to the requirements of Subpart J of this Part, the following requirements shall apply to underground welding, cutting, and hot work.

(1) Prior to welding, cutting, or hot work, a competent person shall determine that the atmosphere does not exceed the oxygen or flammable gas and vapor limits of paragraphs (j)(1) (iii) and (x) of this section.

(2) No more than the amount of fuel gas and oxygen necessary for work in progress during that shift shall be permitted underground.

(3) Noncombustible barriers shall be installed below welding, cutting, or hot work being done in or over a shaft or raise.

(o) *Ground support.* (1) *Portal areas.* Portal openings and access areas shall be guarded by shoring, fencing, head walls, shotcreting or other equivalent protection to ensure safe access of employees and equipment. Adjacent areas shall be scaled or secured to prevent loose soil, rock or fractured materials from endangering the portal and access area.

(2) *Underground areas.* (i)(A) A competent person shall examine and test the roof, face, and walls of the work area at the start of each shift and as often as necessary to determine ground stability.

(B) Employees conducting such examinations shall be protected from material dislodgements by location, ground support or equivalent means.

(ii) Ground conditions along haulageways and travelways shall be sight-checked and examined as frequently as necessary to ensure safe passage.

(iii) Loose ground that might be hazardous to employees shall be taken down, scaled or supported.

(iv) Torque wrenches shall be available and used to tighten rock bolts wherever they are used for ground support. The required torque for rock bolts shall be determined by a competent person. Tests shall be made to determine that rock bolts meet the required torque, and the number and frequency of such tests shall be determined by the bolt system, rock conditions and the distance from vibration sources.

Note.—For untensioned dowels in resin, torque wrenches are not required to be available after the installation period.

(v) Torque bolt tension assignments shall be maintained at the jobsite for the duration of the project or until other support is functional.

(vi) Where permanent roof supports are to be installed, temporary roof supports shall be used to protect employees working beyond or installing the permanent supports.

(vii) Support sets shall be installed so that the bottoms have sufficient anchorage to prevent ground pressures from dislodging the support base of the sets. Lateral bracing (collar bracing or spreaders) shall be provided between immediately adjacent sets to ensure added stability.

(viii) Damaged or dislodged tunnel supports that could create a hazardous condition shall be repaired or replaced. Where supports are to be replaced, the new supports shall be installed before the damaged supports are removed, where feasible.

(ix) To protect employees working in dead-end areas ahead of any support replacement operation, a shield or other type of support shall be used to maintain a safe travelway.

(3) *Shafts.* (i) Shafts and wells over 5 feet (1.53 m) in depth that employees must enter shall be supported by a steel casing, concrete pipe, timber, solid rock or other suitable material.

(ii)(A) The full depth of the shaft shall be supported by casing or bracing

except where the shaft penetrates into solid rock having characteristics that will not change with exposure. Where the shaft passes through earth into solid rock or through solid rock into earth, and when there is shear potential, the casing or bracing shall extend at least 5 feet (1.53 m) into the rock. When the shaft terminates in rock, the casing or bracing shall extend to the end of the shaft or 5 feet (1.53 m) into the rock, whichever is less.

(B) The casing or bracing shall extend at least 42 inches (1.07 m) above ground level.

(iii) After blasting operations in shafts, a competent person shall determine if the walls, ladders, timbers, blocking, or wedges have loosened. If so, corrections shall be made before employees other than those necessary to make the corrections are allowed in or below the affected area.

(p) *Blasting.* (1) Requirements for blasting and explosives operations, including handling of misfires, are found in Subpart U of this Part.

(2) Blasting wires shall be kept clear of electrical lines, pipes, rails, and other conductive material, excluding earth, to prevent explosives initiation or employee exposure to current.

(q) *Drilling.* (1) Drilling and associated equipment shall be inspected by a competent person prior to each use. Equipment defects affecting safety shall be corrected before the equipment is used.

(2) The drilling area shall be inspected for hazards before the drilling operation is started.

(3) Employees shall not be allowed on a drill mast while the drill bit is in operation or the machine is being moved.

(4) When a drill machine is being moved from one drilling area to another, drill steel, tools, and other equipment shall be secured and the mast placed in a safe position.

(5) Receptacles or racks shall be provided for drill steel stored on jumbos.

(6) Employees working below jumbo decks shall be warned that the drilling cycle is about to begin.

(7) Drills on columns shall be anchored firmly before drilling is started and shall be retightened as necessary thereafter.

(8) (i) The employer shall provide mechanical means for lifting drills, roof bolts, mine straps, or other unwieldy or heavy material to the top decks of jumbos.

(ii) When jumbo decks are over 10 feet (3.05 m) in height, the employer shall provide stair access wide enough for two persons.

(iii) Jumbo decks more than 10 feet (3.05 m) in height shall be equipped with guardrails on all open sides, excluding access openings of platforms, unless an adjacent surface provides equivalent fall protection.

(iv) (A) Only employees assisting the operator shall be allowed to ride on jumbos.

(B) Jumbos shall be chocked to prevent movement while employees are working on them.

(v) (A) Walking and working surfaces of jumbos shall be maintained to prevent the hazards of slipping, tripping and falling.

(B) Jumbo decks and stair treads shall be designed to be slip-resistant and secured to prevent accidental displacement.

(9) Scaling bars shall be available at scaling operations and shall be maintained in good condition at all times. Blunted or severely worn bars shall not be used.

(10) (i) Before the drill cycle begins, the face and all blasting holes shall be examined for misfires, and any misfires shall be removed or refired. Blasting holes shall not be drilled through blasted rock (muck) or water.

(ii) Employees in a shaft shall be protected either by location or by suitable barrier(s) if powered mechanical loading equipment is used to remove muck containing unfired explosives.

(11) Air lines that are buried or otherwise hidden by water or debris shall be identified by signs posted nearby to inform employees of their location.

(r) *Haulage.* (1) (i) Haulage equipment shall be inspected by a competent person before each shift.

(ii) Equipment defects affecting safety shall be corrected before the equipment is used.

(2) (i) Powered mobile haulage equipment shall have suitable brakes.

(ii) Mobile equipment, including rail mounted equipment, shall be stopped for manual connecting or service work.

(3) (i) Powered mobile haulage equipment, including trains, shall have audible warning devices to warn employees to stay clear. The devices shall be sounded prior to starting machine movement and as necessary during travel.

(ii) When mobile equipment, including trains, is operating, lights shall be turned on at both ends of the equipment.

(4) (i) All powered mobile haulage equipment, including locomotives, obtained after the effective date of this standard, shall be equipped with falling object protection meeting the criteria of SAE J231–1976 to protect the riding employees.

(ii) In those cabs where glazing is used, it shall be safety glass, or its equivalent, and shall be maintained and cleaned so that vision is not obstructed.

(5) Anti-roll back devices or brakes shall be installed on inclined conveyor drive units to prevent conveyors from inadvertently running in reverse.

(6) (i) (A) Employees shall not be permitted to ride a power-driven chain, belt, or bucket conveyor unless the conveyor is specifically designed for the tranportation of employees.

(B) Manlifts are prohibited in underground construction.

Note.—General requirements for use of conveyors in construction are found in § 1926.555.

(ii) Employees shall be transported only in equipment designed to provide seating and to protect the riders from being struck, crushed, or caught between other equipment or surfaces. For motor vehicle transportation of employees see the requirements of § 1926.601 of this Part.

(7) Powered mobile haulage equipment, including trains, shall not be left unattended unless the master switch or motor is turned off, operating controls are in neutral or park position, and the brakes are set, or equivalent precautions are taken to prevent rolling.

(8) If the rails serve as a return for a trolley circuit, both rails shall be bonded at every joint, and the rails shall be cross-bonded every 200 feet (60.96 m).

(9) When dumping cars by hand, the car dumps shall have tiedown chains, bumper blocks, or other locking or holding device to prevent cars from overturning.

(10) Rocker-bottom or bottom-dump cars shall be equipped with positive locking devices to prevent unintended dumping.

(11) Equipment to be hauled shall be loaded and secured to prevent sliding or dislodgement.

(12) (i) All rail cars, except end-dump muck cars of less than one and one-half cubic yards ($1.5m^3$) capacity, shall be connected by automatic coupling devices.

(ii) Safety chains or other connections, which must be of equivalent strength to the coupler, shall be used in addition to couplers, to connect man cars or powder cars.

(iii) Safety chains or other connections, which must be of equivalent strength to the coupler, shall be used in addition to couplers, to connect haulage cars when the grade exceeds one percent.

(13) Parked rail equipment shall be chocked, blocked, or have brakes set to prevent inadvertent movement.

(14) Berms, bumper blocks, safety hooks, or equivalent means shall be provided to prevent overtravel and overturning of haulage equipment at dumping locations.

(15) Bumper blocks or equivalent stopping devices shall be provided at all track dead ends.

(16) (i) Only small handtools, lunch pails or similar small items may be transported with employees in man-cars, or on top of locomotives.

(ii) When small handtools or other small items are carried on locomotive tops, the top shall be designed or modified to retain them while traveling.

(17) (i) Occupied man-cars shall be pulled, not pushed.

(ii) Man trips shall consist of man cars only.

(s) *Electrical safety.* (1) The general requirements for employee protection related to electrical equipment and installations in construction are found in Subpart K of this Part.

(2) Electric power lines shall be insulated and located away from water lines, telephone lines, air lines, or other conductive materials so that a damaged circuit will not energize the other systems.

(3) Lighting circuits shall be located so that movement of personnel or equipment will not damage the circuits or disrupt service.

(4) Oil-filled transformers shall not be used underground unless thay are located in a fire-resistant enclosure suitably vented to the outside and surrounded by a dike to retain the contents of the transformers in event of rupture.

(t) *Hoisting unique to underground construction.* Crane and hoisting requirements for construction are found in Subpart N of this Part. The crane requirements in this section are in addition to those found in § 1926.550. Requirements for material hoists in construction are found in § 1926.552 (a) and (b) except as modified by this paragraph (t). For personnel hoisting in shafts, the employer shall comply either with paragraph (t) of this section, or with the personnel hoist requirements of § 1926.552 (a) and (c), or with the elevator requirements of § 1926.552 (a) and (d).

(1) *General requirements for cranes and hoists.*

(i) *Design.*

(A) Hoist equipment and the operator shall be protected from inclement weather by roof or hoist house.

(B) Operating levers or the throttle controls for the drum shall be of the deadman type.

(C) Lowering of the load against brake or friction with the drums in free-wheeling is prohibited, except for excavation using a clam-shell bucket.

(D) (*1*) Travel speeds shall not exceed the design limitations of the hoist system and its components.

(*2*) Whenever hoist shaft installation alignment is affected by ground deformation, expansion and contraction of shaft support systems, or deviations in shaft supporting surfaces, travel speeds shall be kept below levels that may be harmful to employees and shaft systems.

(E) (*1*) When a single hoist or crane is used for both personnel hoisting and material hoisting, dual ratings shall be assigned to the equipment. The requirements for personnel hoisting shall apply whenever personnel are in the cage or skip, except for the performance of inspection or maintenance activities.

(*2*) Material hoisting may be performed at speeds higher than those specified for personnel hoisting if the hoist and components have been designed for such higher speeds, and shaft conditions permit.

(F) When cages and skips are used as hoisting conveyances for personnel and materials they shall have:

(*1*) All sides enclosed by ½-inch (12.70 mm) wire mesh, not less than No. 14 gauge or equivalent, to a height of not less than 6 feet (1.83 m);

Exception: When the cage or skip is being used as a work platform, its sides may be reduced in height to 42 inches (1.07 m) when it is not in motion;

(*2*) A positive locking door that does not open outward;

(*3*) A protective canopy with the following characteristics:

(*i*) The protective canopy shall cover the top in such a manner as to protect those inside from objects falling in the shaft.

(*ii*) The protective canopy shall be of steel plate, at least 3/16-inch (4.763 mm) in thickness, or material of equivalent strength and impact resistance, sloped to the outside, and so designed that a section may be readily pushed upward to afford emergency egress; and

(*4*) Either of the following:

(*i*) An interlock to prevent movement of the cage when the door is open, or

(*ii*) A designated person stationed at each landing level in use to ensure the closing and latching of the cage door prior to movement of the cage, and to signal the hoist operator from those landing levels.

(ii) *Operation and maintenance requirements.* (A) (*1*) Before maintenance, repairs, or other work is commenced in the shaft served by a cage, skip, or bucket, the operator and other involved personnel shall be informed and given suitable instructions.

(*2*) A Sign stating that work is being done in the shaft shall be installed at the shaft collar, at the operator's station, and at each underground landing.

(B) When employees are in a shaft or underground area served by a crane or hoist, and are dependent upon it for egress, the operator shall be within sight and sound of the signals at the operator's station.

(C) Rated load capacities, required operating speeds, and special warnings and instructions shall be posted at the operator's station, on the cage or skip, and at each landing level.

(D) (*1*) Whenever a hoistway is not fully enclosed, a warning light suitably located to warn employees at shaft bottom and subsurface shaft entrances shall be designed and function to flash intermittently whenever a load is above the shaft bottom or subsurface entrances, or the load is being moved in the shaftway.

(*2*) When personnel are working at the shaft bottom, conveyances or equipment shall be lowered to the bottom as follows: The conveyance shall be stopped at least 15 feet (4.57 m) above the bottom of the shaft and remain there until the operator receives the signal from the signalman at the bottom of the shaft to continue lowering the load.

(E) Employees shall not be permitted to ride on top of any cage, skip or bucket except when necessary to perform inspection or maintenance, in which case they shall be protected by safety belts and lanyards to prevent falling.

(F) Personnel and materials (other than small tools and supplies secured in a manner that will not create a hazard to employees) shall not be hoisted at the same time.

Exception: The operator may remain with materials in cages or skips designed to be controlled by an operator within the cage or skip, if he is protected from the shifting of such materials.

(G) Materials, tools, and supplies being raised or lowered, whether within a cage or otherwise, shall be secured or stacked in a manner to prevent the load from shifting, snagging or falling into the shaft.

(H) Equipment, tools, and materials shall not be passed over personnel.

(I) Prior to transport of personnel or materials, the operator shall perform a

trial run of any cage or skip that has been out of service for one complete shift, and a similar trial shall be performed after repairs or adjustments have been made to the assembly or components.

(J) Unsafe conditions revealed by tests, checks, or inspections shall be corrected before the equipment is used.

(K) Limit switches are to be used only to limit travel of loads when operational controls malfunction and shall not be used as a substitute for other operational controls.

(iii) *Wire rope and connections.* (A) Wire rope used for transporting material in hoists shall have a safety factor of not less than 5 or the factor recommended by the rope manufacturer, whichever is greater. (Note: Refer to § 1926.550 for hoisting material with cranes.)

(B) Wire rope used for manhoisting with cranes or hoists shall have a safety factor of 10 or more.

(C) The safety factor shall be calculated by dividing the breaking strength or wire rope, as given in the manufacturer's rating tables, by the total load to be hoisted, including the weight of the wire rope in the shaft when fully let out, plus a suitable allowance for acceleration and deceleration.

Note:—Load Factors (1): (a) cage or skip plus load; (b) rope weight if working near minimum factor, guide friction and air resistance may be significant load components.

(2) Acceleration of deceleration:

(a) Rope speeds below 500 feet (152.4 m) per minute (FPM), add 5 percent to the static load; for rope speeds 500 to 1000 feet (152.4 to 304.8 m) per minute, add 10 percent.

(b) Rope speeds above 1000 feet (304.8 m) per minute, the acceleration factor must be calculated from the following formula:

Acceleration load

$$F = \frac{W}{32.2} a$$

Where:

W = weight of load plus weight of rope in pounds.

a = acceleration of load in feet per second per second.

More specific calculation may be used for this purpose (see American National Standards Institute M11.1–1980, Wire Rope for Mines).

(D) Wire rope shall be removed from service when any of the following conditions exist:

(*1*) Where six randomly distributed broken wires are in one rope lay, 3 broken wires are in one strand in one lay, or there is one valley break (a valley break is a wire break occurring between 2 adjacent strands); or

(*2*) Where abrasion, scrubbing, flattening, peening, or any severe change has caused loss of more than one-third of the original diameter of the outside wires in any given area; or

(*3*) Where there is evidence of any heat damage, or any damage caused by contact with electrical wires, or marked corrosion of the rope; or

(*4*) Where there is reduction from nominal diameter or more than $\frac{3}{64}$-inch (1.191 mm) for diameters up to and including $\frac{3}{4}$-inch (19.05 mm); $\frac{1}{16}$-inch (1.588 mm) for diameters $\frac{7}{8}$ to $1\frac{1}{8}$ inches (22.225 to 102.381 mm); and $\frac{3}{32}$-inch (2.381 mm) for diameters $1\frac{1}{4}$ to $1\frac{1}{2}$ inches (31.75 to 38.1 mm).

(E) (*1*) Wire rope used for hoisting shall be securely fastened at both ends, and when in use, shall not be fully unwound; at least three full turns shall remain on the conventional hoist drum to protect the drum end fastening from overload.

(*2*) When using rope wedge sockets, means shall be provided to prevent wedge escapement and to ensure that the wedge is properly seated.

(F) Except for eye splices in the ends of wire rope slings and for endless rope slings used for hauling material, each wire rope used in hoisting, lowering, or in pulling loads shall consist of one continuous piece without knot or splice.

(G) (*1*) Any connection between the hoisting rope and the cage or skip shall be compatible with the type of wire rope used for hoisting.

(*2*) Spin-type connections, where used, shall be maintained in a clean condition and protected from foreign matter that could affect their operation.

(*3*) Cage, skip, and load connections to the hoist rope shall be made so that the force of the hoist pull, vibration, misalignment, release of lift force, or impact will not disengage the connection. Moused or latched open throat hooks do not meet this requirement.

(H) (*1*) In addition to the hoist rope connection to the cage or skip, a bridle shall be attached from the cage or skip frame to the hoist rope above the hoist rope connection. For this application, wire rope clips may be used.

(*2*) The bridle shall be capable of holding 150 percent of the weight of the cage and its maximum rated load traveling at its maximum rated speed, in order to stop and hold the cage or skip in the event the hoist rope connection separates.

(iv) *Guides and safeties.* (A) When sinking shafts 75 feet (22.86 m) or less in depth, cages, skips, and buckets that may swing, bump, or snag against shaft sides or other structural protrusions shall be guided by fenders, rails, ropes, or a combination of those means.

(B) When sinking shafts more than 75 feet (22.86 m) in depth, all cages, skips, and buckets shall be rope- or rail-guided to within a rail length from the sinking operation.

(C) Cages, skips, and buckets in all completed shafts, or in all shafts being used as completed shafts, shall be rope- or rail-guided for the full length of their travel.

(D) Cages, skips, and buckets operating at any depth on guide rails or guide ropes shall be equipped with broken-rope safety latches, dogs, or equivalent, that will stop and hold 150 percent of the weight of the cage, skip, or bucket and its maximum rated load.

(2) *Cranes and hoists for personnel.* (i) Cranes and hoists used to hoist employees shall be designed so that the load hoist drums are powered in both directions of rotation, and so that brakes are automatically applied upon power release or failure.

(ii) Personnel hoist driving machines shall be equipped with at least two means of stopping the load, each of which shall be capable of stopping and holding 150 percent of the hoist's rated capacity. One of these means shall be a brake. Broken-rope safeties shall not be considered as one of the two means of stopping.

(iii) The rigging components, hoist machine, cable drum attachment, cathead assembly (support beams and sheave assemblies) and the cage, skip or bucket frame attachment components shall have a safety factor of 10 or more when transporting personnel.

(iv) Travel speeds for hoisting of personnel shall not exceed 200 feet per minute except as provided in paragraph (t)(4)(ii) of this section.

(3) *Cranes.* (i) A reliable indicator of the position of the hock or load block, with an accuracy of ± one percent, shall be in view of the operator, in order to avoid hazardous contact of the load with obstructions, offsets in the sides, and the bottom of the hoisting area.

(ii) Cranes shall be equipped with a limit switch to prevent overtravel at the boom tip.

(4) *Hoists.* (i) *General.* (A) Hoists used for underground construction shall be designed by a qualified engineer competent in this field, and shall be constructed and rated in accordance with such design.

(B) Hoist controls shall be so arranged that the operator can perform all the functions of the operating cycle and emergency power cutoff without having to overreach or leave his normal operating position.

(C) Hoists shall be equipped with limit switches to prevent overtravel at the top and bottom of the hoistway.

(D) Hoists shall be equipped with landing level indicators at the operator's station. Marking of the hoist rope does not meet this requirement.

(E) (*1*) Safety glass or its equivalent shall be used in those hoist houses where glazing is used.

(*2*) When operator viewing of the work is necessary, glazing used shall be free of distortions or obstructions.

(F) A fire extinguisher, at least 2 A:10 B:C (multi-purpose, dry chemical), shall be mounted in each hoist house.

(G) (*1*) Each hoist assembly shall be inspected and load-tested to 100 percent of its rated capacity upon installation, after any repairs or alterations affecting its structural integrity or the operation of any safety device, and after every three months during use in order to ensure suitable operation and safe condition of all functions and safety devices.

(*2*) A written certification of each test shall be maintained for the duration of the project, and shall be made available for inspection and copying by authorized representatives of the Secretary.

(H) A competent person shall visually check all hoisting machinery, equipment, anchorages, and hoisting rope at the beginning of each shift and during hoist use as necessary.

(I) Each safety device shall be actuated by a competent person weekly during hoist use to ensure suitable operation and safe condition.

(J) Hoist operators shall be provided with a two-way closed-circuit communication system to each landing station, with speaker-microphones so located that the operator can communicate with individual landing stations during hoist use.

(ii) *Travel speeds for personnel hoisting.* (A) During sinking operations in shafts where guides and safeties are not used, the travel speed of the cage or skip carrying employees shall not exceed 200 feet (60.96 m) per minute. Governor controls set for 200 feet (60.96 m) per minute shall be installed in the control system and shall be used during personnel hoisting.

(B) Cages or skips may travel over the controlled length of the hoistway at rated speeds up to 600 feet (182.88 m) per minute during sinking operations in shafts where guides and safeties are used.

(C) Hoists may travel at rated speeds greater than 600 feet (182.88 m) per minute in completed shafts.

Note.—Hoist speeds shall be kept within the limitations of design and shaft conditions as required by paragraph (t)(1)(D) of this section.

(D) Personnel hoists running in excess of 200 feet (60.96 m) per minute shall be equipped with the following:

(*1*) Overspeed governors that will activate the stopping mechanism at 100 feet (30.48 m) per minute over the rated speed; and

(*2*) Devices to limit acceleration and deceleration to 6 feet (1.83 m) per second per second.

(u) *Gassy operations—Additional Requirements.* (1) An underground operation shall be considered gassy, and shall be operated thereafter as gassy, in any one of the following circumstances:

(i) Air monitoring reveals gas concentrations meeting the conditions set forth in paragraph (j)(1)(xii) of this section; or

(ii) There has been an ignition of flammable gas or petroleum vapor emanating or being liberated from the strata that indicates the presense of such gases; or

(iii) The underground operation is connected to a known gassy area; or

(iv) The history or past experience of that area indicates that flammable gas or petroleum vapors in concentrations exceeding the limits set forth in paragraph (j)(1)(xii) of this section are likely to be encountered in such underground operations.

(2) Only acceptable equipment, maintained in suitable condition, shall be used in gassy operations. (See Note to paragraph (j)(1)(ix)(B) of this section for definition of "acceptable.")

(3) Mobile diesel-powered equipment used in gassy operations shall be approved and certified by MSHA as meeting the requirements of 30 CFR Part 36 (Schedule 31).

(4) Each underground entrance to a gassy operation shall be promiently posted with signs notifying all entrants of that classification and the precautions to be followed.

(5) Smoking shall be prohibited and the employer shall be responsible for collecting all personal sources of ignition such as matches and lighters from all persons entering a gassy operation.

(6) A fire watch as described in § 1926.352(e) shall be maintained around hot work.

(7) Ventilation systems constructed of fire-resistant materials shall be installed to exhaust flammable gas or vapors from the tunnel, and shall be provided with explosion relief mechanisms.

§ 1926.56 [Amended]

3. By amending Table D–3 of § 1926.56, replacing the portion of the table entitled "Tunnels, shafts, and general underground work areas" as follows:

TABLE D–3.—MINIMUM ILLUMINATION INTENSITIES IN FOOT-CANDLES

Foot-candles	Area of operation
. .	. . . .
5	Underground work areas, such as tunnel or shaft headings, drilling, mucking, and scaling areas. Measure at the walking and working surface.
2	Underground accessways, passageways, and storage areas. Measure on floor, any obstruction, and related surfaces of those areas that might be hazardous.
. .	. . . .

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655); Sec. 107, 83 Stat. 96 (40 U.S.C. 333); Secretary of Labor's Order 8–76 (41 FR 25059); 29 CFR Part 1911)

[FR Doc. 83–21131 Filed 8–4–83; 8:45 am]

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federal register

Friday
August 5, 1983

Part III

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

New General Wage Determination Decisions

California: CA83–5116.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their dates of publication in the **Federal Register** are listed with each State.

Arkansas:	
AR83–4036	May 13, 1983.
AR83–4038	Do.
AR83–4039	Do.
AR83–4049	July 15, 1983.
Connecticut: CT83–3021	June 3, 1983.
District of Columbia: DC82–3031	Nov. 12, 1982.
Florida: FL83–1031	Apr. 22, 1983.
Illinois:	
IL83–2050	July 1, 1983.
IL83–2051	Do.
IL83–2052	Do.
IL82–2068	Dec. 17, 1982.
Louisiana: LA83–4019	Feb. 4, 1983.
Maine:	
ME83–3007	Apr. 15, 1983.
ME83–3008	Do.
New York: NY81–3062	Sept. 11, 1981.
Ohio: OH83–2055	July 8, 1983.
Pennsylvania:	
PA82–3008	Feb. 26, 1982.
PA81–3068	Sept. 25, 1981.
PA81–3073	Oct. 2, 1981.
PA81–3072	Do.
PA81–3090	Dec. 19, 1981.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supersedeas decision numbers are in parentheses following the numbers of the decisions being superseded.

Georgia: GA80–1056(GA83–1054)	Feb. 15, 1980.
Illinois:	
IL82–2001(IL83–2053)	Jan. 15, 1982.
IL82–2028(IL83–2063)	Apr. 16, 1982.
Kentucky: KY79–1070(KY83–1055)	Apr. 20, 1979.
Louisiana:	
LA82–4021(LA83–4060)	May 7, 1982.
LA82–4053(LA83–4059)	Nov. 5, 1982.
Minnesota: MN82–2065(MN83–2060)	Nov. 26, 1982.
Puerto Rico:	
PR80–3063(PR83–3034)	Oct. 24, 1980.
PR80–3069(PR83–3037)	Do.
Texas: TX80–4087(TX83–4058)	Nov. 7, 1980.
Wisconsin: WI82–2020(WI83–2061)	Mar. 26, 1982.

Signed at Washington, D.C., this 29th day of July 1983.

Dorothy P. Come,

Assistant Administrator, Wage and Hour Division.

BILLING CODE 4510-27-M

STATE: California
DECISION NUMBER: CA83-5116
DESCRIPTION OF WORK: Water Well Drilling

COUNTIES: Statewide
DATE: Date of Publication

COUNTIES	DRILLER		DRILLER'S HELPER		PUMP INSTALLER	
	Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits	Basic Hourly Rates	Fringe Benefits
Alameda	$10.00	$0.36	$7.05	$	$7.50	$
Alpine	9.60				8.00	
Amador	9.60				8.00	
Butte	7.00		5.00			
Calaveras	7.50		5.00			
Colusa	11.07	2.03	7.00	2.03	10.57	2.03
Contra Costa	9.50		7.50		7.50	
Del Norte	8.00	.31	7.25			
El Dorado	9.60				8.00	
Fresno	13.37	1.45	6.13	.50	6.38	1.04
Glenn	7.00		5.00			
Humboldt	8.00	.31	7.25			
Imperial	8.70	.36	6.38	.23	8.50	
Inyo	7.29	1.13	5.00			
Kern	7.05	.06	5.83	.04	5.50	.43
Kings	7.03	1.21				
Lake	11.07	2.03	7.00	2.03	10.57	2.03
Lassen	5.50	.43	4.50	.43		
Los Angeles	9.65		6.25		9.76	.57
Madera	7.50	.72	6.00		7.50	.72
Marin	11.07	2.03	7.00	2.03	10.57	2.03
Mariposa	7.50	.72	5.00		7.50	.72
Mendocino	11.07	2.03	7.00	2.04	10.57	2.03
Merced	7.00	.13	6.00	.11		
Modoc	10.50		7.25			
Mono	10.00		6.00			
Monterey	12.50		8.00		12.50	
Napa	8.00	.81	6.50	.81	13.00	.81
Nevada	7.00	.13	5.00	.10		
Orange	11.00	1.48	8.60	1.29		
Placer	9.60				8.00	
Plumas	10.00		8.00		10.36	1.65
Riverside	7.00	.36	6.00	.32	6.50	.34
Sacramento	10.00		6.80		9.43	.83
San Benito	8.39	2.65	6.85	2.54	8.39	2.65
San Bernardino	10.20	.37	8.00		10.30	.77
San Diego	8.18		7.50		7.85	
San Francisco	10.00		6.00	.39		
San Joaquin	7.00	.13	6.00	.11	11.39	3.82
San Luis Obispo	6.85	1.02	5.42	.88	6.58	
San Mateo	10.00	.81	6.75	.55	10.36	1.65
Santa Barbara	7.98		6.30		7.57	
Santa Cruz	8.39	2.65	6.85	2.54	8.39	2.65
Shasta	6.95		4.50		9.63	1.34
Sierra	7.00	.13	5.00	.10		
Siskiyou	8.00	.31	7.25			
Solano	9.15		7.65			
Sonoma	10.07	1.70	7.00	1.79	10.57	2.03
Stanislaus	7.00	.13	7.00	.11		
Sutter	7.00		5.00			
Tehama	10.00		8.00		10.36	1.65
Trinity	6.95		4.50		9.63	1.34
Tulare	7.29	1.13	5.00			
Tuolumne	7.50	.72	5.00		7.50	.72
Ventura	11.00	1.48	8.60	1.23	11.00	1.48
Yolo	10.36	1.65	6.00	.39		
Yuba	7.00	.13	5.00	.10		

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

DECISION #AR83-4036-Mod.#3
48FR21773-May 13, 1983
PULASKI AND JEFFERSON COUNTIES, ARKANSAS

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS-STONEMASONS	$12.00	1.54
CEMENT MASONS	12.85	.64
PLASTERERS	12.85	.64

DECISION #AR83-4038-Mod.#1
48FR21775-May 13, 1983
GARLAND, CLARK AND HOT SPRINGS COUNTIES, ARKANSAS

CHANGE:		
CEMENT MASONS	12.85	.64
PLASTERERS	12.85	.64

DECISION #AR83-4039-Mod.#1
48FR21774-May 13, 1983
UNION & OUACHITA COUNTIES, ARKANSAS

CHANGE:		
CEMENT MASONS	12.85	.64
PLASTERERS	12.85	.64

DECISION #AR83-4049-Mod.#2
48FR July 15, 1983
SEBASTIAN, CRAWFORD AND WASHINGTON COUNTIES, ARKANSAS

CHANGE:		
SEBASTIAN & CRAWFORD COS.:		
CEMENT MASONS	12.85	.64
PLASTERERS	12.95	

DECISION NO. CT83-3021 - MOD. #3
(48 FR 25090 - June 3, 1983)
STATEWIDE

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS		
Area 1	19.74	3.49
Area 3	16.88	3.88
BOILERMAKERS	18.16	3.38
BRICKLAYERS; CEMENT MASONS; CEMENT FINISHERS; MARBLE MASONS; PLASTERERS; STONE MASONS; TERRAZZO WORKERS; TILE SETTERS:		
HEAVY & HIGHWAY:		
Area 1	13.60	3.35
Area 2	13.37	2.58
Areas 3 & 4	13.60	2.35
CARPENTERS; MILLWRIGHTS; PILEDRIVERMEN; RESILIENT FLOOR LAYERS:		
BUILDING CONSTRUCTION:		
Area 1	15.00	1.70
Area 2	14.73	1.70
Area 3	15.05	1.80 b+c
Area 4	15.05	1.90
Area 5	14.65	2.40
Area 6:		
Carpenter	15.30	1.68
Millwright	15.80	1.68
ELECTRICIANS: Area 1	18.49	.62+e 28%

e. Employer contributes $10.00 per worker per day to Security Benefit Fund.

DECISION NO. DC82-3031-MOD. #13
(47 FR 51304-November 12, 1982)
District of Columbia; Maryland Montgomery & Prince Georges Counties; DC Training School; Virginia-Independent City of Alexandria; Arlington; & Fairfax Ctys.

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BOILERMAKERS	$19.50	3.09
SHEET METAL WORKERS	15.53	3.57+ d

DECISION #FL83-3031 - Mod. #1
(48 FR 17502 - April 22, 1983)
Hillsborough County, Florida

Change:

	Basic Hourly Rates	Fringe Benefits
Carpenters:		
Industrial Construction - Construction of industrial operating and/or manufacturing facilities such as oil refineries, chemical processing plants, pharmaceutical facilities, iron and steel producting facilities, non-ferrous metal production facilities, power generating facilities, paper mills, cement plants, breweries, rubber production and tire manufacturing plants, and other industrial mining and manufacturing facilities	$14.45	2.10
All Other Building Construction Projects	9.35	2.10

DECISION NO. IL83-2050 - MOD. #1
(48 FR 30571 - July 1, 1983)
Cook County, Illinois

	Basic Hourly Rates	Fringe Benefit
Omit:		
Power Equipment Operators: Building & Residential Construction:		
Class 3: Hoists, Inside Elevators Push Button with Automatic Doors	$15.45	$5.00
Add:		
Power Equipment Operators: Building & Residential Construction:		
Class 4: Hoists, Inside Elevators Push Button with Automatic Doors	13.70	5.00

DECISION NO. IL83-2052 - MOD. #1
(48 FR 30574 - July 1, 1983)
DuPage, Grundy, Kane, Kendall, Lake, McHenry & Will Counties, Illinois

Omit:		
Power Equipment Operators: Class 3: Hoists, Inside Elevators Push Button With Automatic Doors	$15.45	$5.00
Add:		
Power Equipment Operators: Class 4: Hoists, Inside Elevators Push Button with Automatic Doors	13.70	5.00

DECISION NO. IL82-2065 - MOD. #2 (47 FR 56601 - December 17, 1982)
Madison & St. Clair Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Omit:		
Laborers:		
Madison Co.:		
Glen Carbon, Highland, St. Jacob, Livingston, Marine, & Troy and Vicinities		
St. Clair Co.:		
New Athens & Vicinity		
Add:		
Laborers:		
Madison Co.:		
Glen Carbon:		
Class 1	$16.35	1.05
Class 2	16.60	1.05
Class 3	16.85	1.05
Class 4	17.95	1.05
Highland & St. Jacob:		
Class 1	16.65	.65
Class 2	16.90	.65
Class 3	17.15	.65
Class 4	18.25	.65
Livingston:		
Class 1	16.75	.55
Class 2	17.00	.55
Class 3	17.25	.55
Class 4	18.35	.55
Marine:		
Class 1	17.05	.25
Class 2	17.30	.25
Class 3	17.55	.25
Class 4	18.65	.25
Troy & Vicinity:		
Class 1	16.25	1.05
Class 2	16.50	1.05
Class 3	16.75	1.05
Class 4	17.85	1.05
St. Clair Co.:		
New Athens & Vicinity:		
Class 1	14.65	2.65
Class 2	14.90	2.65
Class 3	15.15	2.65
Class 4	16.25	2.65
Laborers Classifications:		
Class 1: Unskilled		
Class 2: Workmen while Cutting & Burning with a Torch; Men Working on the Bottom of Sewer Trenches on the Final Grading, Laying or Caulking of preformed Sectional sanitary or storm		

	Basic Hourly Rates	Fringe Benefits
Laborers Classifications (Cont'd):		
Class 2 (Cont'd): sewer pipe, including reinforced concrete tile, but not including box culverts, Tin Whistles or Multiple Culverts		
Class 3: Tenders to all Brick & Plaster Masons		
Class 4: Dynamite Men		

DECISION NO. IL83-2052 - MOD #1 (48 FR 30576 - July 1, 1983)
Adams, Bond,...Winnebago, & Woodford Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers:		
Area 5:		
Class 1	$16.95	.35
Class 2	17.20	.35
Class 3	17.45	.35
Class 4	18.55	.35
Area 6:		
Class 1	16.85	.45
Class 2	17.10	.45
Class 3	17.35	.45
Class 4	18.45	.45
Area 7:		
Class 1	17.00	.30
Class 2	17.25	.30
Class 3	17.50	.30
Class 4	18.60	.30
Area 8:		
Class 1	17.05	.25
Class 2	17.30	.25
Class 3	17.55	.25
Class 4	18.65	.25
Area 9:		
Class 1	15.70	1.60
Class 2	15.95	1.60
Class 3	16.20	1.60
Class 4	17.30	1.60
Area 10:		
Class 1	16.25	1.05
Class 2	16.50	1.05
Class 3	16.75	1.05
Class 4	17.85	1.05
Area 11:		
Class 1	16.80	.50
Class 2	17.05	.50
Class 3	17.30	.50
Class 4	18.40	.50
Area 12:		
Class 1	16.85	.65
Class 2	16.90	.65
Class 3	17.15	.65
Class 4	18.25	.65
Area 13:		
Class 1	17.25	.05
Class 2	17.50	.05
Class 3	17.75	.05
Class 4	18.85	.05
Area 14:		
Class 1	14.30	3.00
Class 2	14.55	3.00
Class 3	14.80	3.00
Class 4	15.90	3.00
Area 15:		
Class 1	$15.40	1.90
Class 2	15.65	1.90
Class 3	15.90	1.90
Class 4	17.00	1.90
Area 16:		
Class 1	16.45	.85
Class 2	16.70	.85
Class 3	16.95	.85
Class 4	18.05	.85
Omit:		
Area Descriptions:		
Laborers:		
Areas 10, 12, & 14		
Add:		
Laborers:		
Area 37:		
Class 1	15.30	2.00
Class 2	15.55	2.00
Class 3	15.80	2.00
Class 4	16.90	2.00
Area Descriptions:		
Laborers:		
Area 10: Greene, Macoupin (Staunton & Vic.), & Montgomery (Litchfield & Vic.) Cos.		
Area 12: Washington (Okawville) Co.		
Area 14: Montgomery (Hillsboro & Vic.) Co.		
Area 37: Randolph (Chester & Vic.) Co.		

MODIFICATIONS P. 5

DECISION NO. LA83-4019 - MOD. #5
(48 FR 5448 - 2/4/83)
Calcasieu Par., Louisiana

	Basic Hourly Rates	Fringe Benefits
Omit all rates & classifications for laborers		
ADD:		
Laborers	$ 8.10	.9%

DECISION NO. ME83-3008 - MOD. #1
(48 FR 16413 APRIL 15, 1983)
York, County, Maine

CHANGE:	Basic Hourly Rates	Fringe Benefits
Brick Mason/Cement Mason	$11.66	1.68

DECISION NO. ME83-3007 - MOD. #1
(48 FR 16412 APRIL 15, 1983)
Cumberland County, Maine

CHANGE:	Basic Hourly Rates	Fringe Benefits
Bricklayers	$11.66	1.68

DECISION NO. NY81-3063 - MOD. #6
(46 FR 45530 - Sept. 11, 1981)
WESTCHESTER CO., NEW YORK

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ELECTRICIANS	18.49	.02+b+ 28%

b. Employer contributes $10.00 per worker per day to Security Benefit Fund.

DECISION NO. OH83-2055 - MOD. #1
(48 FR 31540 - July 8, 1983)
Adams, Allen,...Wood & Wyandot Counties, Ohio

	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers:		
Area 2	$20.075	$3.23
Sheet Metal Workers:		
Area 4	16.22	2.68

DECISION NO. PA82-3008 - MOD. #7
(47 FR 8487 - February 26, 1982)
BUCKS, CHESTER, DELAWARE, MONTGOMERY AND PHILADELPHIA COUNTIES, PENNSYLVANIA

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PILEDRIVERMEN	$14.82	6.16+f

FOOTNOTES:
f. Paid Holidays: Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Washington's Birthday.

MODIFICATIONS P. 6

DECISION NO. PA81-3068 - MOD. # 11
(46 FR 47403 - Sept. 25, 1981)
Lebanon County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
GLAZIERS:		
Remainder of County	$13.51	$1.66
CARPENTERS	14.40	2.25
RATHERS	14.40	2.25
IRONWORKERS:		
Structural, Ornamental, & Reinforcing	17.265	3.745
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.25	25.6%
GROUP 2	14.96	25.6%
GROUP 3	14.09	25.6%
GROUP 4	13.44	25.6%
GROUP 5	12.97	25.6%
GROUP 6	12.06	25.6%
PILEDRIVERMEN	14.82	6.16+d
OMIT:		
POWER EQUIPMENT OPERATORS		
GROUP 7	15.10	25.6%
GROUP 7-A	15.35	25.6%
GROUP 7-B	15.59	25.6%

DECISION NO. PA81-3072 - MOD. #8
(46 FR 48851 - October 2, 1981)
Adams & York Counties, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
GLAZIERS	$13.51	$1.66
CARPENTERS:		
Adams County	14.40	2.25
RATHERS	14.40	2.25
IRONWORKERS:		
Structrual, Ornamental & Reinforcing	17.265	3.745
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.25	25.6%
GROUP 2	14.96	25.6%
GROUP 3	14.09	25.6%
GROUP 4	13.44	25.6%
GROUP 5	12.97	25.6%
GROUP 6	12.06	25.6%
PILEDRIVERMEN	14.82	6.16+c
OMIT:		
POWER EQUIPMENT OPERATORS		
GROUP 7	15.10	25.6%
GROUP 7-A	15.35	25.6%
GROUP 7-B	15.59	25.6%

DECISION NO.PA81-3073 - MOD. #4
(46 Fr 48853 - October 2, 1981)
Northumberland County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
ASBESTOS WORKERS	$16.33	$1.31
BOILERMAKERS	19.33	
BRICKLAYERS & STONEMASONS	13.25	1.60
CARPENTERS	13.22	
CEMENT MASONS	13.20	
ELECTRICIANS:		
Delware, Lewis & Trubut	12.61	3.56
Remainder of County	15.75	1.05+3%
GLAZIERS:		
Edgewell, Ralph, Koulmont, Coal, Marion Heights Twps	14.09	1.465
Remainder of County	13.5.	1.66
IRONWORKERS	17.265	3.745
LABORERS:		
North of Susquehanna River, Unskilled laborers scaffold builders, wrecking, window cleaners & demolition	9.10	1.40
Masons tenders, operators of jackhammers, paving breakers, vibrators & other pneumatic & mechanical tool coming under the jurisdiction of laborers, wagon drill operators, excavating for caisson, under pinning & pier holes (below 12'), non-metallic pipe layers, plasterer tenders, mortar men mixed by hand, handling & using cutting or' burning torches in the wrecking of building	9.25	1.40
South of Susequehanna River		
GROUP 1	10.15	1.43
GROUP 2	10.62	1.43
GROUP 3	9.55	1.43
GROUP 4	11.12	1.33
LATHERS	13.22	2.25
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operators	15.64	.65+3 3/8%
Winch truck operators	10.94	.65+3 3/8%
Groundman	10.46	.65+3 3/8%
MARBLE & TILE SETTERS	$12.25	$ .55
MILLWRIGHTS	16.57	2.25
PAINTERS:		
Brush	12.55	2.35
Tapers	13.21	2.35
Hazardous	14.21	2.35
PILEDRIVERMEN	14.82	6.16+a
ROOFERS:		
Coal, East Cameron, Jackson, Jordan, Little Mahony, Lower Augusta, Upper Mahony, Point Rockerfeller, Shamokin, Upper Mahony, Washington West Cameron, Zerbe		
Composition	12.61	2.10
Remainder of County		
Composition	14.55	2.10
PLUMBERS	16.80	2.39
STEAMFITTERS	16.80	2.39
SPRINKLER FITTERS	15.56	.95
SHEET METAL WORKERS	15.92	2.00
SOFT FLOOR LAYERS	11.94	2.25
POWER EQUIPMENT OPERATORS		
GROUP 1	15.25	25.6%
GROUP 2	14.96	25.6%
GROUP 3	14.09	25.6%
GROUP 4	13.44	25.6%
GROUP 5	12.97	25.6%
GROUP 6	12.06	25.6%
OMIT:		
POWER EQUIPMENT OPERATORS		
GROUP 7	15.10	25.6%
GROUP 7-A	15.35	25.6%
GROUP 7-B	15.59	25.6%

DECISION NO. PA81-3080 - MOD. #6
(46 FR 61813 - December 18, 1981)
Lycoming County, Pennsylvania

	Basic Hourly Rates	Fringe Benefits
CHANGE:		
LABORERS:		
General Laborers	$9.10	$1.40
Operators of jackhammer, paving and other pneumatic electrical and mechanical tools, laying of all clay, terra cotta ironstone, vitrified concrete or nonmetallic pile and the making of joints for same, wagon drill operator, coffer-dam(below 10'), tunnel free air, handling and using cutting or burning torches in the wrecking of buildings, blasters, plasterers tenders, mason tenders, scaffold builders and removal of power buggies	9.25	1.40
CEMENT MASONS	11.90	
PLASTERERS	12.70	
CARPENTERS	13.22	2.25
RATHERS	13.22	2.25
LINE CONSTRUCTION:		
Linemen, dynamite man, heavy equipment operators	15.64	.65+3 +3/8%
Winch truck operators	10.94	.65+3 +3/8%
Groundman	10.46	.65+3 +3/8%
ROOFERS:		
Composition & Kettlemen	14.55	2.10
SHEET METAL WORKERS	15.92	2.00
POWER EQUIPMENT OPERATORS:		
GROUP 1	15.25	25.6%
GROUP 2	14.96	25.6%
GROUP 3	14.09	25.6%
GROUP 4	13.44	25.6%
GROUP 5	12.97	25.6%
GROUP 6	12.06	25.6%
PILEDRIVERMEN	14.82	6.16+d
OMIT:		
POWER EQUIPMENT OPERATORS		
GROUP 7	$15.10	$25.6%
GROUP 7-A	15.35	25.6%
GROUP 7-B	15.59	25.6%

SUPERSEDEAS DECISION

STATE: GEORGIA
COUNTIES: BALDWIN, BIBB, BUCKLEY, BUTTS, CRAWFORD, HOUSTON, JASPER, JONES, LAMAR, MONROE, PEACH, PIKE, PUTNAM, TWIGGS, UPSON, & WILKINSON.
DECISION NUMBER: GA83-1054 DATE: DATE OF PUBLICATION
Supersedes Decision Number GA80-1056, dated February 15, 1980, in 45 FR 10579.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - includes single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$ 6.08	
BRICKLAYERS	7.67	
CARPENTERS	6.07	
CEMENT MASONS	6.69	
DRYWALL FINISHERS	6.26	
DRYWALL HANGERS	6.16	
ELECTRICIANS	6.89	
INSULATION INSTALLERS	4.99	
LABORERS:		
Unskilled	4.02	
Pipe layers	4.24	
PAINTERS	6.08	
PLUMBERS & PIPEFITTERS	6.57	
ROOFERS	5.49	
SHEET METAL WORKERS	7.14	
SOFT FLOOR LAYERS	6.04	
TILE SETTERS	6.00	
TRUCK DRIVERS	4.66	

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Backhoe	$ 5.23	
Bulldozer	5.38	
Front end loader	4.40	
Motor grader	4.75	
Scraper	5.34	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Illinois COUNTIES: *See Below
DECISION NUMBER: IL83-2053 DATE: Date of Publication
Supersedes Decision NO. IL82-2001, dated January 15, 1982 in 47 FR 2459
DESCRIPTION OF WORK: Building construction (Does not include single family homes and apartments up to and including 4 stories)

*ALEXANDER, CHAMPAIGN, CHRISTIAN, CLARK, CLAY, COLES, CRAWFORD, CUMBERLAND, DEWITT, DOUGLAS, EDGAR, EDWARD, EFFINGHAM, FAYETTE, FORD, FRANKLIN, GALLATIN, HAMILTON, HARDIN, IROQUOIS, JACKSON, JASPER, JEFFERSON, JOHNSON, LAWRENCE, MARION, MASSAC, MOULTRIE, PERRY, PIATT, POPE, PULASKI, RICHLAND, SALINE, SHELBY, UNION, VERMILION, WABASH, WAYNE, WHITE, & WILLIAMSON (See Page 5 for area Descriptions)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
Area 1	$18.99	2.76
Area 2	17.75	2.70
Area 3	17.87	2.00
Area 4	18.00	3.28
BOILERMAKERS:		
Area 1	18.50	2.605
Area 2	18.30	3.305
BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:		
Area 1	14.20	1.80
Area 2	15.60	1.75
Area 3	15.50	1.87
Area 4	16.50	1.00
Area 5	15.78	1.56
Area 6	16.35	2.25
Area 7	16.35	3.00
Area 8	16.35	2.25
Area 9	15.975	2.105
CARPENTERS; LATHERS, MILLWRIGHTS; PILEDRIVERMEN; & SOFT FLOOR LAYERS:		
Area 1	13.95	2.00
Area 2:		
Carpenters; Lathers; & Soft Floor Layers	15.975	2.44
Millwrights & Piledrivermen	16.475	2.44
Area 3:		
Carpenters; Lathers & Soft Floor Layers	16.505	1.91
Millwrights & Piledivermen	17.005	1.91
Area 4:		
Carpenters; Lathers & Soft Floor Layers	15.77	2.61
Millwrights & Piledrivermen	16.27	2.61
Area 5:		
Carpenters; Piledrivermen; Soft Floor Layers	14.61	1.93
Millwrights	15.01	1.93
Area 6:		
Carpenters & Soft Floor Layers	15.20	2.36
Millwrights	15.80	2.36
Piledrivermen	15.60	2.36
Area 7:		
Carpenters & Soft Layers	16.38	2.07
Millwrights & Piledrivermen	16.88	2.07
Area 8	17.45	1.78
Area 9:		
Carpenters; Lathers; Soft Floor Layers	15.955	2.46
Millwrights & Pile drivermen	16.455	2.46
Area 10:		
Carpenters; Lathers; Soft Floor Layers	15.705	2.71
Millwrights & Piledrivermen	16.205	2.71
CEMENT MASONS & PLASTERERS:		
Area 1	15.50	
Area 2:		
Cement Masons	17.225	.675
Plasterers	16.565	.575
Area 3:		
Cement Masons	16.00	1.775
Plasterers	16.22	1.775

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	Basic Hourly Rates	Fringe Benefits
CEMENT MASONS (CONT'D)		
Area 4	15.65	.65
Area 5	12.95	.01
Area 6	17.45	
Area 7:		
Cement Mason	14.86	
Plasterers	13.25	
Area 8	13.77	2.08
Area 9:		
Cement Masons	16.79	.92
Plasterer	18.39	
Area 10:		
Cement Masons	15.45	
Plasterers	11.22	
Area 11	15.50	
Area 12	15.50	
Area 13:		
Cement Masons	16.35	3.00
Plasterers	16.15	3.00
Area 14:		
Cement Masons	15.35	
Plasterers	15.45	
ELECTRICIANS:		
Area 1	18.61	.85 +14%
Area 2	17.35	2.00 +3.5%
Area 3	17.85	.65+ 8.35%
Area 4	17.30	1.86+ 3%
Area 5	17.33	1.70+ 3½%
Area 6:		
Electricians	16.88	2.45+ 3.6%
Cable Splicers	17.28	2.45+ 3.6%
Area 7	17.57	1.15+ 3½%
Area 8	18.355	.84+ 9½%
ELEVATOR CONSTRUCTORS:		
Area 1:		
Elevator Constructor	16.375	2.465 +a&b
Helper	70%JR	2.465 +a&b
Helper (Prot.	50%JR	

	Basic Hourly Rates	Fringe Benefits
GLAZIERS:		
Area 1	16.29	.97
Area 2	19.45	
Area 3	13.085	2.06
Area 4	16.59	1.31
Area 5	15.81	7.00
IRONWORKERS:		
Area 1	15.05	2.20
Area 2:		
Ironworkers	15.00	3.28
Fence Erectors	12.00	3.28
Area 3	15.95	2.23
Area 4	15.25	4.05
MARBLE SETTERS; TERRAZZO WORKERS; & TILE SETTERS:		
Area 1:		
Marble & Tile setters	14.20	1.80
Area 2:		
Terrazzo Workers	17.55	
Area 3	17.25	
Area 4	15.50	1.87
Area 5	16.50	1.00
Area 6	15.78	1.56
Area 7	16.35	3.00
Area 8	15.975	2.105
MARBLE SETTERS' FINISHERS; TERRAZZO WORKERS' FINISHERS; & TILE SETTERS' FINISHERS:		
Area 1:		
Tile Setters' Finishers	11.70	1.605
Area 2:		
Marble Setters' Finishers & Tile Setters Finishers	15.75	
Area 3:		
Marble Setter's Finishers & Tile Setters' Finishers	16.00	
Terrazzo Finishers	16.15	
Area 4	14.65	
PAINTERS:		
Area 1:		
Brush (New)	14.15	
Brush (Old)	12.37	
Spray & Sandblast	12.87	
Area 2	16.17	1.24
Area 3:		
Brush	13.65	1.75+c
Sandblast	14.15	1.75+c
Taping & Rollers	14.65	1.75+c
Spray	14.40	1.75+c

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	Basic Hourly Rates	Fringe Benefits
PAINTERS (CONT'D)		
Area 4:		
Brush up to 30 ft.	14.30	1.00
Brush over 30 ft.	15.10	1.00
Roller up to 30 ft.	15.15	1.00
Rollers over 30 ft.	15.95	1.00
Sandblast up to 30 ft.	15.80	1.00
Sandblast over 30 ft.	16.60	1.00
Spray up to 30 ft.	15.30	1.00
Spray over 30 ft.	16.10	1.00
Wall Covering Hangers	15.65	1.00
Drywall Preparing	14.45	1.00
Area 5:		
Brush	11.50	1.00
Roller & Taping	12.00	1.00
Spray & Sandblasting	12.00	1.00
Area 6:		
Brush, Roller, Vinyl Paper Hangers	14.95	1.50
Spray	15.70	1.50
Area 7:		
Brush	15.01	1.85
Spray & Blast	16.01	1.85
Taping	15.26	1.85
Area 8:		
Brush	15.35	1.20
Spray, Structural Steel & Tapers	15.85	1.20
Area 9:		
Brush	9.50	
Spray & Sandblast	10.50	
Area 10:		
Brush	10.00	
Drywall, Structural Steel, Roller 0 to 10"	10.50	
Roller over 10"	11.25	
Spray	11.75	
Area 11:		
Brush	12.80	2.30
Spray	14.30	2.30
Sandblast & Steamclean	14.80	2.30
Area 12:		
Brush	12.70	.30
Spray & Sandblasting	13.70	.30
Structural Steel	13.20	.30
Area 13	10.00	
Area 14:		
Brush & Roller	11.60	.80
Drywall Finishers & Paper Hangers	12.10	.80
Sandblast & Power Tools	12.50	.80
Area 15:		
Brush	14.75	
Spray & Blast	16.00	
Area 16:		
Brush, Drywall Taping	16.00	
Spray, Sandblast & Swing Stage	17.00	
Area 17:		
Brush	11.55	
Spray & Sandblast	12.65	
PLUMBERS, PIPEFITTERS, & STEAMFITTERS:		
Area 1	18.60	2.53
Area 2	18.15	2.22
Area 3	19.54	2.40
Area 4	17.03	2.33
Area 5	18.40	2.60
Area 6	18.75	3.25
Area 7	16.67	2.60
Area 8	19.97	2.20
Area 9	18.60	2.53
Area 10	17.96	2.27
ROOFERS:		
Area 1	9.25	
Area 2	13.30	1.35
Area 3	16.21	2.30
Area 4	14.78	2.72
Area 5	15.13	2.75
Area 6	15.00	1.50
Area 7	11.90	.45
Area 8	8.40	1.45
SHEET METAL WORKERS:		
Area 1	14.78	2.75
Area 2	16.74	2.69 +3%
Area 3	17.02	2.33 +3%
Area 4	17.68	2.75
Area 5	17.76	3.23
SPRINKLER FITTERS	16.67	2.83
LABORERS:		
Area 1	12.05	1.295
Area 2:		
Group 1	14.75	1.55
Group 2	14.95	1.55
Group 3	15.10	1.55
Area 3:		
Group 1	14.05	2.25
Group 2	14.25	2.25
Group 3	14.40	2.25

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LABORERS (CONT'D)	Basic Hourly Rates	Fringe Benefits
Area 4:		
Group 1	14.35	1.95
Group 2	14.55	1.95
Group 3	14.70	1.95
Area 5	12.95	1.185
Area 6:		
Group 1	14.75	1.55
Group 2	14.95	1.55
Group 3	15.10	1.55
Area 7:		
Group 1	14.42	1.70
Group 2	14.62	1.70
Group 3	14.82	1.70
Area 8:		
Group 1	14.25	2.05
Group 2	14.45	2.05
Group 3	14.60	2.05
Area 9:		
Group 1	13.55	2.75
Group 2	13.75	2.75
Group 3	13.90	2.75
POWER EQUIPMENT OPERATORS:		
Area 1:		
Class 1	16.05	2.10
Class 2	14.40	2.10
Class 3	14.10	2.10
Class 4	13.45	2.10
Class 5	12.85	2.10
Area 2:		
Class 1	13.60	1.58
Class 2	13.40	1.58
Class 3	8.65	1.58
Area 3:		
Class 1	16.25	1.85
Class 2	14.60	1.85
Class 3	13.00	1.85
Area 4:		
Class 1	16.67	2.48
Class 2	13.89	2.48
Class 3	13.24	2.48
Class 4	13.14	2.48
Class 5	12.89	2.48
Class 6:		
Group A	19.82	2.48
Group B	19.12	2.48
Group C	14.98	2.48
Group D	15.49	2.48
TRUCK DRIVERS:		
Area 1:		
2-3 Axles	12.25	62.00d
4 Axles	12.40	62.00d
5 Axles	12.60	62.00d
6 Axles	12.80	62.00d
Area 2:		
2-3 Axles	12.025	60.50d
4 Axles	12.225	60.50d
5 Axles	12.425	60.50d
6 Axles	12.575	60.50d
Area 3:		
Group 1	14.325	1.15e
Group 2	14.725	1.15e
Group 3	14.925	1.15e
Group 4	15.175	1.15e

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AREA DESCRIPTIONS

ASBESTOS WORKERS:

Area 1: Alexander, Christian, DeWitt, Fayette, Jackson, Jefferson, Marion, Moultrie, Perry, Piatt, Shelby, & Union Cos.
Area 2: Champaign, Clark, Douglas, Edgar, & Vermilion Cos.
Area 3: Clay, Coles, Crawford, Cumberland, Edwards, Effingham, Franklin, Gallatin, Hamilton, Hardin, Jasper, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne, White, & Williamson Cos.
Area 4: Ford & Iroquois Cos.

BOILERMAKERS

Area 1: Champaign, DeWitt, Ford, Iroquois & Vermilion Cos.
Area 2: Remaining Counties

BRICKLAYERS; CAULKERS; CLEANERS; POINTERS; & STONEMASONS:

Area 1: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White, & Williamson Cos.
Area 2: Champaign, Coles, Douglas (N. of Arcola), Edgar, Ford (S. of Roberts), & Vermilion Cos
Area 3: Christian Co.
Area 4: Clark, Clay, Crawford, Cumberland, Edwards, Effingham, Jasper, Lawrence, Richland, Wabash, & Wayne Cos.
Area 5: DeWitt Co.
Area 6: Fayette Co.
Area 7: Ford (Robert & N. Thereof) & Iroquois Cos.
Area 8: Marion Co.
Area 9: Moultrie, Piatt & Shelby Cos.

CARPENTERS; LATHERS; MILLWRIGHTS; PILEDRIVERMEN & SOFT FLOOR LAYERS:

Area 1: Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, & Williamson Cos.
Area 2: Champaign, Douglas (N. part inclu. Tuscola & Newman) & Piatt (Monticello), Ford (S½ inclu. Garber, Guthrie, Perdueville, Gibson City, Elliot, Proctor & Clarence)
Area 3: Christian (Millerville, Rosamond, Radford, Pana, & Vic.), Clark, Coles, Cumberland, Douglas, (S. part exclu. Tuscola & Newman), Edgar, Effingham, Jasper (W½), Moultrie (Exclu. Bethany, Okaw River, Lovington, Williamsbury, Lake City & all areas N.) & Shelby Cos.
Area 4: Christian (Morrisville) Co.
Area 5: Clay, Edward, Fayette, Hamilton, Jefferson, Marion, Richland, Wabash, Wayne & White Cos.
Area 6: Crawford, Jasper (E½), & Lawrence (E. of Summer Chancy Rd.) Cos.
Area 7: DeWitt Co.
Area 8: Ford (N½, N. of Garber), Iroquois & Vermilion (N. of Rossville Twps.) Cos.
Area 9: Moultrie (Bethnay, Okaw River, Lovington, Williamsbury, Lake City, & N. thereof), & Piatt (Remainder of County) Cos.
Area 10: Vermilion (Exclu. N. of Rossville) Co.

AREA DESCRIPTIONS (CONT'D)

CEMENT MASONS & PLASTERERS

Area 1: Alexander, Jackson, Perry, Pulaski, & Union Cos.
Area 2: Champaign, Douglas (N½, inclu. Tuscola & Newman), Ford, & Piatt (N½) Cos.
Area 3: Christian (N. part), DeWitt (S½, inclu. Clinton), Moultrie (NE), Piatt (S½), & Shelby (Moweaqua & N. thereof) Cos.
Area 4: Christian (S. part), & Fayette (Bingham, Ramsey, & St. Elmo) Cos.
Area 5: Clark & Edgar Cos.
Area 6: Clay, Edwards, Jasper, Richland & Wayne (Exclu. SW part) Cos.
Area 7: Coles, Cumberland, Douglas (S½, exclu. Tuscola & Newman), Effingham (N ½), Moultrie (Exclu. NE), & Shelby (S. of Moweaqua Cos.
Area 8: Crawford, Lawrence & Wabash Cos.
Area 9: DeWitt (N½) Co.
Area 10: Effingham (S½), Fayette (E. Part, Exclu. Bingham, Ramsey, & St. Elmo), & Marion (N 2/3) Cos.
Area 11: Franklin, Hamilton, Jefferson (Mt. Vernon & E. thereof), Wayne (SW part), & Williamson Cos.
Area 12: Gallatin, Hardin, Johnson, Massac, Pope, Saline & White Cos.
Area 13: Iroquois Co.
Area 14: Vermilion Co.
Area 15: Fayette (Rem. of Co.), Jefferson (N½, North of Mt. Vernon), Marion (S. part including Sandoval & Odin)

ELECTRICIANS

Area 1: Alexander, Clay, Edwards, Effingham (Exclu. Banner, Bishop, Douglas, Liberty, Lucas, Moccasin, St. Francis, Summit, & Teulopolis Twps.), Fayette (Exclu. Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson, & Loudon Twps.), Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Saline, Union, Wayne, White, & Williamson Cos.
Area 2: Champaign, DeWitt (Santa Anna Twp.), Douglas (S½), Ford (S. of Benton Twp.), Iroquois (Artesia, Pigeon Grove & Loda Twps.) & Piatt (Blue Ridge, Sangamon & Monticello Twps.) Cos.
Area 3: Christian, Coles, Cumberland, DeWitt (Exclu. Santa Anna Twps., Waynesville, Rutledge & Wilson), Douglas (S½), Effingham (Banner, Bishop, Douglas, Liberty, Lucas, Moccasin, St. Francis, Summit & Teulopolis Twps.), Fayette (Hurricane, S. Hurricane, Ramsey, Bowling Green, Carson, & Loudon Twps.), Moultrie, Piatt (Exclu. Blue Ridge, Sangamon & Monticello Twps.), & Shelby Cos.
Area 4: Clark, Crawford, Edgar, Jasper, Lawrence, & Richland Cos.
Area 5: DeWitt (Waynesville, Wilson, & Rutledge) Co.
Area 6: Ford (Benton twp. & N.), & Iroquois (Exclu. Artesia, Pigeon Grove, Loda, Fountain Creek, Lovejoy, & Prairie Green Twps.) Cos.
Area 7: Vermilion & Iroquois (Fountain Creek, Lovejoy, & Prarie Green Twps.) Cos.
Area 8: Wabash Co.

ELEVATOR CONSTRUCTORS

Area 1: Champaign, Fayette, & Vermilion Cos.

GLAZIERS

Area 1: Champaign, Christian, Clark (W. part), Coles, DeWitt, Douglas, Edgar (W. part), Effingham, Fayette, Jasper, Moultrie, Piatt, & Shelby Cos.
Area 2: Clark (E. Part), Edgar (E. part) & Vermilion Cos.
Area 3: Clay, Edwards, Gallatin, Hamilton, Lawrence, Marion, Massac, Pope, Saline, Wabash, Wayne, White, & Williamson Cos.
Area 4: Ford Co.
Area 5: Jackson, Jefferson, Perry & Union Cos.

IRONWORKERS

Area 1: Alexander, Franklin, Gallatin, Hardin, Jackson (Carbondale, Murphysboro & Grand Tower), Johnson, Massac, Pope, Pulaski, Saline (Exclu. Vic. of Eldorado & area N.E.), Union & Williamson Cos.
Area 2: Champaign, Coles, Cumberland, DeWitt (E. part), Douglas, Edgar, Ford, Moultrie, Piatt, Shelby (E½), & Vermilion Cos.
Area 3: Christian, DeWitt (W. part), Effingham (Exclu. Dexter & E. thereof), Fayette (St. Elmo & all area N. thereof), & Shelby (W½) Cos.
Area 4: Clark, Clay (N. of Louisville), Crawford, Effingham (Dexter & E. thereof), Jasper, Lawrence (E. of Lawrenceville), & Richland (N. of Olney) Cos.

MARBLE SETTERS; TERRAZZO WORKERS & TILE SETTERS

Area 1: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, White, & Williamson Cos.
Area 2: Alexander, Fayette, Franklin, Hamilton, Jackson, Jefferson, Johnson, Marion, Massac, Perry, Pulaski, Saline, & Union Cos.
Area 3: Champaign, Coles, Douglas (N. of Arcola), Fork (S. of Roberts) & Vermilion Cos.
Area 4: Christian Co.
Area 5: Clark, Clay, Crawford, Cumberland, Edwards, Effingham, Jasper, Lawrence, Richland, Wabash & Wayne Cos.
Area 6: DeWitt Co.
Area 7: Ford (Robert & N. thereof) Co.
Area 8: Moultrie, Piatt, & Shelby Cos.

MARBLE SETTERS' FINISHERS; TERRAZZO WORKER' FINISHERS; & TILE SETTERS FINISHERS

Area 1: Alexander, Franklin, Hamilton, Jackson, Jefferson, Johnson, Massac, Perry, Pulaski, Saline, Union, Wayne, & Williamson Cos.
Area 2: Champaign, Ford, Piatt,Vermilion, Iroquois
Area 3: Christian, Clark, Clay, Coles, Crawford, Cumberland, DeWitt, Douglas, Effingham, Jasper, Moultrie, Richland, & Shelby Cos.
Area 4: Edwards, Lawrence, & Wabash Cos.

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AREA DEFINITIONS (CONT'D)

PAINTERS

Area 1: Alexander, Johnson, & Pulaski Cos.
Area 2: Champaign, Coles, Cumberland, & Douglas Cos.
Area 3: Christian Co.
Area 4: Clark, Crawford, Edgar, Effingham, Jasper, Lawrence, Richland, & Wabash Cos.
Area 5: Clay, Edwards, Hamilton, Jefferson, Marion (Exclu. Salem City Limits) & Wayne Cos.
Area 6: DeWitt, Moutrie, Piatt, & Shelby Cos.
Area 7: Fayette Co.
Area 8: Ford Co.
Area 9: Franklin Co.
Area 10: Gallatin, Hardin, Pope, & Saline Cos.
Area 11: Iroquois Co.
Area 12: Jackson & Perry Cos.
Area 13: Marion (Salem) Co.
Area 14: Massac Co.
Area 15: Union Co.
Area 16: Vermilion Co.
Area 17: Williamson (Marion & Vic.) Co.

PLUMBERS; PIPEFITTERS; & STEAMFITTERS

Area 1: Alexander, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Randolph (Exclu. Baldwin, Red Bud, Ruma, & Tilden Twps.) & Union Cos.
Area 2: Champaign, Coles, Cumberland, Effingham, Ford, Jasper, & Piatt (E½) Cos.
Area 3: Christian (Assumption, Pana, & Radford Twps.), DeWitt, Moultrie, Piatt (W½), & Shelby Cos.
Area 4: Christian (Exclu. Assumption, Pana, & Radford Twps.) Co.
Area 5: Clark, Crawford, Douglas, Edgar (S½), & Richland Cos.
Area 6: Clay, Fayette, & Marion Cos.
Area 7: Edgar (N½) & Vermilion Cos.
Area 8: Edwards, Lawrence, Wabash & White Cos.
Area 9: Franklin, Gallatin, Hamilton, Jefferson, Saline, Wayne, & Williamson Cos.
Area 10: Iroquois Cos.

ROOFERS

Area 1: Alexander (Cairo) Co.
Area 2: Alexander (Exclu. Cairo), Edwards, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Perry, Pope, Pulaski, Saline, Union, Wabash, Wayne, White, & Williams Cos.
Area 3: Champaign, Clark, Coles, Cumberland, Douglas, Edgar, Ford, Piatt (E. Section of Piatt, W. of & exclu. Cities of Monticello & Lodge) & Vermilion Cos.
Area 4: Christian (Assumption, Pinkle, Dollville, Millersville, Mt. Auburn, Oshbornville, Owaneea, Pana, Radford, Rosamond, Stonington, Velma, Vanderville, & Willeys), Clay, DeWitt (S½), Effingham, Fayette, Jasper, Moultrie, Piatt (W½), Richland & Shelby Cos.

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AREA DEFINITIONS (CONT'D)

ROOFERS (CONT'D)

Area 5: Christian (Breckenridge, Edinburgh, Humphrey, Kincaid, Morrissonville, Palmer, & Taylorville) Co.
Area 6: Crawford & Lawrence Cos.
Area 7: DeWitt (N½) Co.
Area 8: Massac Co.

SHEET METAL WORKERS

Area 1: Alexander, Clay, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Marion, Massac, Perry, Pope, Pulaski, Richland, Saline, Union, Wabash, Wayne, White, & Williamson Cos.
Area 2: Champaign, Coles, Cumberland, Douglas, Ford, Moultrie, Piatt, Shelby & Vermilion Cos.
Area 3: Christian & DeWitt Cos.
Area 4: Clark, Crawford, Edgar, & Lawrence Cos.
Area 5: Iroquois Co.

LABORERS:

Area 1: Alexander, Franklin, Gallatin, Hardin, Jackson, Johnson, Massac, Perry, Pope, Pulaski, Saline, Union, & Williamson Cos.
Area 2: Champaign, DeWitt, Piatt (N. of a line drawn E. to W. thru N. City limits of Ivesdale) Cos.
Area 3: Christian & Moultrie (N½) Cos.
Area 4: Clark, Douglas, Edgar, Moultrie (E½), & Piatt (Rem. of Co.) Cos.
Area 5: Clay, Crawford, Edwards, Effingham, Fayette, Hamilton, Jasper, Jefferson, Lawrence, Marion, Richland, Wabash, Wayne, & White Cos.
Area 6: Coles & Cumberland Cos.
Area 7: Ford & Iroquois Cos.
Area 8: Shelby Co.
Area 9: Vermilion Co.

POWER EQUIPMENT OPERATORS

Area 1: Alexander, Franklin, Gallatin, Hamilton, Hardin, Jackson, Johnson, Massac, Pope, Pulaski, Saline, Union, White, & Williamson Cos.
Area 2: Champaign, Clark, Clay, Coles, Crawford, Cumberland, Douglas, Edgar, Edwards, Effingham, Ford, Iroquois, Jasper, Lawrence, Moultrie, Richland, Vermilion, Wabash, & Wayne
Area 3: Christian, DeWitt, Piatt & Shelby Cos.
Area 4: Fayette, Jefferson, Marion & Perry Cos.

TRUCK DRIVERS

Area 1: Ford (N½ of Co.) Co.
Area 2: Iroquois (N & SW parts of Co.) Co.
Area 3: Remaining Cos.

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CLASSIFICATION DEFINITIONS

LABORERS

AREAS 2, 3, 4, 6, 7, 8, & 9

GROUP 1
UNSKILLED LABORERS - All Sewer Workers, plus Depth Pay; Asphalt Plant Laborers; Bankmen on Floating Plant; Batch Dumpers; Carpenters' Tenders; Cleaning Lumber; Cofferdam Workers, plus Depth Pay; Deck Hand, Dredge Hand & Shore Laborer; Dispatchers; Driving of Stakes, Stringlines for all Machinery; Fencing Laborers; Firemen or Salamander Tenders; Fireproofing Laborers; Form Handlers; Gravel Box Men, Dumpmen and Spotters; Laborers with De-Watering Systems; Landscapers; Laying of Sod; Material Handlers; Pit Men; Plastic Installers; Planting of Trees; Removal of Trees; Rip Rap Men; Rod & Chainmen; Scaffold Workers; Tool Cribmen; Track Laborers; Unloading & Carrying Lath; Unloading and carrying of Re-Bars; Wrecking, Dismantling Buildings, Wallmen & Housemovers; Wrecking Laborers

GROUP 2
SEMI-SKILLED LABORERS - Asphalt Workers with Machine; Asphalt Rakers & Layers; Cement Handlers; Cement Silica, Clay, Fly Ash, Lime and Plaster, Handlers (Bulk or Bag); Chain Saw; Chloride Handlers; Concrete Workers (Wet); Grade Checker; Handling of Materials Treated with Oil, Creosote, Asphalt and/or any Foreign Material Harmful to Skin or Clothing; Kettle Tar Men on Concrete Paving, Placing, Cutting and Tying of Reinforcing; Tank Cleaners; Tunnel Tenders in Free Air

GROUP 3
SKILLED LABORERS - Air Tamping Hammerman; Caisson Workers, plus Depth Pay; Concrete Burning Machine Op.; Concrete Saw Op.; Coring Machine Op.; Curb Asphalt Machine OP.; Gunnite Nozzle Men; Jackhammer and Drill Op.; Laborers Handling Masterplate or similar materials; Laborers Tending Masons with Hot Material or Where Foreign Materials are used; Laser Beam Op.; Layout Man on Sewer Work; Luteman; Mason Tenders; Mortar Mixer Op.; Motorized Buggies or Motorized Unit used for Wet Concrete or Handling of Building Materials; Multiple Concrete Duct - Leadman; Plasterer' Tenders; Ready Mix Scalemen; Screedman on Asphalt Pavers; Steel Form Setters - Street & Highway; Vibrator Ops.; Welders, Cutters, Burners & Torchmen

DECISIN NO. IL83-2053

CLASSIFICATION DEFINITIONS (CONT'D

POWER EQUIPMENT OPERATORS

AREA 1

Class 1 - APSCO or Equal Spreading Machine, Backhoe, Backfiller, Boom or Winch Cat, Bituminous Mixplane Machine, Blacksmith, Bituminous Surfacing Machine, Bulldozer, Crane Shovel, Dragline, Truck Crane, Pile Driver, Concrete Finishing Machine or Spreader Machine, Concrete Breaker, Concrete or Pump Crete Pumps, Dinky or Standard Locomotives, Well or Caisson Drills, Elevating Grader, Fork Lifts, Flexplane, Gradeall, Hi-Lift, Hoists, Guy-Derricks, Hyster, Mechanic, Motor Patrol, Mixers - 21 cu. ft. or over, Push Cats, Pulls and Scrapers, Two Well Point Pumps, Pulverizer or Tiller, Pugmill, Rubber-Tired Farm Type Tractor with Bulldozer/Blade/Auger or Hi-lift over ½ yd., Jersey Spreader, Tract-Air used with Drill or Hi-Lift, Trenching or Ditching Machines, Wood Chipper w/Tractor, Self-Propelled Roller W/Blade, Equipment Greaser, Self-Propelled Bump Grinder on Concrete Highway Pavement

Class 2 - Air Compressor W/Valve Driving Piling, Two Air Compressors (220 cu. ft. capacity or over), Two Air Tract Drills, Air Track Drill W/Compressor, Automatic Bins or Scales W/Compressor or Generator, Pipeline Boring Machine, Bulk Cement Plant W/ Separate Compressor, Power Operated Bull Float, Hydra-Lift W/Single Motor, Straw Mulcher Blower W/Spout, Self-Propelled Roller/Compactor, Back-end man on Bituminous Surfacing Machine

Class 3 - Boom or Winch Truck, Two Conveyors, Self Propelled Concrete Saw, Form Grader, Truck Crane Oiler, Self-Propelled Vibrator, Any Type Tractor Pulling any type Roller or Disc, Rubber Tired Farm Type Tractor w/Blade/Bulldozer/Auger/Hi-lift - ½ yd. or less, Elevator Operator, Self Propelled Chip Spreader

Class 4 - Air-Track Drill (one), Belt Drag Machine, Power Broom, Mechanical Plasterer Applicator, Trac-Air, Air Compressor (220 cu. ft. or over) One, Air Compressor (under 220 cu. ft.) four, Automatic Bin, Bulk Cement Plant W/Built-in Compressor running off Same Motor or Electric Motor, Fireman, Self Propelled Form Tamper, Light Plants (4), Welding Machines (4), Pumps (4), or Combination of 4 Pumps, Light Plants,Welding Machines,Air-Compressors (under 220 cu. ft.), Mudjacks or Wood Chipper, Mixers - less than 21 cu. ft., Mortar Mixer w/skip or Pump, Pipeline Track Jack, Compressors, Light Plants, Generators, Welding Machines, Pumps or Conveyors, One Well-Point Pump, Two Motor Driven Heaters

Class 5 - One Air Compressor (under 220 cu. ft.), One Conveyor, One Motor Driven Heater, One Light Plant, One Pump, One Welding Machine, One Ulmac or Equal Spreader, conveyor Operator on Self-Propelled Chip Spreader Oilers

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CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (CONT'D)

AREA 2

Class 1 - Utility Operator
Class 2 - Power Cranes, Draglines, Derricks, Shovels, Gradalls, Mechanics, Concrete Mixers with Skip, Tournamixers, Two Drum Machine, One Drum Hoists with Tower or Boom, Cableways, Tower Machines, Motor Patrol, Boom Tractor, Boom or Winch Truck, Winch or Hydraulic Boom Truck, Truck Crane, Tournapull, Tractor Operating Scoops, Bulldozer, Push Tractor, Asphalt Planer, Finishing Machine on Asphalt, Large Rollers on Earth, Rollers on Asphalt Mix, Boss Carriers or similar Machine,Gravel Processing Machine, Asphalt Plant Engineer, Paver Operator, Farm Tractor w/half yard Bucket and/or Backhoe Attachment, Dredging Equipment or Dredge Engineer or Dredge Operator, Central Mix Plant Engineer, CMI or similar type machine, Concrete Pump, Truck or Skid Mounted, Tower Crane, Engine or Rock Crusher Plant, Concrete Plant Engineer, Ditching Machine with dual attachment, Tractor Mounted Loaders, Cherry Picker, Hydro Crane, Standard or Dinkey Locomotives, Scoopmobiles, Euclid Loader, Soil Cement Machine, Back Filler, Elevating Machine, Power Blader, Drilling Machines, incl. Well Testing, Caisson, Shaft or any similar type Drilling Machines, Motor Driven Plant Machine, Pipe Cleaning Machine, Pipe Wrapping Machine, Pipe Bending Machine, Apsco Paver, Boring Machine, Head Equipment Greaser, Barber-Greene Loaders, Formless Paver, Well Point System, Concrete Spreader, Hydra Ax, Resco Concrete Saw, Marine Scoops, Brush Mulcher, Brush Burner, Mesh Placer, Tree Mover, Helicopter Crew (3), Piledriver - Skid or Crawler, Stump Remover, Root Rake, Tug Boat Operator, Refrigerating Machine, Freezing Operator, Chair Cart - Self-Propelled, Hydra Seeder, Straw Blower, Power Sub Grader, Bull Float, Finishing Machine, Self-Propelled Pavement Breaker (Backhoe Attached), Lull (or similar type machine), Two Air Compressors, Compressors hooked in Manifold, Overhead Crane, Chip Spreader, Mud Cat, Sull-Air
Class 3 - Concrete Mixers without Skips, Rock Crusher, Ditching Machine under 6', Curbing Machine, One Drum Machines without Tower or Boom, Air Tugger, Self Propelled Concrete Saw, Machine Mounted Post Hole Digger, Two to Four Generators, Water Pumps, or Welding Machines, within 400 feet, Air Compressor 600 cu. ft. and under, Rollers on Aggregate and Seal Coat Surfaces, Fork Lift, Concrete and Blacktop Curb Machines, Farm Tractor with less than half yard Bucket, One Water Pump, Oilers, Air Valves or Steam Valves, One Welding Machine, Truck Jack, Mud Jack, Gunite Machines, House Elevators when used for Hoisting Material, Engine Tenders, Fireman, Wagon Drill, Flex Plane, Conveyor, Siphons and Pulsometer, Switchman,Fireman on Paint Pots, Fireman on Asphalt Plants, Distributor Operator on Truck, Tampers, Self-Propelled Power Broom, Striping Machine (motor driven), Form Tamper, Seaman Tiller, Bulk Cement Plant Equipment Greaser, Deck Hands, Truck Crane, Oiler Driver, Cement Blimps, Form Grader, Temporary Heat, Throttle Vlave Farm Tractor

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CLASSIFICATIONS DEFINITIONS

POWER EQUIPMENT OPERATORS (CONT'D)

AREA 3

Class 1 - Asphalt Plant Engineer; Asphalt Screed Man; Apsco Concrete Spreaders; Asphalt Pavers; Asphalt Rollers on Bituminous Concrete; Athey Loaders; Backfillers, Crane Type; Backhoes; Cableways; Cherry Pickers; Clam Shell; C.M.I. & Similar Type Autograde Formless Paver, Autograde Placer & Finisher; Concrete Breakers; Concrete Plant Operators; Concrete Pumps; Cranes; Derricks; Derrick Boats; Draglines; Earth Auger Boring Machines; Elevating Graders; Engineers on Dredge; Gravel Processing Machines; Head Equipment Greasers; High Lift or Fork Lifts; Hoist w/two Drums or Two or more Loadlines; Locomotives; Mechanics; Motor Graders or Auto Patrols; Operators or Levelman on Dredges; Operators Power Boat; Operators Pug Mill (Asphalt Plants); Orange Peels; Overhead Cranes; Paving Mixers; Piledrivers; Pipe Wrapping & Painting Machines; Push Dozers, or Push Cats; Rock Crushers; Boss Carriers or Similar Machines; Scoops; Skimmers 2 cu. yds., cap. & under; Sheep Foot Roller (Self-Propelled); Shovels; Skimmer Scoops; Test Hole Drilling Machines; Tower Cranes; Tower Machines; Tower Mixers; Track Type End Loaders; Track Type Fork Lifts or High Lifts; Track Jacks & Tampers; Tractors; Side Boom Trenching Machines; Ditching Machine; Tunnel Luggers; Wheel Type End Loaders; Winch Cat; Scoops (All or Tournagull); Barber Green Loaders, Bulldozers
Class 2 - Asphalt Boosters & Heaters; Asphalt Distributors; Asphalt Plant Fireman; Building Elevator; Bull Floats or Flexplanes; Concrete Finishing Machines; Concrete Saws, Self-propelled; Concrete Spreader Machines; Gravel or Stone Spreaders, Power Operated; Hoist Automatic; Hoist w/1 Drum & 1 Load Line; Oiler on 2 Paving Mixers when used in Tandem Boom or Winch Truck; Post Hole Diggers; Mechanical; Road or Street Sweeper-Self-Propelled; Scissors Hoist; Seaman Tiller; Straw Machine; Vibratory Compactor; Well Drill Machines; Boom or Winch Truck
Class 3 - Air Compressor*; Air Compressors, Track or Self-propelled; Bulk Cement Batching Plants; Conveyors*; Concrete Mixers (except plant, paver, tower); Firemen; Generators*; Greasers; Light Plants*; Mechanical Heaters*; Oilers; Power Form Graders; Power Sub-Graders; Pug Mills, when used for other than Asphalt Operation; Rollers (except Bituminous Concrete); Tractors w/o Power Attachment Regardless of size or type; Truck Crane Oiler & Driver 1 (man); Vibratory Hammer; Water Pumps*; Welding Machines (one 300 amp. or over*); Welding Machines*
*COMBINATIONS OF ONE TO FIVE OF ANY AIR COMPRESSORS, CONVEYORS, WELDING MACHINES, WATER PUMPS, LIGHT PLANTS OR GENERATORS SHALL BE IN BATTERIES OR WITHIN 300 FT

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CLASSIFICATION DEFINITIONS (CONT'D)

POWER EQUIPMENT OPERATORS (CONT'D)

AREA 4

Class 1 - Cranes; Dragline; Shovels; Skimmer Scoops; Clamshells or Derrick Boats; Pile Drivers; Crane Type Backhoes; Asphalt Plant Operators; Concrete Plant Operators, Ditching Machines or Backfillers (requiring Oilers), Dredges, Asphalt Spreading Machines, All Locomotives, Cable Way, or Tower Machines - 2 Drum or more (where Oiler or Fireman is required)...Hydraulic Backhoes, Ditching Machines or Backfiller (not Requiring Oilers), Hoists - 2 Drums or more (where Oiler or Fireman is not required), Cherry Pickers Overhead Cranes, Roller, Steam or Gas, Concrete Pavers, Excavators, Concrete Breakers, Concrete Pumps, Bulk Cement Plants, Cement Pumps, Derrick-Type Drills, Mixers, (over three bags), Boat Operators (25 feet and over)....Motor Graders or Pushcats, Scoops or Tournapulls, Bulldozers, Endloaders or Fork Lifts, Power Blade or Elevating Graders, Winchcats, Boom or Winch Trucks or Boom Tractors, Pipe Wrapping or Painting Machines...Asphalt Plant Engineer, Journeyman lubricating Engineer, Self propelled Walk-behind Rollers....Drills (other than Derrick Type), One Drum Hoists, Mud Jacks, or Well Drilling Machines, Boring Machines or Track Jacks, Mixers (Two ro Three Bags), Conveyors (two), Air Compressors (two), Water pumps regardless of size (Two), Welding Machines (two), Siphons or jets (two), Winch Heads or Apparatuses (Two), Ligh Plants (Two)....Mixers (under two bags)....All Tractors regardless of size (straight tractor only), Fireman on Stationary Boilers, Automatic Elevators, Form Grading Machines, Finishing Machines, Power Sub-Grader or Ribbon Machines, Longitudinal Floats, Boat Operators (under 25 feet), Distributor Operators on Trucks, Winch Heads or Apparatuses (one), Mobile Track Air and heaters (Two to Five)

Class 2 - Air Compressors (One), Water Pumps, regardless of size (One), Welding Machine (One), Mixers (One bag), Conveyor (One), Siphon or Jet (One), Light Plant (One), Heater (One), Immobile Track Air (One)

Class 3 - Asphalt Spreader Oilers, Fireman on Whirlies

Class 4 - Heavy Equipment Oilers (Truck Cranes, Dredges, Monigans, Large Cranes), over 65 ton rates capacity

Class 5 - Oiler

Class 6:
- Group A - Engineers Operatting Under Air Pressure
- Group B - Engineers Operating in Air over 10 lbs. pressure
- Group C - Oilers Operating Under Air Pressure
- Group D - Oilers Operating in Air over 10 lbs. pressure

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CLASSIFICATION DEFINITIONS (CONT'D)

TRUCK DRIVERS

AREA 3

Group 1 - Drivers on 2 Axles hauling less than 9 tons; Air Compressor & welding Machine incl. those pulled by separate units; Fork Lifts up to 6,000 lbs. cap.; Mechanic Tenders; Pick-ups when hauling materials, tools, or men to and from and on the job site; Truck Driver Tenders; Greasers & Tiremen

Group 2 - 2 or 3 Axles hauling more than 9 tons, but hauling less than 16 tons; A-Frame Winches; Fork Lifts over 6,000 lbs. cap.; 4-Axle Combination units; Hydrolifts or similar equipment when used for transportation purposes; & Winches

Group 3 - 2, 3, or 4 axles hauling 16 tons or more; Dispatcher; 5-Axles or more combination units; Mechanics & Water Pull*

Group 4 - Drivers on Oil Distributors; & Drivers on Semi-Lowboys when moving equipment

FOOTNOTES:
- a. 7 paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving; & Christmas Day
- b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in the business more than 5 years; 6% for employee who has work in business less than 5 years
- c. 25.00 per year
- d. per week; per employee
- e. 51.00 per week; per employee

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Illinois COUNTY: Kankakee
DECISION NUMBER: IL83-2063 DATE: Date of Publication
Supersedes Decision Number IL82-2028, dated April 16, 1982 in 47 FR 16517
DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.00	3.28
BOILERMAKERS	18.40	5%+ 4.08
BRICKLAYERS; Caulkers; Cement Masons; Cleaners; Pointers; Stonemasons; & Tile Setters	16.35	3.25
CARPENTERS:		
Commercial Building: Carpenters; Dry Wallers; Millwrights; Piledrivermen & Soft Floor Layers	17.65	2.20
Residential	70%JR	2.20
ELECTRICIANS:		
Commercial Building: Electricians	16.88	3.6% +2.45
Cable Splicers	17.28	3.6% +2.45
Residential	10.75	3.6% +1.70
ELEVATOR CONSTRUCTORS:		
Constructors	18.81	2.69 +a&b
Helpers	70%JR	2.69 +a&b
Helpers (Prob.)	50%JR	
GLAZIERS:		
Excluding Area East of Cabery	15.70	2.27
IRONWORKERS	17.15	3.74
PAINTERS:		
Brush; Roller; & Taping (Hand)	13.80	1.80
Spray	15.30	1.80
Paperhanging	14.80	1.80
Taping (Machine); Sandblasting; & Steamcleaning	15.80	1.80
Residential: Housing not to exceed 2 Families in a single structure	70%JR	1.80
PLASTERERS	16.15	3.25
PLUMBERS; Pipefitters; & Steamfitters	17.96	2.43
ROOFERS	16.35	.65
SHEET METAL WORKERS	17.76	3.23
SPRINKLER FITTERS	16.67	2.83
TILE SETTERS' FINISHERS	13.85	2.23
TRUCK DRIVERS:		
2-3 Axle Trucks	12.025	c
4 Axle Trucks	12.225	c
5 Axle Trucks	12.425	c
6 Axle Trucks	12.575	c
LABORERS:		
Unskilled	14.42	1.70
Semi-Skilled	14.62	1.70
Skilled	14.82	1.70

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FOOTNOTES:
a. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day after Thanksgiving Day; & Christmas Day
b. Employer contributes 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; 6% for less than 5 years
c. $60.50 Per Employee Per Week

LABORERS CLASSIFICATIONS
UNSKILLED: Asphalt Plant Laborers; Carpenter Tender; Cleaning of Windows, Doors, Walls, Floors, Scrubbing & Waxing of Floors; Common Laborer; Dumpmen & Spotters; Firemen or Salamander Tender; Fireproofing Laborer; Gravel Box Men; Landscapers; Planting & Placing of Trees, Shrubs, Sod & Seeding; Tool Cribmen; Unloading Explosives; & All Laborers not otherwise mentioned
SEMI-SKILLED: Asphalt Workers w/Machine & Layers; Bankmen on Floating Plant; Batch Dumpers; Cement Handlers; Cement Silica, Clay, Fly Ash, Lime & Plasters, Handlers (Bulk or Bag); Chloride Handlers; Coffeedam Workers Plus Depth; Concrete Workers (wet); Deck Hand, Dredge Hand & Shore Laborers; Driving All Stakes, Stringlines for all Machinery; Grade Checker; Handling of Materials Treated w/Oil, Creosote, Asphalt and/or Foreign Material Harmful to Skin or Clothing; Kettle & Tar Men; Laborers w/De-watering Systems; Mason Tenders; Mortar Mixer Operators; Motorized Buggies or Motorized Unit Used for Wet Concrete or Handling of Building Materials; On All Concrete Paving & Slope Walls, Placing, Cutting & Tying of Reinforcing (re-bars & wire mesh); On Concrete Paving, Placing, Cutting & Tying of Reinforcing; Plastic Installers; Power Tools; Scaffold Workers; Setting & Building of Manholes & Catch Basins; Sewer Workers Plus Depth; Stripping of all Concrete Forms, except Paving Forms; Tank Cleaners; The Unloading & Laborers w/Steel Workers & Re-bars; Track Laborers; Tunnel Tenders in free air; & Vibrator Operators
SKILLED: Air Tamping Hammerman; Asphalt Raker; Caisson Workers Plus Depth; Chain Saw Operators; Concrete Burning Machine Operator; Concrete Saw Operator; Coring Machine Operator; Curb Asphalt Machine Operator; Front End Man on Chip Spreader; Gunnite Nozzle Man; Laborers Handling Masterplate or Similar Materials; Laborers Tending Masons w/Hot Material or Where Foreign Materials are used; Laser Beam Operator; Layout Man and/or Tile Layer; Lead Man on Sewer Work; Lutsman; Multiple Concrete Duct-Leadman; Paving Breaker, Jackhammer & Drill Operators; Plaster Tenders; Ready Mix Scalemen, Permanent, Portable or Temporary Plant; Screedman on Asphalt Pavers; Signal Man on Crane; Steel Form Setters-Street & Highway; Tree Topper or Trimmer; Underpinning & Shoring of Buildings; & Welders, Cutters, Burners & Torchmen

POWER EQUIPMENT OPERATORS Building & Residential Construction	Basic Hourly Rates	Fringe Benefits
CLASS 1	$18.40	5.00
CLASS 2	17.10	5.00
CLASS 3	15.45	5.00
CLASS 4	13.70	5.00

CLASS 1 - Mechanic; Asphalt Plant; Asphalt Spreader; Autograde; Batch Plant; Benoto; Boiler and Throttle Valve; Caisson Rigs; Central Redi-Mix Plant; Combination Back Hoe Front Endloader Machine; Compressor and Throttle Valve; Concrete Breaker (Truck Mounted); Concrete Conveyor; Concrete Paver over 27E cu. ft.; Concrete Paver 27E cu. ft.-and under; Concrete Placer; Concrete Pump (Truck Mounted); Concrete Tower; Cranes; Cranes, Hammerhead; Creter Crane; Crusher, Stone, etc; Derricks; Derricks, Traveling; Formless Curb and Gutter Machine; Grader, Elevating; Grouting Machines; Highlift Shovels or Front Endloader 2¼ yd. and Ove.; Hoists, Elevators, Outside Type Rack and Pinion and Similar Machines; Hoists, One, Two, and Three Drum; Hoists, Two Tugger One Floor; Hydraulic Backhoes; Hydraulic Boom Trucks; Locomotive; Motor Patrol; Pile Drivers and Skid Rig; Post Hole Digger; Pre-Stress Machine; Pump Cretes Dual Ram; Pump Cretes: squeeze cretes-screw type pumps Gypsum bulker and pump; Raised and Blind Hole Drill; Rock Drill (self-propelled); Rock Drill (truck mounted); Roto Mill Grinder (36")and over); Roto Mill Grinder (less than 36"); Scoops-Tractor Drawn; Slip-Form Paver; Straddle Buggies; Tournapull; Tractor with Boom, and side boom; & Trenching Machines

Class 2 - Bobcat (over 3/4 cu. yd.); Boiler; Brick Forklift; Broom, Power Propelled; Bulldozers; Concrete Mixer (Two Bag and over); Conveyor, Portable; Forklift Trucks; Greaser Engineer; Highlift Shovels or Front Endloaders under 2¼ yd.; Hoists, Automatic; Hoists, Inside Freight Elevators; Hoists, Sewer Dragging Machine; Hoists, Tugger Single Drum; Rollers; Steam Generators; Tractors; Tractor Drawn Vibratory Roller (Receives an additional $.50 per hour); & Winch Trucks with "A" Frame

CLASS 3 - Air Compressor-Small 150 and under (1 to 5 not to exceed a total of 300 ft.); Air Compressor-Large over 150; Combination-Small equipment operator; Generator-Small 50 kw and under; Generator-Large over 50kw; Heaters, Mechanical; Hoists, Inside Elevators (rheostat manual controlled); Hydraulic Power Units (pile driving and extracting); Pumps, over 3" (1 to 3 not to exceed a total of 300 ft.); Pumps, Well Points; Welding Machines (2 through 5); Winches, 4 small electric drill winches; Bobcat (up to and including 3/4 cu. yd); & Brick Forklift

CLASS 4 - Oilers; Hoists, Inside Elevators Push Button with Automatic Doors

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: KENTUCKY
COUNTIES: BALLARD, CALDWELL, CALLOWAY, CARLISLE, CHRISTIAN, CRITTENDEN, FULTON, GRAVES, HICKMAN, LIVINGSTON, LYON, MARSHALL, McCRACKEN, & TRIGG.
DECISION NUMBER: KY83-1055 DATE: DATE OF PUBLICATION
Supersedes Decision Number KY79-1070, dated April 20, 1979, in 44 FR 23736.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS - Includes single family homes and apartments up to and including four (4) stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING & HEATING MECHANICS	$ 7.82	
ASBESTOS WORKERS (Mechanical insulation)	16.52	
BRICKLAYERS	10.61	
CARPENTERS	8.94	
CEMENT MASONS	8.91	
DRYWALL FINISHERS	8.51	
DRYWALL HANGERS	8.20	
ELECTRICIANS	9.08	
INSULATION INSTALLERS (Batt & blown insulation)	5.83	
IRONWORKERS	9.23	
LABORERS:		
Unskilled	5.74	
Mason tenders	7.41	
Asphalt rakers	9.07	
PAINTERS	7.39	
PLASTERERS	10.01	.96
PLUMBERS & PIPEFITTERS	9.90	
ROOFERS	7.06	
SHEET METAL WORKERS	9.23	
SOFT FLOOR & CARPET LAYERS	7.59	
TILE SETTERS	10.54	
TRUCK DRIVERS	10.40	

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPERATORS:		
Backhoe	$ 9.55	
Bulldozer	9.50	
Front end loader	9.62	
Motor grader	7.70	
Paver	9.04	
Roller	9.09	
Scraper - pan	7.25	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental		
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).		

SUPERSEDEAS DECISION

STATE: Louisiana
DECISION NO.: LA83-4059
PARISH: Statewide
DATE: Date of Publication
Supersedes Decision NO. LA82-4053, dated November 5, 1982, in 47 FR 50421.
DESCRIPTION OF WORK: Building projects (does not include single family homes & apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS:		
ZONE 1	18.645	2.335
ZONE 2	16.71	2.935
ZONE 3	15.10	2.42
ZONE 4	14.29	1.36
BOILERMAKERS	16.60	2.415
BRICKLAYERS & STONE-MASONS:		
ZONE 1	16.20	2.26
ZONE 2	13.22	1.90
ZONE 3	16.19	2.32
ZONE 4	14.50	2.04
ZONE 5	13.75	
ZONE 6	12.30	1.70
ZONE 7	14.10	.30
ZONE 8	14.15	.75
ZONE 9	14.50	
CARPENTERS:		
ZONE 1:		
Carpenters	13.25	.60
Millwrights	13.97	.60
Piledrivermen	14.15	.60
ZONE 2:		
Carpenters, Piledrivermen & Soft Floor Layers	13.19	1.60
Millwrights	17.83	.07
ZONE 3:		
Carpenters & drywall	13.25	2.35
Millwrights	13.95	2.30
Piledrivermen	13.65	2.30
ZONE 4:		
Carpenters & Piledrivermen	15.70	1.86
Millwrights	19.775	1%
ZONE 5:		
Carpenters & Soft Floor Layers	14.76	2.40
Millwrights	15.15	2.40
Piledrivermen	14.86	2.40
ZONE 6:		
Carpenters & Soft Floor Layers	14.60	2.40
Millwrights	15.15	2.40
Piledrivermen	14.86	2.40
ZONE 7:		
Carpenters & Soft Floor Layers	13.35	

	Basic Hourly Rates	Fringe Benefits
CARPENTERS (Cont'd):		
ZONE 7 (Cont'd):		
Millwrights	14.10	
Piledrivermen	13.85	
ZONE 8:		
Carpenters & Soft Floor Layers	12.90	1.78
Millwrights	13.65	1.78
Piledrivermen	13.15	1.78
ZONE 9:		
Carpenters & Soft Floor Layers	12.30	1.85
Millwrights	13.20	1.85
Piledrivermen	12.80	1.85
ZONE 10:		
Carpenters, Piledrivermen, Soft Floor Layers	9.90	1.60
Millwrights	17.83	.07
CEMENT MASONS:		
ZONE 1	14.58	.05
ZONE 2	15.47	
ZONE 3	12.65	1.65
ZONE 4	14.21	1.68
ZONE 5	13.75	
ZONE 6	10.50	
ZONE 7	12.10	.85
ZONE 8	12.65	.75
ZONE 9	11.90	.30
ELECTRICIANS:		
ZONE 1: Electricians	17.14	13-5/10%
Cable Splicers	17.39	13-5/10%
ZONE 2: Electricians	16.10	.82+3%
Cable Splicers	16.60	.82+3%
ZONE 3: Electricians	17.70	2.00+3-5/10%
Cable Splicers	18.20	2.00+3-5/10%
ZONE 4: Electricians	18.10	.70+3-2/10%
Cable Splicers	18.35	.70+3-2/10%
ZONE 5: Electricians	15.65	1.58+9%
Cable Splicers	15.65	1.58+9%

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS (Cont'd):		
ZONE 6: Electricians	$15.15	1.15+3-1/2%
Cable Splicers	15.65	1.15+3-1/2%
ZONE 7: Electricians	15.25	2.40+4%
Cable Splicers	15.75	2.40+4%
ZONE 8: Electricians	14.93	.80+3-1/2%
Cable Splicers	15.18	.80+3-1/2%
ELEVATOR CONSTRUCTORS:		
ZONE 1: Mechanics	14.46	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob)	50%JR	
ZONE 2: Mechanics	14.21	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob)	50%JR	
GLAZIERS:		
ZONE 1	15.25	.02+b
ZONE 2	12.25	.01
ZONE 3	15.30	.78
ZONE 4	9.88	.34
ZONE 5	6.80	
ZONE 6	10.99	
IRONWORKERS:		
ZONE 1	15.35	2.08
ZONE 2	15.89	1.99
ZONE 3	13.60	2.36
ZONE 4	14.55	2.31
ZONE 5	11.50	1.99
ZONE 6	15.66	2.22
LABORERS:		
ZONE 1:		
Group 1	7.20	.30
Group 2	7.40	.30
Group 3	7.45	.30
ZONE 2:		
Group 1	8.92	.80
Group 2	9.12	.80
ZONE 3	9.95	.94
ZONE 4	7.50	.94
ZONE 5:		
GROUP 1	11.02	.85
GROUP 2	11.12	.85
GROUP 3	11.17	.85

	Basic Hourly Rates	Fringe Benefits
LABORERS (Cont'd):		
ZONE 6:		
Group 1	$10.62	.85
Group 2	10.72	.85
Group 3	10.77	.85
ZONE 7:		
Group 1	10.89	1.08
Group 2	10.99	1.08
Group 3	11.09	1.08
Group 4	11.05	1.08
Group 5	11.15	1.08
ZONE 8:		
Group 1	10.57	1.08
Group 2	10.72	1.08
Group 3	10.77	1.08
ZONE 9:		
Group 1	8.11	.80
Group 2	8.31	.80
Group 3	8.36	.80
Group 4	8.41	.80
Group 5	8.76	.80
ZONE 10:		
Group 1	8.90	.80
Group 2	9.00	.80
Group 3	9.05	.80
Group 4	9.10	.80
ZONE 11:		
Group 1	8.45	.80
Group 2	8.60	.80
Group 3	8.75	.80
LATHERS:		
ZONE 1	14.78	2.30
ZONE 2	15.70	1.86
ZONE 3	13.25	.60
ZONE 4	13.19	1.60
ZONE 5	9.90	1.60
ZONE 6	12.90	1.78
ZONE 7	13.35	
ZONE 8	12.30	1.85
LINE CONSTRUCTION:		
ZONE 1:		
Linemen	15.65	1.58+9%
Hole digging equip.; tractor w/winch & derrick; line truck w/winch & derrick working hot lines	75%JR	1.58+9%
Pole truck & trailer or pole hauling & setting truck (not energized lines)	65%JR	1.58+9%
Truck w/o winch	45%JR	1.58+9%
Groundmen	50%JR	1.58+9%

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION (Cont'd)		
ZONE 2:		
Linemen	17.14	13-3/10%
Cable Splicers	17.39	13-3/10%
Equipment Operators	75%JR	13-3/10%
Truck Drivers & groundmen	45%JR	13-3/10%
ZONE 3:		
Linemen, equipment opr.	17.70	2.00+3-1/10%
Cable Splicers	18.20	2.00+3-1/10%
Groundmen	15.70	2.00+3-1/10%
ZONE 4:		
Linemen, equipment opr.	14.60	.70+3%
Cable Splicers	14.85	.70+3%
Groundmen	50%JR	.70+3%
ZONE 5:		
Linemen, equipment opr.	15.36	3-1/2%
Cable Splicers	15.61	3-1/2%
Groundmen	40%JR	3-1/2%
ZONE 6:		
Linemen, equipment oprs.	15.15	1.15+3-1/2%
Cable Splicers	15.65	1.15+3-1/2%
Groundmen	4.19	1.15%3-1/2%
ZONE 7:		
Linemen, Operators	15.25	2.40+3-3/4%
Cable Splicers	15.75	2.40+3-3/4%
Groundmen	12.65	2.40+3-3/4%
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS:		
ZONE 1:		
Marble Setters	14.50	2.04
Tile & Terrazzo Workers	14.85	.70
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 2:		
Marble & Terrazzo Wkrs.	16.10	2.32
Tile Setters	13.07	1.70

	Basic Hourly Rates	Fringe Benefits
MARBLE, TILE & TERRAZZO WORKERS & FINISHERS (Cont'd):		
ZONE 3:		
Marble Setters	14.50	
Terrazzo Workers	11.65	
ZONE 4:		
Marble, Tile & Terrazzo Workers	12.85	.75
ZONE 5:		
Marble, Tile & Terrazzo Workers	10.95	.85
ZONE 6:		
Marble, Tile & Terrazzo Workers	17.25	
Marble, Tile & Terrazzo Finishers	10.60	1.15
ZONE 7:		
Tile Setters	13.75	
Tile Finishers	10.60	1.15
PAINTERS:		
ZONE 1:		
Group 1	15.795	.45
Group 2	16.01	.45
Group 3	16.17	.45
Group 4	17.73	.45
ZONE 2:		
Group 1	12.15	1.38
Group 2	13.87	1.38
ZONE 3:		
Group 1	13.235	2.115
Group 2	13.61	2.115
Group 3	15.535	2.115
ZONE 4:		
Group 1	10.99	
Group 2	11.43	
Group 3	11.12	
Group 4	12.25	
Group 5	12.59	
Group 6	11.09	
Group 7	11.33	
ZONE 5:		
Group 1	10.75	
Group 2	11.60	
Group 3	12.10	
ZONE 6:		
Painters,tape & float, vinyl & paperhanger	11.25	1.25
ZONE 7:		
Group 1	10.05	
Group 2	10.55	
Group 3	11.05	
ZONE 8:		
Painters	10.85	.83
Industrial	13.42	1.33

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	Basic Hourly Rates	Fringe Benefits
PLASTERERS:		
ZONE 1	$13.20	
ZONE 2	13.25	.01
ZONE 3	16.37	
ZONE 4	15.80	.01
ZONE 5	12.08	1.58
ZONE 6	11.00	.01
ZONE 7	12.10	.85
ZONE 8	14.15	.75
ZONE 9	14.10	.30
PLUMBERS & PIPEFITTERS:		
ZONE 1	16.80	2.43
ZONE 2	17.615	2.585
ZONE 3	14.25	2.35
ZONE 4	15.19	3.09
ZONE 5	18.98	2.00
ZONE 6	15.05	1.65
POWER EQUIPMENT OPERATORS:		
ZONE 1 - GROUP 1	10.07	2.20
GROUP 2	11.31	2.20
GROUP 3	11.05	2.20
GROUP 4	11.42	2.20
GROUP 5	13.25	2.20
GROUP 6	12.00	2.20
ZONES 2,3 & 4 - GROUP 1	9.55	2.20
GROUP 2	10.58	2.20
GROUP 3	10.68	2.20
GROUP 4	11.15	2.20
GROUP 5	13.32	2.20
GROUP 6	12.32	2.20
ZONE 5 - GROUP 1	15.91	2.35
GROUP 2	11.21	2.35
GROUP 3	16.16	2.35
GROUP 4	16.41	2.35
GROUP 5	16.66	2.35
GROUP 6	16.91	2.35
GROUP 7	17.41	2.35
ZONE 6 - GROUP 1	15.66	2.35
GROUP 2	15.91	2.35
GROUP 3	16.16	2.35
GROUP 4	16.41	2.35
GROUP 5	16.91	2.35
GROUP 6	16.66	2.35
GROUP 7	15.41	2.35
GROUP 8	13.16	2.35
GROUP 9	11.61	2.35
GROUP 10	9.45	2.35
GROUP 11	10.78	2.35

	Basic Hourly Rates	Fringe Benefits
POWER EQUIPMENT OPS.(CONT'D):		
ZONE 7 - GROUP 1	$15.23	2.35
GROUP 2	12.49	2.35
GROUP 3	12.68	2.35
GROUP 4	15.73	2.35
GROUP 5	10.79	2.35
GROUP 6	9.08	2.35
GROUP 7	15.48	2.35
GROUP 8	15.73	2.35
GROUP 9	15.98	2.35
GROUP 10	16.23	2.35
GROUP 11	16.73	2.35
GROUP 12	17.23	2.35
ROOFERS:		
ZONE 1:		
Roofers	15.70	.20
Roofer helpers remove old roofing,hustle material & cleanup under supervision of a journeymen	12.30	.20
ZONE 2:		
Roofers	10.11	3.10
Preparers remove old roofing,place,stock or move materials,tools or equipment for journeymen	4.90	1.15
ZONE 3:		
Roofers	12.18	1.94
Preparers remove old roofing,place,stock or move materials,tools or equipment for journeymen	5.00	
ZONE 4:		
Roofers	11.50	.30
Kettlemen	9.20	.30
ZONE 5 - Roofers	12.86	.24
SHEET METAL WORKERS:		
ZONE 1	16.21	2.19+3%
ZONE 2	14.25	2.32+3%
ZONE 3	16.26	1.86+3%+c
ZONE 4	13.04	1.62+3%

	Basic Hourly Rates	Fringe Benefits
SOUND INSTALLERS:		
The installation(except the installation of conduit,the wiring of light circuits & the wiring of power circuits up to the final distribution panel),operation,maintenance & repair of video,sound or audio & associated signal equip. & apparatus by means of which electricity is applied in the transmission or transference, production or reproduction of voice or sound with or without ethereal aid,including all types of signal systems that may be required: JEFFERSON,ORLEANS, PLAQUEMINES,ST.BERNARD & ST. CHARLES PARS.	$11.82	2.86+3% +d
TRUCK DRIVERS:		
ZONE 1:		
Pick-ups	12.67	.70
Stake bodies;dumps; trailer trucks;which trucks;Mississippi wagons	13.52	.70

	Basic Hourly Rates	Fringe Benefits
TRUCK DRIVERS (CONT'D):		
ZONE 2:		
GROUP 1	$ 9.05	.60
GROUP 2	9.30	.60
GROUP 3	9.85	.60
GROUP 4	9.70	.60
GROUP 5	10.15	.60
GROUP 6	10.25	.60
GROUP 7	10.55	.60
GROUP 8	10.70	.60
ZONE 3:		
GROUP 1	9.87	
GROUP 2	9.95	
GROUP 3	10.20	
GROUP 4	10.35	
GROUP 5	10.50	
GROUP 6	10.70	
GROUP 7	11.05	
ZONE 4:		
GROUP 1	12.68	
GROUP 2	12.98	
GROUP 3	13.13	
GROUP 4	13.33	
GROUP 5	13.48	
GROUP 6	13.28	
ZONE 5:		
GROUP 1	11.39	.70
GROUP 2	12.00	.70
GROUP 3	12.05	.70
GROUP 4	12.31	.70

FOOTNOTES:
a - 1st 6 mos.-none; 6 mos. to 5 yrs.-6%; over 5 yrs.-8% of basic hourly rate & 7 paid holidays A thru G
b - 5 days paid vacation and 6 paid holidays A thru F
c - Labor Day shall be a paid holiday at the straight time rate only for employees who have been on the payroll at least 2 weeks & who have worked the 5 full working days prior to Labor Day unless no work was available, employee was excused from attendance by employer or can provide a statement from his physician that he was ill & unable to work
d - Paid Holidays A,C,D,E,G, Mardi Gras Day & Christmas Eve

PAID HOLIDAYS:
A-New Years' Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-the Friday after Thanksgiving Day; G-Christmas Day

ZONE DEFINITIONS FOR ASBESTOS WORKERS

ZONE 1 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Rapides, Vermilion & Vernon Parishes
ZONE 2 - Bienville, Bossier, Caddo, Caldwell, Claiborne, DeSoto, Grant, Jackson, Lincoln, Natchitoches, Ouachita, Red River, Sabine, Union, Webster & Winn Parishes
ZONE 3 - Ascension, Assumption, Avoyelles, Catahoula, Concordia, East Baton Rouge, East Feliciana, Iberia, Iberville, Jefferson, Lafayette, Lafourche, LaSalle, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Washington, West Baton Rouge & West Feliciana Parishes
ZONE 4 - East Carroll, Franklin, Madison, Morehouse, Richland, Tensas & West Carroll Parishes

ZONE DEFINITIONS FOR BRICKLAYERS AND STONEMASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Pointe Coupee, Rapides & St. Landry Parishes
ZONE 3 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from Tangipahoa Par. on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58, through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Mississippi State Line) & Terrebonne Parishes
ZONE 5 - St. Tammany (north half including Covington north of Hwy. 90) & Washington Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Natchitoches & Sabine Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.

ZONE DEFINITIONS FOR CARPENTERS:

ZONE 1 - All of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafalaya River)
ZONE 2 - Calcasieu Parish

ZONE 3 - Parts of St. Tammany & Tangipahoa (north of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) & Washington Parishes
ZONE 4 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River),West Baton Rouge & West Feliciana Pars.
ZONE 5 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles & St. John the Baptist Pars.; Parts of St. Tammany & Tangipahoa (south of I-12 from the Mississippi State Line to the western boundary of Tangipahoa Par.) Parishes
ZONE 6 - Assumption, Iberia (east of the Atchafalaya River), Lafourche, St. James (south of the Miss. River), St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River) & Terrebonne Parishes

ZONE DEFINITIONS FOR CARPENTERS (Cont'd)

ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapides & Sabine
ZONE 8 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 9 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes
ZONE 10 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes

ZONE DEFINITIONS FOR CEMENT MASONS

ZONE 1 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 2 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 4 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (north to Interstate Hwy. 12) & Terrebonne Parishes
ZONE 5 - St. Tammany (northern half including Covington north of Hwy 190) & Washington Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

ZONE DEFINITIONS FOR ELECTRICIANS

ZONE 1 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 2 - St. Tammany, Tangipahoa & Washington Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northest of the Atchafalaya River) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS:

ZONE 1 - Acadia, Allen, Ascension, Assumption, Beauregard, Calcasieu, Cameron, East Baton Rouge, East Feliciana, Evangeline, Iberia, Iberville, Jefferson, Jefferson Davis, Lafayette, Lafourche, Livingston, Orleans, Plaquemines, Pointe Coupee, St. Bernard, St. Charles, St. Helena, St. James, St. John the Baptist, St. Landry, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, Vermilion, Washington, West Baton Rouge & West Feliciana Parishes

ZONE DEFINITIONS FOR ELEVATOR CONSTRUCTORS (Cont'd):

ZONE 2 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, DeSoto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR GLAZIERS:

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 2 - Acadia, Ascension (north of Hwy. 22), Assumption (north of Hwy. 22), East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area), Tangipahoa (west of Hwy. 51), Vermilion, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Jefferson, Lafourche, Livingston (south of Hwy. 22), Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne Parishes
ZONE 4 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to city of Natchitoches), Red River, Sabine & Webster
ZONE 5 - Bienville (eastern portion everything east of Rt. 9 inclusive), Caldwell, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half everything north of a line running east & west through Winfield, excluding Winfield) Parishes
ZONE 6 - St. Tammany (northern 2/3 everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Parishes

ZONE DEFINITIONS FOR IRONWORKERS:

ZONE 1 - All of Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Pars.; Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, east of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico)
ZONE 2 - All of Ascension, Assumption, Avoyelles, East Baton Rouge, East Feliciana, Iberia, Iberville, Pointe Coupee, St. Helena, St. Martin, St. Mary, West Baton Rouge & West Feliciana Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (east of a line drawn from the meeting point of the boundaries of the Pars. of Rapides, Avoyelles & Evangeline, southeast along the western city limits of Abbeville to the Gulf of Mexico); Parts of Lafourche, Livingston, St. James, Tangipahoa, Terrebonne & Washington Pars. (west of a straight line drawn from the La.-Miss. border, west of the city limits of Warrenton, southwest through Hammond to the Gulf of Mexico); Parts of Catahoula, Concordia & LaSalle Pars. (south of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line, then west along the southern border of Rapides Par.)

ZONE DEFINITIONS FOR IRONWORKERS (Cont'd):

ZONE 3 - All of Bossier, Caddo, DeSoto, Red River & Webster Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (west of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Sabine Par. (north of a line drawn from the Natchitoches Par. boundary west through the city of Pesson to the Tex.-La. border)
ZONE 4 - All of Caldwell, East Carroll, Franklin, Grant, Jackson, Lincoln, Morehouse, Ouachita, Rapides, Richland, Tensas, Union & West Carroll Pars.; Parts of Bienville, Claiborne, Natchitoches & Winn Pars. (east of a line drawn directly south from the Ark.-La. border through the cities of Arcadia & Cloutierville); Part of Madison Par. (except the cities of Mound, Delta & adjacent areas); Parts of Catahoula, Concordia & LaSalle Pars. (north of a line drawn from Natchez through the city of Cottonport to the Rapides Par. line)
ZONE 5 - That part of Madison Par. (including the cities of Mound, Delta & adjacent areas)
ZONE 6 - All of Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Pars.; Parts of Acadia, Evangeline, Lafayette, St. Landry & Vermilion Pars. (southwest of Rapides Par. & west of a line south of the western most border between Rapides & Evangeline)

LABORERS - ZONE 1 (CLASSIFICATION DEFINITIONS)

GROUP 1 - Building and labor construction
GROUP 2 - Stone mason tenders, mechanical tool operators, sewermen (bottom men, caulkers, tenders, joint wipers, hot pot, grade carriers, layers & ditchers 4 ft. or over); tender of all crafts; sandblaster (nozzlemen); sandblaster (pot tender); laying non-metallic pipe over 4 ft. deep, including sewer, drain & underground tile; septic tank diggers & installers, over 4 ft. deep; gas & oil pipeline laborers & wrappers
GROUP 3 - Gunite tool operators
LABORERS - ZONE 2
GROUP 1 - Building laborer; rotary drill laborers; foundation drill crewman
GROUP 2 - Mason mixer; plaster mixer; mechanical tool op. (jackhammer, vibrator, tamper, chipping gun, soil tillers); sandblaster; laying concrete, clay, plastic, asbestos cement, casing & corrogated metal pipe, as sewer, drain & underground tile (caulkers, joint wrappers hot pot & pipe layers); gas & oil pipeline laborers wrappers & dopers

LABORERS (CLASSIFICATION DEFINITIONS) (Cont'd):

LABORERS - ZONES 4 & 5
GROUP 1 - Building and general laborers, carpenter tenders
GROUP 2 - Power tool ops. (hammer men, tamper, vibrator, power buggies, concrete chippers & cutters, chain saw ops., etc.); pipelayers (non-metallic)
GROUP 3 - Mason tenders, plaster tenders, cement mix (wet or dry) tenders, hod carrier tender; mortar mixers & cement mixers (wet or dry)
LABORERS - ZONE 6
GROUP 1 - Laborers
GROUP 2 - Laborers handling pans, stone mason tenders, mechanical tool ops., sewermen, sandblaster; laying non-metallic pipe over 4" deep, including sewer pipe, drain pipe, & underground tile; septic tank diggers & installers over 4' deep; gas & oil pipeline laborers & wrappers; scalers using boatswain's chair, safety belt or power tool; scaler & cleaners
GROUP 3 - Gunite tool operators
GROUP 4 - Bricklayer & mason tender
GROUP 5 - Hod carrier using a prime mover to serve a bricklayer; mortar mixer, either hand or machine
LABORERS - ZONE 7
GROUP 1 - Common laborers
GROUP 2 - Jackhammermen, sewermen, mason tenders, plaster tenders, stone mason tenders, vibratormen
GROUP 3 - Mortar mixers
LABORERS - ZONE 8
GROUP 1 - Common laborers; carpenter tenders; mason tenders (other than cement); plasterers tenders; stone mason tenders; concrete workers; scaffold builders
GROUP 2 - Air tool ops. (jackhammer, vibrator & tamper); sewer pipe joiners & setters; concrete cutters; hod carriers; creosote materials handler; acid worker; mason tenders (cement); Mortar mixer (wet or dry); motorized buggy op.; water proofers (mastic); form setters (steel paving forms)
GROUP 3 - Chain saw operator
GROUP 4 - Asphalt raker, tamper, smoother & shovelers; sewer pipelayers; blaster tenders
GROUP 5 - Powderman
LABORERS - ZONE 9
GROUP 1 - Laborers, Plasterer tenders, asphalt rakers & smoothers
GROUP 2 - Mason tenders
GROUP 3 - Mortar mixers
GROUP 4 - Sewer pipe layers & wipers, burners on demolition, mechanical tool ops. (including but not limited to jackhammer, tamper, vibrator chipping hammer)
LABORERS - ZONE 10
GROUP 1 - Laborers, tenders (brickmasons, stonemasons, cement masons, carpenters, plasterers), stripping & dismantling; concrete form work; loading, unloading, carrying & handling steel & steel mesh; assisting to the setting of cut stone, granite or artificial stone; building scaffolds; shoring
GROUP 2 - Mechanical tool op. (air, electric, motor, engine, etc.); sewer pipelayers; mortar mixers (hand or machine); gunite op., tile, terrazzo & marble setter finishers
GROUP 3 - Pipe dopers & burners

ZONE DEFINITIONS FOR LABORERS:

ZONE 1 - St. Tammany (as far south as Bayou Lacombe & east to the Miss. State Line at Pearlington), Tangipahoa (all but southwestern corner) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary (excluding that part of Par. to the Calumet Locks west) & Vermilion
ZONE 3 - Calcasieu Parish
ZONE 4 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 5 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, West Baton Rouge & West Feliciana Pars.; Parts of Assumption, St. James, St. John the Baptist Pars. (north of a line drawn from the southern limits of the town of St. James in St. James Par. to the northern limits of the town of Napoleonville in Assumption Par. & then directly west to the Par. Line, all of St. James Par. except that part which is east of a line drawn from Lutcher to U.S. Hwy. 61 (Airline Hwy.) then west on U.S. 61 to Blind River & on a direct line to Manchac)
ZONE 6 - Livingston, St. Helena & Tangipahoa (south & west of a line running from the western Par. line to a point directly east which touches the northern limits of the town of Independence, then directly south to Lake Pontchartrain) Parishes
ZONE 7 - Jefferson (except Grand Isle), Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist (on the west bank of the Miss. River & the portion of St. John the Baptist on the east bank of the Miss. River as far as the Sycamore Inn at Lutcher & north to Blind River & Manchac) & St. Tammany (north as far as Bayou Lacombe, east to the Miss. State Line at Pearlington) Pars.
ZONE 8 - Assumption (north of Napoleonville), Jefferson (Grand Isle), Lafourche, St. James (on the west bank & including the town of Vacherie), St. Mary (that part of Parish to the Calumet Locks west) & Terrebonne Parishes
ZONE 9 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides & Winn Parishes
ZONE 10 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Parishes
ZONE 11 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE DEFINITIONS FOR LATHERS:

ZONE 1 - Assumption, Iberia (east of the Atchafalaya River), Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (south of the Miss. River), St. John the Baptist, St. Martin (eastern segment of the Atchafalaya River), St. Mary (east of the Atchafalaya River), St. Tammany, Tangipahoa, Terrebonne and Washington Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James (north of the Mississippi River), West Baton Rouge & West Feliciana Parishes
ZONE 3 - All of Acadia, Evangeline, Lafayette, St. Landry, & Vermilion Pars.; Parts of Iberia, St. Martin & St. Mary Pars. (west of the Atchafayala River)

ZONE DEFINITIONS FOR LATHERS (Cont'd):

ZONE 4 - Calcasieu Parish
ZONE 5 - Allen, Beauregard, Cameron, Jefferson Davis & Vernon Parishes
ZONE 6 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 7 - Avoyelles, Grant, LaSalle, Natchitoches, Rapids & Sabine Parishes
ZONE 8 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR LINE CONSTRUCTION

ZONE 1 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin (southern segment), St. Mary (that portion northeast of the Atchafalaya River) & Terrebonne Parishes
ZONE 2 - Ascension, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. Landry, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.
ZONE 4 - Acadia, Iberia, Lafayette, St. Martin (northern segment), St. Mary (that portion southwest of the Atchafalaya River) & Vermilion Parishes
ZONE 5 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Pars.
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangeline, Grant, LaSalle, Natchitoches (that portion southwest of the Red River), Rapides, Sabine, Vernon & Winn Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches (that portion northeast of the Red River), Red River & Webster Pars.

ZONE DEFINITIONS FOR MARBLE, TILE & TERRAZZO WORKERS AND FINISHERS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bergard, St. Charles, St. James, St. John the Baptist, St. Tammany (extending northward to that part of St. Tammany Par. from the Tangipahoa Par. Line on the west along U.S. Hwy. 190 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Covington, along State Hwy. 58 through the lower limits of Abita Springs & Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 2 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 3 - Iberia, Lafayette, St. Martin, St. Mary & Vermilion Pars.
ZONE 4 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn & Webster Parishes
ZONE 5 - Bienville, Bossier, Caddo, Claiborne, De Soto, Red River & Webster Parishes
ZONE 6 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 7 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes

PAINTERS CLASSIFICATION DEFINITIONS

ZONE 1
GROUP 1 - Painters brush, roller & buffer
GROUP 2 - Paperhanging, taping & floating
GROUP 3 - Spray, sandblasting, hydroblasting, spider op., rubberizing & pyroflexing, steam jennies, taping & floating machine
GROUP 4 - Water towers, radio & TV towers

ZONE 2
GROUP 1 - Brush; taping; floating & texture
GROUP 2 - Sandblasting, industrial & steel

ZONE 3
GROUP 1 - Painters, paperhangers & sheetrock tapers & floaters
GROUP 2 - Structural steel painters of new building under construction; the following overall of 30 ft.; tanks, air conditioning, towers, smoke stacks, sprinkler systems, wharves & structural steel in old buildings; spray painters, swing stage painter
GROUP 3 - Industrial

ZONE 4
GROUP 1 - Brush
GROUP 2 - Brush swing stage
GROUP 3 - Brush industrial
GROUP 4 - Spray; spray steel, sandblasting
GROUP 5 - Spray swing stage
GROUP 6 - Paperhanger
GROUP 7 - Sheetrock finishers

ZONE 5
GROUP 1 - Painters, paperhangers, tapers, floaters, commercial steel, such as churches or any commercial building with closed roof deck or walls
GROUP 2 - Other commercial work brush spray, stage, window jacks flagpoles & steeple work
GROUP 3 - All industrial work including sandblasting or power tools of any kind

ZONE 7
GROUP 1 - Painters, paperhangers, tapers & floaters
GROUP 2 - Stage,window jacks, bosun chairs, structural steel, rollers, equipment painting; sandblasting, spray, stack sign, tank painting, steeple jack
GROUP 3 - Structural steel brush

PAINTERS ZONE DEFINITIONS

ZONE 1 - Allen (except northeast corner), Beauregard, Calcasieu, Cameron, & Jefferson Davis Parishes
ZONE 2 - Ascension (north of Hwy.22), Assumption (north of Hwy. 22), Concordia, East Baton Rouge, East Feliciana, Iberville, Livingston (north of Hwy. 22), Pointe Coupee, St. Helena, Tangipahoa (west of Hwy. 51), West Baton Rouge & West Feliciana Parishes
ZONE 3 - Ascension (south of Hwy. 22), Assumption (south of Hwy. 22), Lafourche, Livingston (south of Hwy. 22), Jefferson, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Mary (Morgan City Area), St. Tammany (southern portion) & Terrebonne
ZONE 4 - St. Tammany (northern 2/3, everything north of a straight line running east & west from Pearl River to Mandeville), Tangipahoa (everything east of Rt. 51 & everything north of a straight line running east & west from Madisonville through Ponchatoula) & Washington Pars.
ZONE 5 - Allen (northeastern most corner, north of Rt. 10), Avoyelles, Catahoula, Evangeline, Grant, LaSalle, Natchitoches (southern half, everything south of Rt. 6 including City of Natchitoches), Rapides, St. Landry (northern portion) & Winn (southern half from a line running east & west through the intersection of Rts. 84 & 71, including the town of Winnfield at that intersection) Parishes
ZONE 6 - Bienville (western half), Bossier, Caddo, Claiborne, DeSoto, Natchitoches (to City of Natchitoches), Red River, Sabine, Vernon & Webster

PAINTERS ZONE DEFINITIONS (Cont'd):

ZONE 7 - Bienville (eastern portion, everything east of Rt. 9 inclusive), Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn (northern half, everything north of a line running east & west through Winnfield, excluding Winnfield) Parishes
ZONE 8 - Acadia, Iberia, Lafayette, St. Landry (south half), St. Martin, St. Mary (except Morgan City Area) & Vermilion Parishes

PLASTERERS ZONE DEFINITIONS

ZONE 1 - St. Tammany (northern half including Covington north of Hwy. 190) & Washington Parishes
ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes
ZONE 3 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes
ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. James, St. Helena, Tangipahoa, West Baton Rouge & West Feliciana Parishes
ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany (Par. line on the west along U.S. Hwy. 190 through the lower limits of Covington & Abita Springs along State Hwy. 435 to Talisheek & on a line due east from Talisheek to the Miss. State Line) & Terrebonne Parishes
ZONE 6 - Avoyelles, Catahoula, Concordia, Evangline, Grant, LaSalle & Rapides Parishes
ZONE 7 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes
ZONE 8 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn
ZONE 9 - Natchitoches & Sabine Parishes

PLUMBERS & PIPEFITTERS ZONE DEFINITIONS

ZONE 1 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James (northern 2/3 of Par.), St. John the Baptist, St. Tammany, Tangipahoa, Terrebonne & Washington Parishes
ZONE 2 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberia (eastern 1/2 of Par.), Iberville, Livingston, Pointe Coupee, St. Helena, St. James (western 1/3 of Par.), St. Martin (southern part of eastern 1/2 of Par.),St. Mary, West Baton Rouge & West Feliciana Parishes
ZONE 3 - Avoyelles, Catahoula, Concordia,Evangeline, Grant, LaSalle, Natchitoches (south of Hwy. 84 & 86 from Winnfield to Natchitoches & southeast from Natchitoches to Anacoco through Bellwood), Rapides, Vernon (northeast of Hwy. 10 & Winn (south of Hwy. 84) Parishes
ZONE 4 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River, Sabine & Webster Pars.; Parts of Natchitoches & Vernon Pars. (northwest from a line drawn from Natchitoches to Anacoco through Bellwood & north of Hwy. 111 between Anacoco & Haddens) Parishes
ZONE 5 - Acadia, Allen, Beauregard, Calcasieu, Cameron, Iberia (western 1/2 of Par.), Jefferson Davis, Lafayette, St. Landry, St. Martin (west of Hwy. 31) & Vermilion Parishes
ZONE 6 - Caldwell, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union, West Carroll & Winn north of Hwy. 84) Parishes

POWER EQUIPMENT OPERATORS - ZONE 1 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor, Asphalt plant; Bulldozers, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe); Front end loader 1-1/2 yd. bucket & below
GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Dragline; Fork lifts (setting steel, machinery or pipe); Front end loaders over 1-1/2 yd. bucket (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe); Well point system
GROUP 6 - Unit & well point operator

POWER EQUIPMENT OPERATORS - ZONE 2 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor; Asphalt plant op.; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader, Backhoe, Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes, Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)
GROUP 6 - Well point system & unit operator

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman

POWER EQUIPMENT OPERATORS - ZONE 3 - CLASSIFICATION DEFINITIONS (Cont'd)

GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump, concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman
GROUP 6 - Well point & unit operator

POWER EQUIPMENT OPERATORS - ZONE 4 - CLASSIFICATION DEFINITIONS

GROUP 1 - Oiler
GROUP 2 - Oiler-Driver
GROUP 3 - Scaleman
GROUP 4 - Air compressor; Asphalt plant; Bulldozer, D-4 & equivalent & under; Bullfloats; Concrete spreader; Finishing machines; Concrete mixer (16-s or less); Concrete saw; Distributors (bitum surface); Dowell bar machine; Farm-type tractor (with all attachments except backhoe); Fireman; Fork lifts (other than setting steel, machinery or pipe); Hoist, 1 drum less than 4 stories; Kolum buff machine; Pull cats; Pump (3" & over); Pump, concrete (under 6"); Rollers, except on asphalt or brick; Straddle buggies; Sweepers on streets & roads (motorized); Winch truck, A-frame (other than handling steel or pipe)
GROUP 5 - Asphalt spreader; Backhoe; Bulldozer, over D-4 & equivalent; Cableways; Concrete mixer, over 16-s; Cranes; Derricks; Ditching or trenching machines; Draglines; Fork lifts (setting steel, machinery or pipe); Front end loaders (except farm-type tractors); Grease serviceman; Hoist, 1 drum, 4 stories or more or 40 ft. (on structures other than buildings); Hoist, 2 drums & over; Hydrolifts; Heavy duty mechanic; Motor patrols; Piledrivers; Pump concrete (6" & over); Road pavers; Rollers on asphalt or brick; Scoopmobiles; Scrapers; Sideboom cats; Shovels; Tractorvators; Welder, journeyman; Winch cats (hoisting); Winch truck, A-frame (handling steel or pipe)
GROUP 6 - Unit operator

POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS - ZONE 5

GROUP 1 - Asphalt plant operator; Asphalt spreader; backhoes (all types); Boom trucks; Bulldozers; Bull Floats; Bush Hog; Cableways; Cherry Pickers (all types); Concrete Mixers (over one sack); Concrete Pump; Concrete Saw; Concrete Spreader; Cranes; Deck Winches; Derricks; Distributors; Ditching or Trenching Machines (riding type); Dowel Bar Machine; Draglines; Dredges; Elevator Operator; Finishing Machines (roadway, riding type); Fork Lifts (other than farm-type outside warehouse); Foundation Drill; Front End Loaders; Grease Service Man; Hoists; Locomotives (all types); Mechanic; Mixer Plant Op. (central Mix); Motor Patrols; Motorized Street Sweepers

POWER EQUIPMENT OPERATORS - ZONE 5 - CLASSIFICATION DEFINITIONS (Cont'd):

GROUP 1 (Cont'd)
(self-propelled); Piledrivers; Pull Cat; Pump (3" & over); Push Cat; Road Pavers; Rollers; Scrapers; Shovels; Sideboom; Test Pump-Internal Combustion Engine Powered; Tower Cranes; Welder Journeyman; Well Point System; Whirleys; Winch Cats; Winch Truck with A-Frame; Work Boats

GROUP 2 - Batch Plant; Compressor; Ditching or Trenching Machine (non-riding type); Fireman; Generator or Light Plant over 5 h.p.; Mixers (one sack & under); Oiler, Oiler-Compressor op.; Oiler-Driver on Motor Crane; Oiler-Fireman; Pump (under 3" suction); Scale op.; Water Blast Pump; Welding Machine

GROUP 3 - Crane 60 tons & over; Crane Boom 100' over but less than 150'

GROUP 4 - Crane 100 tons & up to 125 tons; Crane Boom 150' & over but less than 225'

GROUP 5 - Crane over 125 tons up to 200 tons

GROUP 6 - Crane over 200 tons up to 300 tons; Crane Boom 225' & over but less than 300'

GROUP 7 - Crane over 300 tons; Crane Boom 300' & over

POWER EQUIPMENT OPERATORS - ZONE 6 - CLASSIFICATION DEFINITIONS

GROUP 1 - Crane op. 60 tons & over; Crane op boom 100 ft. & over but less than 150 ft.; Piledriver op. leads 100 ft. & over but less than 150 ft.

GROUP 2 - Crane op. 100 tons up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Piledriver op. leads 150 ft. & over but less than 225 ft.

GROUP 3 - Crane op. 125 tons up to 200 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Piledriver op. leads 225 ft. & over but less than 300 ft.

GROUP 4 - Crane op. 200 tons up to 300 tons

GROUP 5 - Crane op. 300 tons

GROUP 6 - Crane op. boom 300 ft. & over;Piledriver Op. 300 ft. & Over

GROUP 7 - Crane; Backhoe; Cableway; Concrete mixer, 16S & up; Derrick; Dragline; Dredge; Hoist-2 drums; Locomotvie crane; Paving mixer; Piledriver; Road paver; Roller on asphalt or brick (5 tons or over); Shovel; Sideboom cat; Bulldozer; Motor patrol; Scraper; Hydrolift crane; Hydrolift truck, yard crane, cherry picker, etc.; Foundation, boring & reaming machine; Cement stabilizer; Trenching machine; Asphalt spreader; Traxcavator & similar front end loading equipment with scoop or bucket of 1 cu. yd. or more capacity; Tug boat op.; Turnapull, euclid, DW-10 & other similar self-loading earth moving equipment; Concrete pump (not pumpcrete);Computer Batch Plant

GROUP 8 - A-frame truck; Crew boat op.; Fireman; Fork lift; Straddle buggy; Traxcavator, scoopmobile & similar front end loading equipment with scoop or bucket under 1 cu. yd. capacity; Locomotive; Well point system; Unit operator; Hoist-1 drum, 4 stories & over

GROUP 9 - Air compressor; Asphalt plant engineer; Blade grader; Distributor (bitum surface); Finishing machine (concrete, paving); Hoist-1 drum, less than 4 stories; Concrete mixer under 16-S; Oiler driver; Pump crete; Street & road sweeper; Roller (except on asphalt or brick); Roller, asphalt or brick (under 5 tons); Post-hole digger; Tractor operator bush hog & similar grass or bush cutting equipment; Batch Plant Op.

GROUP 10 - Oiler

GROUP 11 - Pumps, over 3 inch suction; Snatch cat

POWER EQUIPMENT OPERATORS - ZONE 7 - CLASSIFICATION DEFINITIONS

GROUP 1 - A-Frame truck when working with ironworkers, pipefitters, boilermakers & electricians; Bulldozers & tractors; Cableways; Concrete mixer (over 16S) paving machines, crane, derricks, draglines & clamshells; Concrete pump/boom combinations; Deck winches (2); Economobile model #620B or equivalent or heavier equipment; Gradealls; Hi-Ho & similar type equipment; Hoist, 1 drum, 4 stories & over; Hoist, 2 drums or more; Hydro cranes; Mechanics; Motor patrols; Piledrivers; Rollers on brick & asphalt; Rubber-tired front end loader, with or without blade attachment, 1 cu. yd. capacity or more; Scraper; Shovels, Backhoes (all types); Side boom cats; Stabilizers, 3 drums or more; Traxcavators; Trenching machines; Welder, journeyman; Firemen, when firing more than one boiler mounted on one machine

GROUP 2 - A-frame truck except when working with ironworkers or pipefitters; Air compressor; Asphalt plant engineer; Asphalt finisher, screed men; Blade graders; Small boat op.; Bullfloats; Concrete joining machines; Concrete mixer, 16S & under; Concrete spreader; Crusher op.; Deck winch (1); Distributors, asphalt; "Ditch witch" & similar equipment; Electric elevator (inside); Finishing machine; Firemen; Form graders; Fork lifts; Hoist, 1 drum, under 4 stories; Power subgraders; Pug mill; Pull tractors; Pump; Pump crete; Rollers except on brick & asphalt; Rubber-tired front end loader (with or without attachments) less than 1 cu. yd. capacity; Scale op.; Scoopmobile; Snatch cats; Spray machines; Stabilizers, less than 3 drums; Straddle buggy; Track machines & equivalent machine; Outside Electric Elevator Operator

GROUP 3 - Unit and well point operator

GROUP 4 - Work Boat requiring license

GROUP 5 - Batch plant operator, oilers(driver)

GROUP 6 - Oiler

GROUP 7 - Crane op. 60 tons & above; Crane op. boom 100 ft. & over but less than 150 ft.; Tower crane op. boom height 100 ft. & over but less than 150 ft.

GROUP 8 - Crane op. 100 tons & up to 125 tons; Crane op. boom 150 ft. & over but less than 225 ft.; Tower crane op. boom height 150 ft. & over but less than 225 ft.

GROUP 9 - Crane op. 125 tons & up to 200 tons

GROUP 10 - Crane op. 200 tons & up to 300 tons; Crane op. boom 225 ft. & over but less than 300 ft.; Tower crane op. boom height 225 ft. & over up to 30 fl ors

GROUP 11 - Crane op. 300 tons & up to 400 tons; Crane op. boom 300 ft. & over but less than 400 ft.; Tower crane over 30 floors

GROUP 12 - Crane op. over 400 tons; Crane op boom 400 ft & over

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS

ZONE 1 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster Parishes

ZONE 2 - Avoyelles, Evangeline, Grant, LaSalle, Natchitoches, Rapides, Sabine, St. Landry & Winn Parishes

ZONE 3 - All of Acadia, Lafayette & Vermilion Parishes; Parts of Iberia, St. Martin & St. Mary Parishes (west of a line drawn from the City of Berwick to the junction of Iberville-St. Landry Pars. border)

ZONE 4 - Caldwell, Catahoula, Concordia, East Carroll, Franklin, Jackson, Lincoln, Madison, Morehouse, Ouachita, Richland, Tensas, Union & West Carroll Parishes

ZONE 5 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon Parishes

POWER EQUIPMENT OPERATORS ZONE DEFINITIONS (Cont'd):

ZONE 6 - All of Ascension, East Baton Rouge, East Feliciana, Iberville, Pointe Coupee, St. Helena, West Baton Rouge & West Feliciana Pars.; Parts of Assumption & St. James Pars. (northwest of a straight line drawn from the City of Berwick to the City of Lutcher); Parts of Iberia & southern & northern St. Martin Pars. (east & west of a line from the City of Berwick north to the eastern boundary of the City of Krotz Springs); Parts of Livingston, Tangipahoa & Washington Pars. (west of a line drawn north from the City of Lutcher to the east side of the City of Hammond to the Louisiana-Mississippi border)

ZONE 7 - All of Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist, St. Tammany & Terrebonne Pars.; Parts of Assumption, Livingston, St. James, St. Martin, St. Mary, Tangipahoa & Washington Pars. (that portion of southeastern Louisiana bounded on the north by the State of Mississippi, on the east by the State of Mississippi & the Mississippi Sound, on the south by the Gulf of Mexico & on the west by a line drawn as follows: beginning at a point on the Louisiana-Mississippi boundary in Washington Par., due north of the town of Hackley, then southwesterly in a straight line to a point on the east bank of the Mississippi River at the southernmost point of Lutcher (including Gramercy in the area), thence in a more southwesterly direction in a straight line to midstream of the Atchafalaya River at Morgan City-Berwick (including Morgan City in this area), thence southerly on a line following midstream of the Atchafalaya River to the Atchafalaya Bay & in a line due south to the Gulf of Mexico

ZONE DEFINITIONS FOR ROOFERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Evangeline, Jefferson Davis, Vermilion & Vernon Parishes

ZONE 2 - Assumption, Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, South St. Martin, St. Mary, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, East Baton Rouge, East Feliciana, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, North St. Martin, Tangipahoa, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Caldwell, Catahoula, Concordia, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Ouachita, Rapides, Richland, Tensas, Union, West Carroll & Winn Parishes

ZONE 5 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Natchitoches, Red River, Sabine & Webster Parishes

ZONE DEFINITIONS FOR SHEET METAL WORKERS:

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron & Jefferson Davis Pars.

ZONE 2 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Tammany, Terrebonne & Washington Parishes

ZONE 3 - Acadia, Ascension, Assumption, East Baton Rouge, East Feliciana, Evangline, Iberia, Iberville, Lafayette, Livingston, Pointe Coupee, St. Helena, St. Landry, St. Martin, St. Mary, Tangipahoa, Vermilion, West Baton Rouge & West Feliciana Parishes

ZONE 4 - Avoyelles, Bienville, Bossier, Caddo, Caldwell, Catahoula, Claiborne, Concordia, De Soto, East Carroll, Franklin, Grant, Jackson, LaSalle, Lincoln, Madison, Morehouse, Natchitoches, Ouachita, Rapides, Red River, Richland, Sabine, Tensas, Union, Vernon, Webster, West Carroll & Winn Parishes

ZONE DEFINITIONS FOR TRUCK DRIVERS

ZONE 1 - Allen, Beauregard, Calcasieu, Cameron, Jefferson Davis & Vernon

ZONE 2 - Acadia, Iberia, Lafayette, St. Landry, St. Martin, St. Mary & Vermilion Parishes

ZONE 3 - Bienville, Bossier, Caddo, Claiborne, DeSoto, Red River & Webster

ZONE 4 - Ascension, Assumption, East Baton Rouge, East Feliciana, Iberville, Livingston, Pointe Coupee, St. Helena, St. James, Tangipahoa, Washington, West Baton Rouge & West Feliciana Parishes

ZONE 5 - Jefferson, Lafourche, Orleans, Plaquemines, St. Bernard, St. Charles, St. John the Baptist & St. Tammany Parishes

TRUCK DRIVER CLASSIFICATION DEFINITIONS:

ZONE 2 - GROUP 1 - Teamsters, pick-up drivers
GROUP 2 - Stake bodies (all sizes); platform dump
GROUP 3 - Truck & trailer; dump
GROUP 4 - Mixers on trucks up to & including 3 yds.
GROUP 5 - Mixers over 3 yds.
GROUP 6 - Winch trucks
GROUP 7 - Miss. wagons & Koehring dumpster, tandem dumps & similar dirt moving equip, up to & including 8 yds.
GROUP 8 - Miss. wagons, Koehring dumpsters, tandem dumps & similar dirt moving equipment over 8 yds.

ZONE 3 - GROUP 1 - Pick-ups, spotters & dumpers of dirt, gravel, etc.
GROUP 2 - Stake bodies; flat beds (all sizes)
GROUP 3 - Single axle dumps & water trucks; transit mix, up to & including 3 yds.
GROUP 4 - Tandem axle dump, batch & water trucks over 3 tons, pickups with trailer
GROUP 5 - Miss. wagons, floats, tractor trailers; rubber tired tractors & wobble wheels
GROUP 6 - Euclids, lowboys, dempsey dumpster, Koehring dumps, 5 axle trucks, transit mix over 3 yds.
GROUP 7 - Fork lift

ZONE 4 - GROUP 1 - Pick-ups
GROUP 2 - Over 1 ton up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over including but not limited to: winch, dempsey dumpster, lowboy, semi-trailer, euclid, tournapull & similar equipment when used for transporting material
GROUP 5 - Larger trucks, carrying capacity rear axles 50,000 lbs. & over
GROUP 6 - Winch truck with A-frame when used for transporting

ZONE 5 - GROUP 1 - Up to but not including 1-1/2 tons
GROUP 2 - 1-1/2 tons up to but not including 3 tons
GROUP 3 - 3 tons up to but not including 5 tons
GROUP 4 - 5 tons & over

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Louisiana
PARISHES: Bossier & Caddo
DECISION NO.: LA83-4060
DATE: Date of Publication
Supersedes Decison No. La82-4021, dated 5/7/82 in 47 FR 19877.
DESCRIPTION OF WORK: Residential Projects consisting of single family homes & apartments up to & including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 9.61	
BRICKLAYERS	10.95	1.20
CARPENTERS	10.96	1.04
CEMENT MASONS	10.20	.40
ELECTRICIANS	15.25	2.40+ 4%
IRONWORKERS	12.10	1.41
INSULATORS	7.28	.57
LABORERS:		
Laborers	7.28	.57
Mason tenders	7.38	.57
Mortar mixers	7.43	.57
PAINTER	$10.60	.75
PLUMBERS	15.19	3.09
ROOFERS	11.38	.24
SHEET METAL WORKERS	11.30	.83
SOFT FLOOR LAYERS	12.28	1.04
SHEETROCKERS	11.48	
TILE SETTERS	10.73	.55
TRUCK DRIVERS	8.11	
POWER EQUIPMENT OPERATORS:		
Backhoes	10.79	
Bulldozers	10.66	
Trenchers	8.80	

WELDERS - receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MINNESOTA
COUNTIES: *SEE BELOW
DECISION NO.: MN83-2060
DATE: Date of Publication
Supersedes Decision No.: MN82-2065 dated November 26, 1982 in 46 FR 53624

DESCRIPTION OF WORK: Building (Including Residential) Construction Projects

* BLUE EARTH, FARIBAULT, FREEBORN, MOWER, & OLMSTED

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$18.32	$3.65
BOILERMAKERS	17.345	3.00
BRICKLAYERS; Caulkers; Cement Block Layers; Cleaners; Pointers; & Stonemasons:		
Blue Earth Co.	16.86	1.50
Freeborn (East of a line running North & South from Geneva to Gordon & the City of Blooming Prairie), Mower & Olmsted Cos.	17.165	1.20
Faribault, & Freeborn (Rem. of Co.) Cos.	16.51	1.50
CARPENTERS:		
Building Construction:		
Blue Earth Co.:		
N.W. Portion Of Co.:		
Commercial Building	14.97	
Residential	11.98	
Remainder of County:		
Commercial Building:		
East Portion	16.47	.85
West Portion	14.12	.85
Residential:		
East Portion	13.18	.85
West Portion	11.30	.85
Faribault & Freeborn Cos.:		
Carpenters; Soft Floor Layers	15.52	1.20
Mower Co.:		
Carpenters; Soft Floor Layers	16.72	
Olmsted Co.:		
Carpenters; Soft Floor Layers	15.00	2.10
Site Preparation, Excavating & Incidental Paving:		
Carpenters; Piledrivermen:		
Blue Earth (Exclu. Cambria) Co.	16.03	.85
Blue Earth (NW Tip inclu. Cambria) Co.	16.89	1.20
Faribault & Freeborn Cos.	$15.68	
Mower (exclu. Racine) & Olmsted (extreme SW Tip) Cos.	16.88	
Mower (NW Tip, including Racine) & Olmsted (exclu. extreme SW Tip) Cos.	14.18	$2.70
CEMENT MASONS:		
Blue Earth Co.	16.70	
Faribault & Freeborn (W. of a line running North & South from Geneva to Gordon) Cos.	15.35	1.50
Freeborn (Rem of Co.), Mower, & Olmsted Cos.	15.65	1.20
ELECTRICIANS:		
Blue Earth & Faribault Cos.:		
Installations over $75,000	15.75	13.5%+ 1.32
Installations under $75,000	13.31	13.5%+ 1.32
Freeborn, Mower, & Olmsted Cos.:		
Installations over $75,000	15.75	13.5%+ 1.32
Installations under $75,000	12.53	13.5%+ 1.32
ELEVATOR CONSTRUCTORS:		
Blue Earth Co.:		
Mechanics	17.99	2.69+a
Helpers	70%JR	2.69+a
Helpers (Prob.)	50%JR	
GLAZIERS:		
Blue Earth Co.	11.20	
Freeborn & Mower Cos.	14.90	
Olmsted Co.	15.36	.50
IRONWORKERS	17.10	3.99

	Basic Hourly Rates	Fringe Benefits
MARBLE SETTERS; TERRAZZO WORKERS; Tile Setters; & Finishers:		--
Olmsted Co.:		
Tile Setters	$18.45	
Remaining Cos.:		
Marble Setters	17.30	$1.79
Marble Finishers	11.40	1.12
Terrazzo Workers	18.32	.89
Terrazzo Finishers	17.67	.65
Tile Setters	17.25	1.72
Tile Finishers	14.65	1.32+b
PAINTERS:		
Mower & Olmsted Cos.:		
Drywall Sanders	11.63	1.62
Brush; Roller	15.40	1.62
Drywall Finisher	15.50	1.62
Paperhanger; Steel	15.65	1.62
Sandblasting; Spray	15.90	1.62
Stageman; Baltman	16.40	1.62
Remaining Cos.:		
Commercial Building:		
Brush; Roller	15.32	1.35
Taper; Finisher	15.52	1.35
Paperhanger; Sandblasting; Spray; Steel	16.07	1.35
Residential:		
Brush; Roller	14.32	1.35
Taper; Finishers	14.52	1.35
Paperhangers; Sandblasting; Spray; Steel	15.07	1.35
PLASTERERS:		
Blue Earth Co.	16.75	.01
Olmsted Co.	17.18	
PLUMBERS; Steamfitters:		
Blue Earth Co.	15.77	.90
Remaining Cos.	17.81	1.90
ROOFERS	12.62	1.38
SHEET METAL WORKERS:		
Commercial Building	16.85	1.46
Residential	10.13	1.46
SPRINKLER FITTERS	16.47	2.83
TRUCK DRIVERS	13.25	
LABORERS:		
Building Construction:		
Class 1	13.25	1.45
Class 2	13.40	1.45
Class 3	13.65	1.45
Class 4	13.95	1.45
Landscape & Sod Layer for all work, exclu. Residential of 4 units or less	6.80	1.10

	Basic Hourly Rates	Fringe Benefits
Site Preparation, Excavation, & Incidental Paving:		
Class 1	$13.30	$1.45
Class 2	13.45	1.45
Class 3	13.50	1.45
Class 4	13.65	1.45
Class 5	13.75	1.45
Class 6	14.00	1.45
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Class 1	19.34	2.15
Class 2	19.00	2.15
Class 3	18.20	2.15
Class 4	17.59	2.15
Class 5	17.25	2.15
Class 6	17.08	2.15
Class 7	15.57	2.15
Class 8	14.45	2.15
Class 9	13.89	2.15
Site Preparation, Excavation, & Incidental Paving:		
Class 1	15.08	2.40
Class 2	14.57	2.40
Class 3	14.42	2.40
Class 4	14.38	2.40
Class 5	12.35	2.40
Class 6	11.65	2.40
TRUCK DRIVERS:		
Site Preparation, Excavation, & Incidental Paving:		
Blue Earth County:		
Group 1	10.32	1.30
Group 2	9.87	1.30
Group 3	9.77	1.30
Group 4	9.57	1.30
Faribault County:		
Group 1	9.77	1.30
Group 2	9.27	1.30
Group 3	9.17	1.30
Group 4	8.97	1.30
Remaining Counties:		
Group 1	10.65	1.30
Group 2	10.40	1.30
Group 3	10.30	1.30
Group 4	10.10	1.30

LABORERS CLASSIFICATIONS (Building Construction):

CLASS 1: General; Carpenter Tender; Concrete; Dump Proofer below grade; Drill Runner Tender; Dumpman - dirt, asphalt, concrete, cement; Heater Tender; Hot Tar Caulker - corker; Joist Handler; Material Handler - all types Power Buggy; Rebar; Snow Blower Operator; & Tool Crib Checker

CLASS 2: Chain Saw Operator; Concrete Saw, Drill Operator; Concrete Vibrator; Demolition & Wrecking excluding remodeling; Mason Tender; Mortar Mixer - cement or any other substitute material or composition; Pipe Handler; Pneumatic & Electric Tools, Jackhammer, Paving Buster, Chipping Hammer, Tamper Operator, etc.; Swing Stage Line Scaffold (not including "patent" Scaffolding); & Torchman - gas, electric, thermal or similar device

CLASS 3: Caisson Work; Nozzle Operator - Gunite, Cement, Sandblasting; Pipelayer; Refractory Worker; Sheeting Setter & Drivers, Heavy Building Excavation; Underground Work - open ditch or excavation 8' below grade; & Underpinning

CLASS 4: Driller for Blasting purposes; Dynamite Blasters or substitute products Tovex TR, water, gas, gel, hristar, silent Dynamite, etc.

LABORERS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):

CLASS 1: Unskilled; Bituminous Batcherman (stationary plant); Blacksmith Tenders; Cement Coverman Batch Truck; Cement Handler - Bulk, Bag; Carpenter Tender; Concrete Batcherman; Concrete Handler, Caisson, Footings, Columns, Piling, Slabs, etc.; Concrete Shoveler, Tamper & Puddler (paving); Concrete Longitudinal Floatman (manual bullfloat on paving); Dump Proofer below grade; Drill Runner Tender; Dumpman (dirt, power, dumping batchtrucks, etc.); Hydrant & Valve Setter; Joint Filler (concrete pavement); Kettlemen (bituminous or lead); Labor Wrecking Demolition; Landscape Gardener, sod, etc.; Pipe Derrickman (tripod, manual); Pipe Handler; Power Buggy Operator; Powder Monkey; Reinforced Steel Laborer; Reinforced Steel Setter (paving); Service Connection Maker (water, gas); Squeegeeman; Stabilizing Batcherman (stationary plant); Temporary Heater & Blower Tender; Tool Crib Checker; Top Man (sewer, water or gas trench); Winch Handler (manual)

CLASS 2: Bituminous Worker - Shoveler, Raker, Floater, Squeegee, Utility; Brick Tender; Compaction Equipment (hand operated); Conduit Layer; Curb Setter; Mortar Mixer; Sand Cushion Bedmaker; Torchman - gas, electric, thermal or similar device

CLASS 3: Chain Saw; Concrete Drilling; Concrete Mixer Operator; Concrete Sawer; Concrete Vibrator; Ditch & other work more than 8 ft. below starting level of manual work; Formsetter; Joint Sawer, Mortar; Pneumatic Tools, Jackhammer, Paving Buster, Chipping Hammer, etc.; Stone Tender; & Mason Tender

CLASS 4: Bottom Man (sewer, water or gas trench) (more than 8 ft. below starting level of manual work); Brick or Block Paving Setter; Caisson Work; Cofferdam Work; Tunnel Laborer; Underground Laborer; & Underpinning

CLASS 5: Cement Gun Operator (1½" or over); Driller - Air Track or similar; Nozzleman (gunite, sandblasting, cement); & Pipelayer, Laser Beam (sewer, water, gas)

CLASS 6: Blaster Powder Man (Dynamite or substitute products); Tunnel Miner (atmospheric); & Tunnel Miner Tender

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building Construction):

CLASS 1 - Helicopter Operator; Truck & Crawler Cranes with 300' of Boom and over, including jib; Tower Crane 300' & over

CLASS 2 - Truck & Crawler Crane w/200' of Boom, up to and not including 300' of Boom, including jib; Tower Crane 250' & over

CLASS 3 - Truck & Crawler Cranes with 150' of Boom, up to and not including 200' of Boom, including jib; Tower Crane 200' & over

CLASS 4 - Traveling Tower Crane; Master Mechanic; Pile Driving Operator; Tower Crane 150' & over

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Building Construction) CONT'D:
CLASS 5 - Truck & Crawler Cranes up to & not including 150' of Boom, including jib; Derrick (Guy & Stiffleg); Hoist Engineer (3 drums or more); Locomotive Operator; Overhead Crane Operator (Inside Building Perimeter); Tower Cranes - Stationary 100' & over; Tractor Operator with Boom; All Terrain Vehicle Cranes; Fireman, Chief License.
CLASS 6 - Air Compressor Operator, 450 CFM or over, Pump Operator and/or Conveyor Operator (2 or more machines); Hoist Engineer (2 drum); Mechanic or Welder; Pumpcrete or Complaco-type Machine Operator; Forklift; Boom Truck Operator; Concrete Mixer Op.; Drill Rigs - Heavy Rotary or Churn when used for caisson drilling for Elevator Cylinder or Building Construction; Front End Loader Operator; Hoist Engineer (one drum); Straddle Carrier Operator; Power Plant Engineer (100 KW and over on multiples equal to 100 KW and over); Tractor Operator over D2; Well Point Pump Operator
CLASS 7 - Concrete Batch Plant Operator; Fireman, First Class License; Gunite Operator; Tractor Operator D-2 or similar size; Front End Loader Operator, up to 1 cu. yd.
CLASS 8 - Air Compressor Operator, 450 CFM or over, Pump and/or Conveyor Operator; Fireman, Temporary Heat; Brakeman; Pick-up Sweeper (1 cu. yd. and over hopper capacity); Truck Crane Oiler; Welding Machine Operator
CLASS 9 - Mechanical Space Heater (temporary heat); Oiler or Greaser; Elevator Operator

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):
CLASS 1: Helicopter Pilot; Crane with over 135' Boom, excluding jib; Dragline and/or other similar equipment with Shovel-type controls 3 cu. yds. & over Mfg. rated cap.; Pile Driving when 3 Drums are in use
CLASS 2: Cableway; Concrete Mixer, Stationary Plant over 34E; Derrick (Guy or Stiffleg) (Power) (Skids or stationary); Dragline and/or similar equipment with Shovel-type controls, up to 3 cu. yds. Mfg. rated cap.; Dredge or Engineers, Dredge (power) & Engineer; Front End Loader, 5 cu. yds. & over; Grader or Motor Patrol, Finishing Earthwork & Bituminous; Locomotive Crane; Master Mechanic; Mixer (Paving) Concrete Paving, Road; Mole, inclu. Power Supply; Mucking Machine, inclu. Mucking Operations, Conway or similar type; Piledriving; Refrigeration Plant Engineer; Tandem Scraper; Tractor - Boom type; Truck Crane - Crawler Crane; & Tugboat - 100 HP & over
CLASS 3: Dual Tractor; Elevating Grader; Pumpcrete; Scraper - Struck Cap. 32 cu. yds. & over; Self-propelled Traveling Soil Stabilizer
CLASS 4: Air Track Rock Drill; Asphalt Bituminous Stabilizer Plant; Automatic Road Machine (CMI or similar); Backfiller; Batch Plant (Concrete); Bituminous Spreader & Finishing (Power); Boom Truck (Power operated Boom); Cat Tractors with Rock Wagons or similar types; Chip Harvester & Tree Cutter over 150 HP; Concrete Mixer on jobsite over 14S; Concrete Mobile; Crushing Plant (gravel & stone) or Gravel Washing, Crushing & Screening Plant; Curb Machine; Dope Machine (Pipeline); Drill Rigs, Heavy Rotary or Churn or Cable Drill; Fork Lift or Straddle Carrier; Fork Lift or Lumber Stacker; Front End Loader, over 1 cu. yd.; Hoist Engineer (power); Launcherman (Tackerman or Pilot License); Lead Greaser; Locomotive; Mechanic or Welder; Multiple Machines, such as Air Compressors, Welding Machines, Generators, Pumps; Paving Breaker or Tamping Machine (Power Driven) Mighty Mite or similar type; Paving Milling Machine; Pickup Sweeper, 1 cu. yd. & over Hopper cap.; Pipeline Wrapping, Cleaning or Bending Machine; Power Plant Engineer, 100 K.W.H. & over; Power Actuated Horizontal Boring Machine, over 6"; Pugmill; Roller, 8 tons & over; Rubber-tired Farm Tractor, Backhoe Attach.; Sheep Foot Rollers; Slip Form (Power Driven) (paving); Tie Tamper & Ballast Machine; Tractor, over D2, TD6 or similar HP with Power Take-off; Tractor, over 50 HP without Power Take-off; Trenching Machine (sewer, water, gas); Turnapull (or similar type); Well Point Installation, Dismantling or Repair Mechanic; Hydraulic Tree Planter

POWER EQUIPMENT OPERATORS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving) CONT'D:
CLASS 5: Air Compressor, 450 CFM or over; Bituminous Spreader & Bituminous Finishing Machine (Tender) (Power); Concrete Distributor & Spreader Finishing Machine; Longitudinal Float, Joint Machine, & Spray; Concrete Mixer on jobsite 14S & under; Concrete Saw (multiple blade) (power operated); Form Trench Digger (power); Front End Loader, up to & inclu. 1 cu. yd.; Grader (motor patrol); Gunite Gunall; Hydraulic Log Splitter; Loader (Barber Greene or similar type); Payhauler or similar type; Power Actuated Augers & Boring Machine; Power Actuated Jacks; Pump; Roller; Self-propelled Chip Spreader (Flaherty or similar); Shouldering Machine (Power) Apsco or similar type inclu. self-propelled Sand & Chip Spreader; Stump Chipper; Tractor, D2, TD6 or similar HP without power take-off; & Tree Farmer
CLASS 6: Conveyor; Dredge Deck Hand; Fireman or Tank Car Heater; Gravel Screening Plant (portable not crushing or washing); Greaser (Truck or Tractor); Lowerman; Mechanic Tender; Mechanic, Space Heater (Temporary Heat); Oiler (Power Shovel, Crane, Dragline); Self-Propelled Vibrating Packer (Pad type) (35 HP & over); Tractor, 50 HP or less w/o Power take-off; & Truck Crane Oiler

TRUCK DRIVERS CLASSIFICATIONS (Site Preparation, Excavation, & Incidental Paving):
GROUP 1: Truck Driver (Operation of Hand & Power Operated winches); Truck Trains; Mechanic-Welder; Tractor Trailer; & Off Road
GROUP 2: Tri Axle (Inclu. 4 Axles)
GROUP 3: Bituminous Distributor; & Tandem Axle
GROUP 4: Bituminous Distributor Spray Operator (Rear End Oiler); Dumpsan; Tank Truck Tender (gas, oil, road oil & water); Teamster & Stableman; Tractor Operator (wheel type used for any purpose); Pilot Car; Self-propelled Packer; Slurry Operator; Single Axle; Dump; Dry Batch Hauler; Boom & "A" Frame; & Ready-Mix Concrete

FOOTNOTES:
a. Employer contributes 8% of regular hourly rate to vacation pay credit for employees who have worked in the business more than 5 years, 6% for employees who have worked in business less than 5 years; 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Day After Thanksgiving; & Christmas Day
b. Two weeks' paid vacation.

WELDERS- Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: PUERTO RICO
DECISION NO.: PR83-3034
COUNTY: ISLAND WIDE
DATE: DATE OF PUBLICATION
SUPERSEDES DECISION NO. PR80-3063, dated OCTOBER 24, 1980 in 45FR 70668.
DESCRIPTION OF WORK: HEAVY AND HIGHWAY CONSTRUCTION PROJECTS.

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$4.25	
CARPENTER'S HELPERS	3.55	
CEMENT MASONS	4.37	
ELECTRICIANS	4.55	
ELECTRICIAN'S HELPERS	3.90	
IRONWORKERS	3.69	
LABORERS:		
LABORERS	3.53	
MASON TENDERS	4.00	
PIPELAYERS	3.98	
PAINTERS	3.60	
PLUMBER & PIPEFITTERS	4.95	
TRUCK DRIVERS	4.05	
POWER EQUIPMENT OPERATORS:		
BACKHOE	4.97	
BULLDOZER	5.00	
CRANE	5.00	
GRADER	5.19	
LOADER	4.92	
MECHANIC	5.13	
PAVER	4.66	
RIGGERS	4.10	
ROLLERS	4.33	
OILER-GREASER	4.52	
SCREEDMAN	4.47	
TRACTOR	5.00	

WELDER - RATE FOR CRAFT TO WHICH THE WELDING IS INCIDENTAL.

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR STANDARDS CONTRACT CLAUSES (29 CFR 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: PUERTO RICO
DECISION NO.: PR83-3037
COUNTY: ISLAND WIDE
DATE: DATE OF PUBLICATION
SUPERSEDES DECISION NO.: PR80-3069, dated October 24, 1980 in 45 FR 70665.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION PROJECTS (including single family homes and apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits
CARPENTERS	$4.70	
CARPENTER'S HELPERS	3.55	
CEMENT MASONS	4.65	
CEMENT MASON'S HELPERS	3.55	
ELECTRICIANS	4.34	
ELECTRICIAN'S HELPERS	3.90	
IRONWORKERS	3.81	
IRONWORKER'S HELPERS	3.90	
LABORERS	3.35	
PAINTERS	3.75	
PAINTER'S HELPERS	3.50	
PLUMBERS & PIPEFITTERS	4.25	
PLUMBERS & PIPEFITTER'S HELPERS	3.60	
ROOFERS	3.50	
TRUCK DRIVERS	3.93	
POWER EQUIPMENT OPERATORS:		
BULLDOZER	4.75	
CRANE	5.00	
DIGGERS	4.54	
MECHANIC	4.93	
OILERS	3.75	
ROLLERS	4.25	

WELDER - RATE FOR CRAFT TO WHICH THE WELDING IS INCIDENTAL.

UNLISTED CLASSIFICATIONS NEEDED FOR WORK NOT INCLUDED WITHIN THE SCOPE OF THE CLASSIFICATIONS LISTED MAY BE ADDED AFTER AWARD ONLY AS PROVIDED IN THE LABOR CONTRACT CLAUSES (29CFR, 5.5 (a) (1) (ii)).

SUPERSEDEAS DECISION

STATE: Texas COUNTY: Gregg
DECISION NO.: TX83-4058 DATE: Date of Publication
Supersedes Decision No. TX80-4087, dated November 7, 1980 in 45 FR 74365.
DESCRIPTION OF WORK: Building Projects (does not include single family homes & apartments up to & including 4 stories). (Use current heavy & highway general wage determination for Paving & Utilities Incidental to Building Construction.)

	Basic Hourly Rates	Fringe Benefits
BRICKLAYERS	$12.75	
CARPENTERS	10.67	
CEMENT MASONS	9.48	
ELECTRICIANS	15.70	.80+3-1/4%
GLAZIERS	8.73	
IRONWORKERS	9.00	
LABORERS	5.84	
PAINTERS	9.00	
PLUMBERS	9.975	
ROOFERS	9.12	
SHEET METAL WORKERS	7.73	
SOFT FLOOR LAYERS	11.25	
SPRINKLER FITTERS	11.29	
WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental.		

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a) (1) (ii)".

SUPERSEDEAS DECISION

STATE: Wisconsin COUNTY: Kenosha
DECISION NUMBER: WI83-2061 DATE: Date of Publication
Supersedes Decision No. WI82-2020 dated March 26, 1982, in 47 FR 13111
DESCRIPTION OF WORK: Building and Residential Construction Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.10	$2.93
BOILERMAKERS	16.12	2.825
BRICKLAYERS and STONEMASONS	14.52	2.20
CARPENTERS, SOFT FLOOR LAYERS and LATHERS	14.41	2.26
Millwrights	14.73	2.26
Piledrivermen	14.50	2.26
CEMENT MASONS	13.57	1.75
ELECTRICIANS	17.50	0.71+ 3-3/4%
ELEVATOR CONSTRUCTORS:		
Mechanics	17.09	2.69
Helpers	11.96	2.69
Probationary Helpers	8.545	
IRONWORKERS:		
Structural, Ornamental, and Reinforcing	16.27	5.00
LATHERS	14.81	1.86
PAINTERS:		
Brush	11.975	2.25
Structural Steel	12.125	2.25
Swing Stage	12.175	2.25
Spray and Sandblaster	12.725	2.25
PLASTERERS	12.91	1.66
PLUMBERS and STEAMFITTERS	15.86	3.81
ROOFERS	13.32	1.65
SHEET METAL WORKERS	15.16	3.76
TERRAZZO WORKERS	14.60	3.88
TILE SETTERS	12.71	2.15

	Basic Hourly Rates	Fringe Benefits
LABORERS:		
General	$11.62	$2.28
Plaster Tender	11.77	2.28
Air and Electric Tool Operator	11.92	2.28
Jackhammer Operator	12.32	2.28
POWER EQUIPMENT OPERATORS:		
Group 1	15.67	3.20
Group 2	15.40	3.20
Group 3	14.65	3.20
Group 4	14.52	3.20
Group 5	13.61	3.20
Group 6	13.19	3.20

POWER EQUIPMENT OPERATORS (Classifications)

Group 1: Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Derrick Operator and Traveling Cranes (bridge type), Concrete Paver (over 27E), Concrete Spreader and Distributor

Group 2: Material Hoists, Tractor or Truck mounted Hydraulic Backhoe, Tractor or Truck mounted Hydraulic Crane (5 tons and under), Manhoist, Tractor (over 40 H.P.), Bulldozer (H.P.), Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (Wheel type or chain type having over 8 inch bucket)

Group 3: Concrete and Group Pumps, Backfiller, Concrete Auto Breaker (large), Concrete Finishing Machine (road type), Roller (rubber tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (Well Points), Trencher (chain type having bucket 8 inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (Pile Drivers and Derricks)

Group 4: Hoists (automatic), Forklift (12' to 25'); Tampers-Compactors (riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (Tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launch

Group 5: Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor mounted equipment, Post Hole Diggers, Stone Crusher and Screening Plants, Firemen (Aphalt Plants), Air Compressor (300 CFR or over)

Group 6: Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination small equipment Operator; Air, Electric Hydraulic Jacks (Slip Form), Compressors (under 300 CFM); Welding Machines, Heaters (mechanical), Prestress Machines, Bobcats, Generators (under 150 KW), Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (temporary heat), Rotary Drill Helpers, Conveyors, Forklift (12" and over)

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))

[FR Doc. 83-21037 Filed 8-4-83; 8:45 am]
BILLING CODE 4510-27-C

federal register

Friday
August 5, 1983

Part IV

Department of Energy

Federal Energy Regulatory Commission

Notices of Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 940]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 2, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108– PB: Pressure buildup

Kennth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS VOLUME 940
ISSUED AUGUST 2, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-CRYSTAL OIL CO				RECEIVED: 07/11/83		JA: LA			
8344466	83-0601	1704920187		102-3	107-TF	OXFORD #1	VERNON	1095.0	UNITED GAS PIPE L
-CRYSTAL OIL & LAND CO				RECEIVED: 07/11/83		JA: LA			
8344467	82-2082	1704920180		102-2	107-TF	DAVIS BROTHERS "A" #1 LCV RA SUB	VERNON	439.5	UNITED GAS PIPE L
NORTH DAKOTA INDUSTRIAL COMMISSION									
-MONSANTO COMPANY				RECEIVED: 07/12/83		JA: ND			
8344595	769	3301300854		103		ARLENE #1	FLAXTON	10.0	CITIES SERVICE CO
8344603	777	3301300847		103		BEARD #2	N E FOOTHILLS	2.0	CITIES SERVICE CO
8344600	774	3301300843		103		CHREST #1	N E FOOTHILLS	3.0	CITIES SERVICE CO
8344602	776	3301300940		103		DELORES #1	FLAXTON	18.0	CITIES SERVICE CO
8344597	771	3301300793		103		OWINGS #1	NE FOOTHILLS	6.0	CITIES SERVICE CO
8344598	772	3301300946		103		STANNARD #1	FLAXTON	13.0	CITIES SERVICE CO
8344596	770	3301300953		103		STIERLE #1	FLAXTON	15.0	CITIES SERVICE CO
8344601	775	3301300827		103		WEINMANN #1	N E FOOTHILLS	2.0	CITIES SERVICE CO
8344604	778	3301300845		103		WEINMANN #2	N E FOOTHILLS	44.0	CITIES SERVICE CO
-TEXACO INC				RECEIVED: 07/12/83		JA: ND			
8344599	773	3305301051		103		W QUALE #3X	KEENE	8.8	AMERADA HESS CORP
NEW YORK DEPARTMENT OF ENVIRONMENTAL CONSERVATION									
-BEREA OIL AND GAS CORPORATION				RECEIVED: 07/11/83		JA: NY			
8344469	4706	3101316815		102-2		BURKHOLDER UNIT #1	WILDCAT	1.0	COLUMBIA GAS TRAN
8344470	4709	3101316705		102-2	107-TF	GROSS UNIT #2	BERRY	15.0	COLUMBIA GAS TRAN
8344468	4707	3101317935		102-2	107-TF	H OAG #E	WILDCAT	14.0	COLUMBIA GAS TRAN
8344490	4730	3101317944		102-2		H OAG 3-A	WILDCAT	16.0	COLUMBIA GAS TRAN
8344479	4705	3101316908		102-2	107-TF	S MCCHESNEY UNIT #2	BERRY	13.0	COLUMBIA GAS TRAN
8344478	4711	3101317718		102-2	107-TF	W JOSEPHSON #3	BERRY	16.0	COLUMBIA GAS TRAN
-BOUNTY OIL & GAS INC				RECEIVED: 07/11/83		JA: NY			
8344476	4695	3101317934		102-2	107-TF	BOTKA/WION UNIT #1	BUSTI	0.0	COLUMBIA GAS TRAN
8344484	4666	3101317902		102-2	107-TF	MLOSTA #1	BUSTI	0.0	COLUMBIA GAS TRAN
8344477	4693	3101317901		102-2	107-TF	WILSIE #1	BUSTI	0.0	COLUMBIA GAS TRAN
-DORAN & ASSOCIATES INC				RECEIVED: 07/11/83		JA: NY			
8344487	4639	3101317842		102-2	107-TF	B NAGEL UNIT #1 KA-160	HARMONY	30.0	COLUMBIA GAS TRAN
8344488	4656	3101317868		102-2		BRADTIGAN #1 KA-168	CLYMER	30.0	COLUMBIA GAS TRAN
8344485	4655	3101317654		102-2	107-TF	C CAREY UNIT #4 KA-146	MINA	30.0	COLUMBIA GAS TRAN
8344480	4689	3101317946		102-2	107-TF	G MALESKI UNIT #1 KA-175	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8344482	4685	3101317799		102-2	107-TF	H BECKERINK #1 KA-165	CLYMER	30.0	COLUMBIA GAS TRAN
8344475	4659	3101317789		102-2	107-TF	H TENPAS UNIT #1 KA-156	SHERMAN	30.0	COLUMBIA GAS TRAN
8344481	4687	3101317884		102-2	107-TF	I EMORY #1 KA-171	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8344483	4683	3101317945		102-2	107-TF	M KEITH UNIT #1 KA-174	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8344486	4654	3101317826		102-2	107-TF	R GILLINK UNIT #1 KA-170	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
8344491	4722	3101317960		102-2		WHITNEY UNIT #1 KA-173	FRENCH CREEK	30.0	COLUMBIA GAS TRAN
-TRAHAN PETROLEUM INC				RECEIVED: 07/11/83		JA: NY			
8344473	4699	3101317813		102-2	107-TF	CANNON #9 31-013-17813	ELLINGTON	3.6	COLUMBIA GAS TRAN

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8344474	4697	3101317770		102-2	107-TF	CLEMENTE #2 31-013-17770	CHERRY CREEK	36.0	COLUMBIA GAS TRAN
8344471	4703	3101317812		102-2	107-TF	COHEN #5 31-013-17812	ELLINGTON	36.0	COLUMBIA GAS TRAN
8344472	4701	3101317833		102-2	107-TF	SCHULZ #1 31-013-17833	ELLINGTON	36.0	COLUMBIA GAS TRAN
-VILLANOVA NATURAL GAS CORP				RECEIVED:	07/11/83	JA: NY			
8344469	4519	3101317746		102-2	107-TF	HARRY STROM #1	ELLERY CENTER	0.0	COLUMBIA GAS TRAN
**********									
OHIO DEPARTMENT OF NATURAL RESOURCES									
**********									
-ALTEX INC				RECEIVED:	07/12/83	JA: OH			
8344496		3412725841		103	107-TF	CORP HEIRS #1	PLEASANT	5.0	
-APPALACHIAN EXPLORATION INC				RECEIVED:	07/12/83	JA: OH			
8344497		3415321078		102-4	107-TF	R SAVOIA #1	COPLEY	146.0	YANKEE RESOURCES
-ATWOOD RESOURCES INC				RECEIVED:	07/12/83	JA: OH			
8344498		3403125006		103	107-TF	O'BRYON #1	NEW BEDFORD	15.0	
-B-J INC				RECEIVED:	07/12/83	JA: OH			
8344499		3416923392		103	107-TF	ANDREW JOHNSON #1 (JDE-II)	MILTON	18.0	COLUMBIA GAS TRAN
8344500		3416923394		103	107-TF	ANDREW JOHNSON #3 (JDE-II)	MILTON	18.0	COLUMBIA GAS TRAN
-BERTRAM PAUL G				RECEIVED:	07/12/83	JA: OH			
8344563		3416727471		103		KANEFF UNIT #1	MUSKINGUM TOWNSHIP	0.0	RIVER GAS CO
-BOBBY ANDERSON				RECEIVED:	07/12/83	JA: OH			
8344501		3416727476		103		LINDSMOND #1	MILE RUN	14.6	GAS TRANSPORT INC
-BPC DRILLING PROGRAM 82-A				RECEIVED:	07/12/83	JA: OH			
8344502		3412122851		107-DV		SALING #1	ENDOM	250.0	
-BURNING SPRINGS INVESTORS				RECEIVED:	07/12/83	JA: OH			
8344503		3416727421		107-DV		CISLER & RIDGEWAY #1	GRANDVIEW TWP	40.5	RIVER GAS CO
-CARLTON OIL CORP				RECEIVED:	07/12/83	JA: OH			
8344504		3416727458		103		BOSS #1	GRANDVIEW	5.0	RIVER GAS CO
8344506		3416727461		103		FRY #3	GRANDVIEW	5.0	RIVER GAS CO
8344508		3416727463		103		FRY #4	GRANDVIEW	5.0	RIVER GAS CO
8344505		3416727460		103		FRY #5	GRANDVIEW	5.0	RIVER GAS CO
8344507		3416727462		103		LAUFFER #1	GRANDVIEW	5.0	RIVER GAS CO
-CAVENDISH PETROLEUM OF OHIO INC				RECEIVED:	07/12/83	JA: OH			
8344509		3411926665		103	107-TF	OHIO POWER 28A	MEIGS	52.1	TEXAS EASTERN TRA
-CLARENCE SHERMAN				RECEIVED:	07/12/83	JA: OH			
8344510		3415723829		103	107-TF	SHROCK #1	BUCKS	5.5	EAST OHIO GAS CO
-DERBY OIL & GAS CORP				RECEIVED:	07/12/83	JA: OH			
8344511		3412129941		107-DV		RAYNER #1	BROOKFIELD	12.0	EAST OHIO GAS CO
-DISCOVERY OIL LTD				RECEIVED:	07/12/83	JA: OH			
8344512		3416922078		107-TF		C & M POND #1	CHIPPEWA	250.0	EAST OHIO GAS CO
-DORAN & ASSOCIATES INC				RECEIVED:	07/12/83	JA: OH			
8344513		3407523697		103		GLENDON SMITH #1 KV-30	PRAIRIE	12.0	COLUMBIA GAS TRAN
8344514		3408924398		103		RICHARD SHELLY #1 KV-21	BOWLING GREEN	12.0	COLUMBIA GAS TRAN
-DORSET CO INC				RECEIVED:	07/12/83	JA: OH			
8344516		3400722152		107-TF		MASCIA-VANCOURT #1	DORSET	25.0	LIBBY-OWENS FORD
8344515		3400722149		107-TF		MCCONNELL #2	RICHMOND	25.0	LIBBY-OWENS-FORD
8344517		3400722153		107-TF		RYSKA #8	DORSET	0.0	EAST OHIO GAS CO
-DUSTY DRILLING COMPANY INC				RECEIVED:	07/12/83	JA: OH			
8344518		3411522698		107-TF		FLEMING 2-C	DEERFIELD	14.4	COLUMBIA GAS TRAN
-EVERFLOW EASTERN INC				RECEIVED:	07/12/83	JA: OH			
8344524		3400722193		103	107-TF	ELLIOTT-HAY #1	MORGAN	0.0	
8344525		3415622748		103	107-TF	ZAYAC #1	EDINBURG	0.0	
-FRED R INGRAM				RECEIVED:	07/12/83	JA: OH			
8344526		3400923863		107-TF		SAMUEL JACOBS #1	PERRY	2.0	COLUMBIA GAS TRAN
-GASEARCH INC				RECEIVED:	07/12/83	JA: OH			
8344527		3400722190		103	107-TF	HOPPITT #2	CHERRYVALLEY	20.0	AMERICAN ENERGY S
-G S T OIL & GAS CO INC				RECEIVED:	07/12/83	JA: OH			
8344530		3415321278		103	107-TF	BLOSSOM #10	NORTHAMPTON	35.0	YANKEE RESOURCES
8344528		3413325034		103	107-TF	CAMP CARL #5	EDINBURG	30.0	REPUBLIC STEEL CO
8344531		3415321271		103	107-TF	CHREY #1	TWINSBURG	60.0	YANKEE RESOURCES
8344529		3415321258		103	107-TF	PHILLIPS MCEATLEY #3	NORTHAMPTON	50.0	YANKEE RESOURCES
8344533		3415321345		103	107-TF	WOLSTEIN #1	TWINSBURG	60.0	R S C ENERGY CORP
8344532		3415321275		103	107-TF	WOOD #1	TWINSBURG	50.0	YANKEE RESOURCES
-L & M PETROLEUM INC				RECEIVED:	07/12/83	JA: OH			
8344534		3416726869		103		ELWOOD HOFFERT #2	ADAMS	10.0	GAS TRANSPORT INC
-LANDPROVEST INC				RECEIVED:	07/12/83	JA: OH			
8344535		3405923438		107-TF		FERGUSON-BLACKWELL #1L	HUNTINGTON	20.0	
-LESLIE OIL AND GAS CO INC				RECEIVED:	07/12/83	JA: OH			
8344536		3409321205		103		JOSEPH BEHLKE #1	MADISON	20.0	COLUMBIA GAS TRAN
-MAJ				RECEIVED:	07/12/83	JA: OH			
8344558		3414520295		103		ALBERT & LOUELLA LYKINS #2	MADISON	0.5	
8344540		3414520265		103		AUTIE & ELIZA CONLEY #1	LUCASVILLE	0.0	
8344543		3414520284		103		AUTIE & ELIZA CONLEY #3	LUCASVILLE	0.4	
8344552		3414520297		103		AUTIE & ELIZA CONLEY #4A	MADISON	4.7	
8344556		3414520323		103		CLARENCE & NORMA WILLIAMS #1	MADISON	0.7	
8344544		3414520286		103		CLETIS & INEZ DUMMITT #2	LUCASVILLE	1.1	
8344545		3414520288		103		CLETIS & INEZ DUMMITT #5	LUCASVILLE	0.6	
8344553		3414520302		103		DAVID & RUTH CONKEY #1	MADISON	0.8	
8344542		3414520280		103		FORREST & WILLA CONLEY #1	LUCASVILLE	0.7	
8344551		3414520296		103		LANDON & ICY BALL #1	MADISON	1.1	
8344549		3414520293		103		LENORA JOHNSON #1	MADISON	5.2	
8344555		3414520312		103		PAUL & DAVID ADAMS #2	MADISON	0.7	
8344537		3414520130		103		PAUL & DAVID ADAMS #3	MADISON	0.7	
8344554		3414520309		103		RALPH & LORETTA COLES #1	MADISON	0.9	
8344538		3414520328		103		RONALD & SUE LEBRUN #1	MADISON	0.7	
8344546		3414520290		103		RUSSELL & WILMA KUNTZMAN #1	LUCASVILLE	4.2	
8344548		3414520292		103		STEVE & NANCY COTTLE #1	MADISON	1.5	
8344539		3414520261		103		W C & BESSIE FANNIN #1	MADISON	17.2	
8344541		3414520274		103		WALTER & BETTY FOSTER #1	LUCASVILLE	0.7	
8344547		3414520291		103		WAYNE & CAROL WELLS #1	MADISON	4.5	
-MARK RESOURCES CORP				RECEIVED:	07/12/83	JA: OH			
8344559		3400722230		103		HANNA #1	KINGSVILLE	30.0	EAST OHIO GAS CO
8344557		3400722183		107-TF		KISTER #2	KINGSVILLE	30.0	EAST OHIO GAS CO
8344558		3400722226		103		TOMASSON-PAGE UNIT #1	KINGSVILLE	30.0	EAST OHIO GAS CO
-OMEGA OIL CORP				RECEIVED:	07/12/83	JA: OH			
8344560		3416726616		108		EYERMANN #1		0.0	VIKING RESOURCES
8344561		3416726915		108		EYERMANN #3		0.0	VIKING RESOURCES
-PARTNERS PETROLEUM INC				RECEIVED:	07/12/83	JA: OH			
8344562		3413322940		107-TF		TUROS #1	NELSON	10.2	YANKEE RESOURCES
-PETRO EVALUATION SERVICES INC				RECEIVED:	07/12/83	JA: OH			
8344564		3408520426		103	107-TF	SECOR UNIT #3	PERRY	15.0	
-POI ENERGY INC				RECEIVED:	07/12/83	JA: OH			
8344566		3405520498		103	107-TF	COPE #1	BAINBRIDGE	48.0	
8344568		3407522730		108		CRIDER #3		10.0	COLUMBIA GAS TRAN
8344569		3407922731		108		CRIDER #4		10.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8344571		3407523115		108		CROSKEY #1		3.0	COLUMBIA GAS TRAN
8344572		3407523667		108		CROSKEY #2		3.0	COLUMBIA GAS TRAN
8344565		3405520485		103	107-TF	KISH #1	BAINBRIDGE	55.0	
8344567		3407522171		108		MELLOR #1		6.0	COLUMBIA GAS TRAN
8344570		3407522735		108		MELLOR #4		6.0	COLUMBIA GAS TRAN
-R C POLING CO INC				RECEIVED:	07/12/83	JA: OH			
8344573		3403125001		107-TF		BOAL #1	WASHINGTON	0.0	
-RELIANCE ENERGY				RECEIVED:	07/12/83	JA: OH			
8344519		3408322628		108		A M ELLIOTT #1		0.0	COLUMBIA GAS TRAN
8344520		3408322643		108		A M ELLIOTT #2		0.0	COLUMBIA GAS TRAN
8344521		3408322720		108		A M ELLIOTT #3		0.0	COLUMBIA GAS TRAN
8344522		3408322721		108		A M ELLIOTT #4		0.0	COLUMBIA GAS TRAN
8344523		3412724183		108		FOSTER HEAVENER #1		0.0	COLUMBIA GAS TRAN
-SANTA FE DRILLING CO INC				RECEIVED:	07/12/83	JA: OH			
8344575		3416726732		107-DV		BERNARD THOMPSON #2	FEARING	50.0	
8344574		3416724882		103		LAURA BARTLETT FAGG/STEVEN FAGG #1	SALEM	50.0	COLUMBIA GAS TRAN
-SHONOUM OIL & GAS INC				RECEIVED:	07/12/83	JA: OH			
8344576		3410323334		107-TF		HUTH #1A	SHARON	0.0	
-SNIDER BROTHERS				RECEIVED:	07/12/83	JA: OH			
8344577		3412725927		103		CLARENCE D COTTERMAN #1	SOMERSET	4.0	NATIONAL GAS & OI
-TEMPLE OIL & GAS CO				RECEIVED:	07/12/83	JA: OH			
8344578		3412725849		103	107-TF	CHRIS WEESE #1	HARRISON	10.0	
-WALLICK PETROLEUM CO				RECEIVED:	07/12/83	JA: OH			
8344579		3411926627		103	107-TF	JOHN SHAW #3	CASS	10.0	NATIONAL GAS & OI
-WILLIAM F HILL				RECEIVED:	07/12/83	JA: OH			
8344581		3403125087		103		MICHAEL BOTSON #1	MONROE	6.0	
8344580		3403125086		103		SYLVAN EARLY #1	MONROE	8.0	
-WILLIAM H TIPKA				RECEIVED:	07/12/83	JA: OH			
8344591		3415722849		108		ANGEL #1		8.0	EAST OHIO GAS CO
8344590		3415722840		108		ANGEL UNIT #1		11.0	EAST OHIO GAS CO
8344593		3415723079		108		BEABER-MUTTI #1		4.0	EAST OHIO GAS CO
8344594		3415723080		108		BOLTZ-KAISER UNIT #1		2.0	EAST OHIO GAS CO
8344583		3405922521		108		CUNNINGHAM #1		2.2	EAST OHIO GAS CO
8344582		3405922519		108		CUNNINGHAM #2		2.2	EAST OHIO GAS CO
8344584		3405923485		107-TF		EDWARDS #1	WASHINGTON	15.0	
8344588		3415722806		108		HEID-BEITZEL #1		6.0	EAST OHIO GAS CO
8344587		3415722771		108		HEID-SULZENER #1		6.0	EAST OHIO GAS CO
8344586		3410323365		107-TF		KELLEHAN-HINKLE-ROGERS UNIT #1A	WADSWORTH	0.0	YANKEE RESOURCES
8344585		3405923486		107-TF		MONTGOMERY #1	WASHINGTON	15.0	LIBBEY-OWENS-FORD
8344589		3415722839		108		W & L BEITZEL #1		3.0	EAST OHIO GAS CO
8344592		3415722946		108		W & L BEITZEL #2		14.0	EAST OHIO GAS CO
**********									
WEST VIRGINIA DEPARTMENT OF MINES									
**********									
-NORMANTOWN GAS CO				RECEIVED:	07/11/83	JA: WV			
8344495		4702104005		108		ABE MILLER #1	CENTER	2.0	CONSOLIDATED GAS
8344494		4702104004		108		BRANNON	CENTER	2.0	CONSOLIDATED GAS
8344492		4702101360		108		CHARLES E BARNETT #1	CENTER	1.8	CONSOLIDATED GAS
8344493		4702104003		108		CHARLES E BARNETT #2	CENTER	2.0	CONSOLIDATED GAS
**********									
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, CASPER,WY									
**********									
-MONSANTO COMPANY				RECEIVED:	07/12/83	JA: WY 5			
8344605	W-420-2	4901321050		102-4		CROSS #1-9	CEDAR GAP	146.0	COLORADO INTERSTA
8344606	W 419-2	4901321037		102-4		LYBYER #2-8	CEDAR GAP	146.0	COLORADO INTERSTA

[FR Doc. 83-21341 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 941]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 2, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register**.

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,

Secretary.

NOTICE OF DETERMINATIONS
ISSUED AUGUST 2, 1983
VOLUME 941

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
********** KANSAS CORPORATION COMMISSION **********									
-ALKAN PETROLEUM CO				RECEIVED:	07/13/83	JA: KS			
8344750	K-83-0200	1501720123		102-4		STAUFFER #1-34	ELM DALE	48.5	NORTHWEST CENTRAL
8344749	K-83-0199	1501720126		102-4		STAUFFER #3-35	ELM DALE	51.0	NORTHWEST CENTRAL
-AMERICAN ENERGIES CORP				RECEIVED:	07/13/83	JA: KS			
8344678	K-82-1416	1502520612		102-4		BARBY #3-23	SNAKE CREEK	26.0	NORTHERN NATURAL
-AMOCO PRODUCTION CO				RECEIVED:	07/13/83	JA: KS			
8344734	K-83-0205	1508120251		103		WATKINS GAS UNIT "F" #3	LEMON NW	402.0	
-ANADARKO PRODUCTION COMPANY				RECEIVED:	07/13/83	JA: KS			
8344671	K-83-0169	1517520657		102-4		B & B ROYALTY A-1	SHUCK	65.0	CIMARRON-QUINQUE
8344697	K-83-0186	1512920642		103		BROWN "I" #4	KINSLER	34.0	CITIES SERVICE CO
8344680	K-82-1431	1512920512		108		CHANCE A #3	INTERSTATE RED CAVE	17.0	PANHANDLE EASTERN
8344763	K-83-0168	1517520642		102-4		GAMMELL A-1	WIDEAWAKE	267.0	CIMARRON-QUINQUE
8344670	K-83-0156	1511900000		108		GOWENS A-1	HOVINGER SW	21.5	CIMARRON-QUINQUE
8344648	K-81-1198	1518920544		103		GREGORY "A" #1	COUNCIL GROVE	36.5	PANHANDLE EASTERN
8344780	K-83-0286	1507720201		108		HAYTER A #1	HAYTER	16.0	PANHANDLE EASTERN
8344781	K-83-0287	1518920473		108		HICKOK B #1	YOUNGGREN	1.0	PANHANDLE EASTERN
8344681	K-82-1432	1517520466		108		HITCH G #3	SHUCK	4.5	CIMARRON-QUINQUE
8344682	K-82-1433	1512920458		108		INTERSTATE B #6	INTERSTATE RED CAVE	19.5	PANHANDLE EASTERN
8344683	K-83-0313	1512920564		103		INTERSTATE UNIT #94	INTERSTATE PURDY	16.0	PANHANDLE EASTERN
8344793	K-82-1434	1512920514		108		LEWIS D #1	INTERSTATE RED CAVE	7.0	PANHANDLE EASTERN
8344653	K-82-0511	1512920604		103		MOORE "F" #1	GREENWOOD	37.0	PANHANDLE EASTERN
8344679	K-82-1429	1512920513		108		MOORE C #3	INTERSTATE RED CAVE	11.5	PANHANDLE EASTERN
8344760	K-83-0157	1512920522		108		PENICK A-1	INTERSTATE RED CAVE	17.5	PANHANDLE EASTERN
8344649	K-81-1231	1518920535		103		PERRILL "A" #1	PANOMA	36.0	PANHANDLE EASTERN
8344795	K-83-0326	1512920645		103		RATZLAFF C #1	PANOMA	267.0	CIMARRON-QUINQUE
8344744	K-82-1435	1512920516		108		ROLL C #1	INTERSTATE RED CAVE	20.0	PANHANDLE EASTERN
8344717	K-83-0298	1512900000		108		WALSH A-1	GREENWOOD	18.0	PANHANDLE EASTERN
-ASSOCIATED PETROLEUM CONSULTANTS IN				RECEIVED:	07/13/83	JA: KS			
8344694	K-83-0183	1500721495		103		Z BAR RANCH #1-1	SALT FORK	8.0	DELHI GAS PIPELIN
8344692	K-83-0181	1500721539		103		Z BAR RANCH #1-11	SALT FORK	8.0	DELHI GAS PIPELIN
8344693	K-83-0182	1500721496		103		Z BAR RANCH #1-12	SALT FORK EAST	8.0	DELHI GAS PIPELIN
8344691	K-83-0180	1500721533		103		Z BAR RANCH #2-1	SALT FORK	8.0	DELHI GAS PIPELIN
-BENSON MINERAL GROUP				RECEIVED:	07/13/83	JA: KS			
8344710	K-82-1367	1514500000		108		JONES #1 OWWO	BURDETT	1.5	NORTHERN NATURAL
-BEREN CORPORATION				RECEIVED:	07/13/83	JA: KS			
8344726	K-83-0187	1503300000		108		BALLET RANCH #1 (OWWO)	AETNA	10.0	KANSAS GAS SUPPLY
8344784	K-83-0291	1518720322		108		HUME #1-35	WEST SPARKS	1.1	COLORADO INTERSTA
8344805	K-83-0236	1509720886		102-4		SNEED #1	VOD	18.0	KN ENERGY INC
8344696	K-83-0185	1500900000		108		YARMER #1	OTIS-ALBERT	9.0	BENSON MINERAL GR
-BOWERS DRILLING CO INC				RECEIVED:	07/13/83	JA: KS			
8344767	K-83-0441	1500721524		103		WHEELOCK #1	BLOOM	60.0	KANSAS POWER & LI
-CENTENNIAL ENERGY CO				RECEIVED:	07/13/83	JA: KS			
8344776	K-83-0333	1518120238		102-2		ARMSTRONG #1-11	GOODLAND	15.0	KN ENERGY INC
8344778	K-83-0335	1518120239		102-2		ARMSTRONG #2-2	GOODLAND	15.0	KN ENERGY INC
8344777	K-83-0334	1518120242		102-2		ARMSTRONG #2-6	GOODLAND	15.0	KN ENERGY INC
8344752	K-83-0332	1518120243		102-2		MORTON #1-5	GOODLAND	15.0	KN ENERGY INC

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8344799	K-83-0329	1518120233		102-2		NEMECHEK #1-4	GOODLAND	15.0	KN ENERGY INC
8344798	K-83-0328	1518120232		102-2		SCHWENDENER #2-36	GOODLAND	15.0	KN ENERGY INC
8344751	K-83-0331	1518120245		102-2		WIECK #1-35	GOODLAND	15.0	KN ENERGY INC
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	07/13/83	JA: KS			
8344651	K-82-0426	1512900000		108		WITHRODER #1	GREENWOOD	16.0	COLORADO INTERSTA
-CITIES SERVICE COMPANY				RECEIVED:	07/13/83	JA: KS			
8344735	K-83-0207	1512900000		108		KNOEBER "A" #1	GREENWOOD	3.9	COLORADO INTERSTA
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	07/13/83	JA: KS			
8344790	K-83-0228	1512920643		102-3		WEATHERFORD B #4	WINTER MIDDLE MORROW	66.0	COLORADO INTERSTA
-CONTINENTAL ENERGY				RECEIVED:	07/13/83	JA: KS			
8344690	K-83-0179	1505520509		103		GOSS #1	CONGDON/COUNCIL GROVE	36.0	NORTHWEST CENTRAL
8344664	K-83-0124	1505520520		103		SMITH #1	WILDCAT	150.0	NORTHWEST CENTRAL
-COX EXPLORATION				RECEIVED:	07/13/83	JA: KS			
8344770	K-83-0445	1512525200		102-2		COX #6	COFFEYVILLE CHERRYVAL	20.8	NORTHWEST CENTRAL
-COX M F				RECEIVED:	07/13/83	JA: KS			
8344768	K-83-0443	1512500000		102-2		COX #9	COFFEYVILLE CHERRYVAL	21.9	NORTHWEST CENTRAL
8344769	K-83-0444	1512500000		102-2		COX 3	COFFEYVILLE CHERRYVAL	21.9	NORTHWEST CENTRAL
8344771	K-83-0446	1512524766		102-2		COX 4	COFFEYVILLE CHERRYVAL	21.9	NORTHWEST CENTRAL
8344772	K-83-0447	1512500000		102-2		COX 7	COFFEYVILLE CHERRYVAL	21.9	NORTHWEST CENTRAL
-DAMSON OIL CORPORATION				RECEIVED:	07/13/83	JA: KS			
8344650	K-82-0395	1511520716		108		JEWETT #2	EAST ANTELOPE	3.0	NORTHWEST CENTRAL
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	07/13/83	JA: KS			
8344708	K-82-1330	1511900000		108		HEINSON #2	NORTH BORCHERS	2.0	PANHANDLE EASTERN
8344647	K-82-1327	1511900000		108		HEINSON #3	NORTH BORCHERS	2.0	PANHANDLE EASTERN
8344706	K-82-1328	1511900000		108		HEINSON #7	NORTH BORCHERS	2.0	PANHANDLE EASTERN
8344707	K-82-1329	1511900000		108		HEINSON #8	NORTH BORCHERS	2.0	PANHANDLE EASTERN
-DIETER PRODUCTION CO				RECEIVED:	07/13/83	JA: KS			
8344715	K-83-0324	1511500000		108		EMMA STIKA #1 001039	LOST SPRINGS EXTENSIO	0.0	CLOVER PIPELINE C
8344714	K-83-0323	1511500000		108		EMMA STIKA #2 001039	LOST SPRINGS EXTENSIO	0.0	CLOVER PIPELINE C
8344713	K-83-0322	1511520671		108		EMMA STIKA #3 001039	LOST SPRINGS EXTENSIO	0.0	CLOVER PIPELINE C
8344716	K-83-0325	1511520851		108		EMMA STIKA #4 001039	LOST SPRINGS EXTENSIO	0.0	CLOVER PIPELINE C
-DOME PETROLEUM CORP				RECEIVED:	07/13/83	JA: KS			
8344743	K-83-0007	1500720716		108		VICTOR #1	N HARBAUGH	2.6	PANHANDLE EASTERN
-DUDREY CARL				RECEIVED:	07/13/83	JA: KS			
8344731	K-83-0198	1515121242		103		DUDREY #1	WC	80.0	CENTRAL STATES GA
-DYE DON				RECEIVED:	07/13/83	JA: KS			
8344773	K-83-0448	1509520738		102-4		FUNKE #2	WC	10.0	
8344774	K-83-0449	1509520631		102-4		KOOKEN #1	PRATHER NW	18.0	
-EDMISTON OIL CO INC				RECEIVED:	07/13/83	JA: KS			
8344728	K-83-0192	1500720857		103		JACOBSEN 'A' #3	SHARON EXT	22.0	KANSAS GAS SUPPLY
-EGAN-WILSON PETROLEUM INC				RECEIVED:	07/13/83	JA: KS			
8344668	K-83-0147	1503500000		108-ER		VARN FOSTER #4	BURDEN	16.3	NORTHWEST CENTRAL
-F & M OIL CO INC				RECEIVED:	07/13/83	JA: KS			
8344758	K-83-0163	1505320465		102-2		ABENDROTH #1	WC	36.0	(GARFIELD GAS GAT
8344747	K-83-0165	1505320355		102-4		BROWN #1	GREEN GARDEN	36.0	(GARFIELD GAS GAT
8344748	K-83-0164	1505320329		102-4		RATHBUN #1	WC	36.0	(GARFIELD GAS GAT
-FOUR SANDS OIL				RECEIVED:	07/13/83	JA: KS			
8344722	K-83-0312	1501924092		102-2		BENNETT #1	OTTER CREEK EAST	7.0	BUCKEYE NATURAL G
8344724	K-83-0306	1501924093		102-2		BENNETT #2	OTTER CREEK EAST	7.0	BUCKEYE NATURAL G
8344725	K-83-0307	1503523193		102-2		BURNETT #1	OTTER CREEK EAST	3.0	BUCKEYE NATURAL G
8344718	K-83-0308	1503523194		102-2		BURNETT #2	OTTER CREEK EAST	3.0	BUCKEYE NATURAL G
8344719	K-83-0309	1503523256		102-2		BURNETT #3 (A)	OTTER CREEK EAST	3.0	BUCKEYE NATURAL G
8344720	K-83-0310	1503523253		102-2		BURNETT #4	OTTER CREEK EAST	3.0	BUCKEYE NATURAL G
8344723	K-83-0305	1501923645		102-2		COFFMAN/COULTER #1	OTTER CREEK EAST	6.0	BUCKEYE NATURAL G
8344721	K-83-0311	1501923771		102-2		COFFMAN/COULTER #3	OTTER CREEK EAST	6.0	BUCKEYE NATURAL G
-GATOR OIL CO				RECEIVED:	07/13/83	JA: KS			
8344791	K-83-0221	1512524572		108		WHEELER #1	JEFFERSON-SYCAMORE	2.0	UNION GAS SYSTEMS
8344702	K-83-0222	1512524644		108		WHEELER #3	JEFFERSON-SYCAMORE	2.0	UNION GAS SYSTEMS
-GETTY OIL COMPANY				RECEIVED:	07/13/83	JA: KS			
8344738	K-83-0076	1511920587		103		P O MOHLER #3	MOHLER	20.0	PANHANDLE EASTERN
-H & H PRODUCTION INC				RECEIVED:	07/13/83	JA: KS			
8344789	K-83-0024	1515520521		102-2		NELSON #1	HUNTSVILLE	1.3	PEOPLES NATURAL G
-HADSON PETROLEUM CORP				RECEIVED:	07/13/83	JA: KS			
8344673	K-83-0190	1509521236		102-4		CANFIELD #1-32	CONRAD	300.0	KANSAS GAS SUPPLY
8344672	K-83-0189	1509521235		103		PRATHER #1-18	PRATHER	100.0	KANSAS GAS SUPPLY
-IMPERIAL OIL COMPANY				RECEIVED:	07/13/83	JA: KS			
8344659	K-83-0279	1509720356		108		DAVIS #1-18	VOD	10.0	KN ENERGY INC
8344658	K-83-0278	1509720433		108		DAVIS #2-18	VOD	0.0	KN ENERGY INC
8344756	K-83-0270	1509720767		108		FRUIT #1-13	CARVER ROBBINS WEST	8.6	PANHANDLE EASTERN
-INTERNORTH INC				RECEIVED:	07/13/83	JA: KS			
8344662	K-83-0282	1514520363		108		PRUSA #1	FT LARNED	1.8	NORTHERN NATURAL
-J T OIL CO				RECEIVED:	07/13/83	JA: KS			
8344757	K-83-0220	1507500000		108		CARTER #1	BRADSHAW	18.3	KN ENERGY INC
-JOHN O FARMER INC				RECEIVED:	07/13/83	JA: KS			
8344803	K-83-0211	1518520483		108		RATZLAFF #1	FARMINGTON	19.0	NORTHERN NATURAL
-K N ENERGY INC				RECEIVED:	07/13/83	JA: KS			
8344783	K-83-0290	1507520031		108		BOLTZ #1	BRADSHAW	17.0	
8344782	K-83-0290	1507520031		108		BOLTZ #1	BRADSHAW	17.0	
8344733	K-83-0202	1504720220		108		CUMMINS 2X	O'CONNOR	4.0	
8344786	K-83-0293	1509320379		108		ESFELD 1-2	PANOMA	20.0	KN ENERGY INC
8344700	K-83-0217	1509300000		108		YATES #1	HUGOTON	20.0	
-LADD PETROLEUM CORPORATION				RECEIVED:	07/13/83	JA: KS			
8344667	K-83-0138	1507500000		108		HCU 1111	BRADSHAW	14.5	K N ENERGY INC
8344666	K-83-0137	1507500000		108		HCU 1521	BRADSHAW	13.1	KN ENERGY INC
8344645	K-82-1309	1507500000		108		HCU 1631	BRADSHAW	8.5	KN ENERGY INC
8344646	K-82-1310	1507500000		108		HCU 1730	BRADSHAW	10.7	KN ENERGY INC
8344665	K-83-0136	1507500000		108		HCU 2911	BRADSHAW	15.5	KN ENERGY INC
-LEO RIEKE				RECEIVED:	07/13/83	JA: KS			
8344711	K-82-1413	1509120915		102-4		RIEKE #3	OLATHE NE	50.0	BEARD OIL CO
8344677	K-82-1414	1509120918		102-4		RIEKE #4	OLATHE NE	50.0	BEARD OIL CO
-MAURICE L BROWN CO				RECEIVED:	07/13/83	JA: KS			
8344802	K-83-0210	1509720861		103		ALTON UNRUH #3	ALFORD EXTENSION	36.5	KANSAS GAS SUPPLY
8344800	K-83-0208	1509720933		103		ALTON UNRUH C #2	ALFORD EXT	36.5	KANSAS GAS SUPPLY
8344801	K-83-0209	1503320291		108		FISHER #2	WILMORE	14.6	KANSAS GAS SUPPLY
8344787	K-83-0297	1517120141		108		GRUBEN A #1	HUGOTON NORTH	15.8	KN ENERGY INC
-MESA PETROLEUM CO				RECEIVED:	07/13/83	JA: KS			
8344684	K-83-0314	1502520666		102-2		MOORE 4-20	LEXINGTON	20.0	KANSAS POWER & LI
8344686	K-83-0316	1502520614		102-2		SEACAT 11-19	LEXINGTON	32.0	
8344685	K-83-0315	1502520628		102-2		SEACAT 12-19	LEXINGTON	60.0	
-MOBIL OIL CORP				RECEIVED:	07/13/83	JA: KS			
8344687	K-83-0317	1500700209		108		CORA SLINKER GAS UNIT #1	SHARON NW	4.6	NORTHWEST CENTRAL
8344661	K-83-0281	1518920547		103		FLOWER UNIT #1 WELL #2	WALKEMEYER	67.5	NORTHERN NATURAL
8344712	K-83-0320	1500701079		108		JOHNSON-OLSON UNIT #1	HARDTNER	3.1	NORTHWEST CENTRAL
8344642	K-82-0722	1518920560		103		MAUDE L ROLAND UNIT #4	PANOMA COUNCIL GROVE	70.0	NORTHWEST CENTRAL

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8344688	K-83-0318	1500700189		108		ROBERT B COOK #1	HARDINER/MISS	9.0	NORTHWEST CENTRAL
8344694	K-82-1293	1518920604		103		SPRINGER #2 UNIT #3 WELL	PANOMA COUNCIL GROVE	36.0	NORTHERN NATURAL
8344709	K-82-1335	1518920577		103		WILLIAM MAST UNIT #2	PANOMA COUNCIL GROVE	31.5	CITIES SERVICE GA
8344654	K-82-0721	1518920575		103		WILLIAM MAST UNIT "B" #2	PANOMA COUNCIL GROVE	70.0	NORTHWEST CENTRAL
8344745	K-83-0016	1518920608		103		WILSON-BROWNELL UNIT #2	PANOMA COUNCIL GROVE	36.0	NORTHWEST CENTRAL
-MOLZ OIL CO				RECEIVED:	07/13/83	JA: KS			
8344689	K-83-0178	1500721548		103		ESTELLA (MCGUIRE) #3	MCGUIRE-GOEMANN	11.0	PANHANDLE EASTERN
8344676	K-83-0177	1500721511		103		MOLZ #7	STRANATHAN	18.0	PANHANDLE EASTERN
-MONSANTO COMPANY				RECEIVED:	07/13/83	JA: KS			
8344660	K-83-0280	1511900000		108		MARION #1	FINCHAM	20.0	NORTHERN NATURAL
-NORTHERN NATURAL GAS PRODUCING CO				RECEIVED:	07/13/83	JA: KS			
8344643	K-82-0723	1518920556		103		REPUBLIC FEE UNIT #4 #5 WELL	PANOMA COUNCIL GROVE	70.0	NORTHERN NATURAL
-NORTHERN PUMP COMPANY				RECEIVED:	07/13/83	JA: KS			
8344732	K-83-0201	1505520512		103		ROBERTS #2	HUGOTON	25.0	NORTHWEST CENTRAL
-OIL PRODUCERS INC				RECEIVED:	07/13/83	JA: KS			
8344701	K-83-0218	1518521652		102-2		DEVORE "C" #1	CRISSMAN NORTH EXT	3.0	CENTRAL STATES GA
-OMNI PRODUCTION CO INC				RECEIVED:	07/13/83	JA: KS			
8344761	K-83-0107	1520522557		102-2		HURST #1	NEODESHA	9.6	WELLHEAD ENTERPRI
8344762	K-83-0108	1520522997		102-2		HURST #2	NEODESHA	3.6	WELLHEAD ENTERPRI
-OXFORD EXPLORATION COMPANY				RECEIVED:	07/13/83	JA: KS			
8344740	K-83-0004	1509521253		103		ADELHARDT 31-8	CONRAD	113.0	KANSAS GAS SUPPLY
8344741	K-83-0003	1509521254		103		CONRAD 31-9 WD	CONRAD	60.0	KANSAS GAS SUPPLY
-PATRICK & VAUGHN				RECEIVED:	07/13/83	JA: KS			
8344788	K-82-1392	1517500000		108		HARVEY B #1	HUGOTON	20.4	NORTHERN NATURAL
-PHILLIPS PETROLEUM COMPANY				RECEIVED:	07/13/83	JA: KS			
8344704	K-83-0234	1509500000		108		LUKENS "AB" #2	SPIVEY GRABS	8.0	KANSAS POWER & LI
-PICKRELL DRILLING COMPANY				RECEIVED:	07/13/83	JA: KS			
8344656	K-83-0276	1505720289		102-2		CHRISTIAN CHURCH 'A' #1	FAGER	146.0	KANSAS POWER & LI
8344663	K-83-0284	1505720268		102-2		DUFFORD 'A' #1	WILDCAT	133.0	KANSAS POWER & LI
8344779	K-83-0285	1502520620		102-4		LANTERMAN 'E' #1	UNNAMED EXTENSION	133.0	KANSAS POWER & LI
8344705	K-83-0235	1509520531		108		RAMSEY "C" #1	GARLISH SW	17.5	KANSAS GAS SUPPLY
8344657	K-83-0277	1509521296		103		THIMESCH 'B' #1	THIMESCH	73.0	PEOPLES NATURAL G
-PRAIRIE CENTER GAS & OIL INC				RECEIVED:	07/13/83	JA: KS			
8344759	K-83-0158	1509120499		102-2		FLORENCE SCHANZE #2	OLATHE	10.0	NORTHWEST CENTRAL
-PYRAMID CORP INC				RECEIVED:	07/13/83	JA: KS			
8344796	K-83-0330	1503523211		102-2		THOMPSON #2A	STATE	18.0	COLONIAL CORP
-QUADEL ENERGY CORP				RECEIVED:	07/13/83	JA: KS			
8344669	K-83-0155	1509521024		103		VINEY #1	BROADWAY WEST	30.0	PEOPLES NATURAL G
-QUINQUE OPERATING CO				RECEIVED:	07/13/83	JA: KS			
8344675	K-83-0176	1517520664		103		ADELINE #1-22	WILDCAT	73.0	
-RESOURCE VENTURES CORP				RECEIVED:	07/13/83	JA: KS			
8344804	K-83-0229	1500721466		102-4		CHAIN "A" #1	ILS SOUTHWEST	8.0	PEOPLES NATURAL G
-ROBERT F WHITE				RECEIVED:	07/13/83	JA: KS			
8344746	K-83-0061	1511520918		103		PLETT-KROUPA #1	WILDCAT	35.0	NORTHWEST CENTRAL
8344698	K-83-0214	1511520857		103		STRAUSS-MIEROWSKY UNIT #1	EAST ANTELOPE	18.0	NORTHWEST CENTRAL
-S & S OIL & GAS				RECEIVED:	07/13/83	JA: KS			
8344792	K-82-0491	1507920385		103		EDIGER #1	HARMAC	58.4	CLOVER PIPELINE C
8344652	K-82-0492	1507920406		103		LUNDSTROM #1	HOLLOW-NICKLE	40.2	CLOVER PIPELINE C
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	07/13/83	JA: KS			
8344764	K-83-0336	1504720930		103		J T PYLE #1L	EMBRY	12.0	NORTHERN NATURAL
8344766	K-83-0338	1504720930		103		J T PYLE #1U	EMBRY	12.0	NORTHERN NATURAL
8344765	K-83-0337	1504720951		103		SCHNACK-PYLE #2	EMBRY	126.0	NORTHERN NATURAL
-SUNWEST EXPLORATION CO				RECEIVED:	07/13/83	JA: KS			
8344742	K-82-1447	1515121134		103		WILLIAM HEIRS #1	CHANCE	0.0	CENTRAL STATES GA
-T S ENERG				RECEIVED:	07/13/83	JA: KS			
8344825	K-83-0258	1520520538		108		ANDERSON #1	VILAS	8.4	NORTHWEST CENTRAL
8344806	K-83-0237	1520520542		108		C HANSEN #1	VILAS	8.4	NORTHWEST CENTRAL
8344820	K-83-0253	1520520560		108		C HANSEN #2	VILAS	8.4	NORTHWEST CENTRAL
8344819	K-83-0252	1520522094		108		C HANSEN #3	VILAS	8.4	NORTHWEST CENTRAL
8344826	K-83-0259	1520521964		108		CARLSON #1	VILAS	8.4	NORTHWEST CENTRAL
8344812	K-83-0245	1520521981		108		CARLSON #2	VILAS	8.4	NORTHWEST CENTRAL
8344811	K-83-0244	1520521982		108		CARLSON #3	VILAS	8.4	NORTHWEST CENTRAL
8344807	K-83-0238	1520521983		108		CARLSON #4	VILAS	8.4	NORTHWEST CENTRAL
8344755	K-83-0262	1520522377		108		CARLSON #5	VILAS	8.4	NORTHWEST CENTRAL
8344808	K-83-0241	1520522378		108		CARLSON #6	VILAS	8.4	NORTHWEST CENTRAL
8344813	K-83-0246	1520520539		108		H ANDERSON #2	VILAS	8.4	NORTHWEST CENTRAL
8344815	K-83-0248	1520521984		108		H ANDERSON #3	VILAS	8.4	NORTHWEST CENTRAL
8344814	K-83-0247	1520522118		108		H ANDERSON #5	VILAS	8.4	NORTHWEST CENTRAL
8344824	K-83-0257	1520520540		108		K NELSON #1	VILAS	8.4	NORTHWEST CENTRAL
8344823	K-83-0256	1520520541		108		K NELSON #2	VILAS	8.4	NORTHWEST CENTRAL
8344822	K-83-0255	1520520559		108		K NELSON #3	VILAS	8.4	NORTHWEST CENTRAL
8344818	K-83-0251	1520522045		108		K NELSON #4	VILAS	8.4	NORTHWEST CENTRAL
8344754	K-83-0261	1520522046		108		K NELSON #5	VILAS	8.4	NORTHWEST CENTRAL
8344809	K-83-0242	1520522105		108		K NELSON #6	VILAS	8.4	NORTHWEST CENTRAL
8344817	K-83-0250	1520521945		108		OLSON #1	VILAS	8.4	NORTHWEST CENTRAL
8344816	K-83-0249	1520522064		108		OLSON #2	VILAS	8.4	NORTHWEST CENTRAL
8344821	K-83-0254	1520522093		108		VARNDELL #1	VILAS	8.4	NORTHWEST CENTRAL
8344753	K-83-0260	1520522106		108		VARNDELL #2	VILAS	8.4	NORTHWEST CENTRAL
8344810	K-83-0243	1520521944		108		WARD #1	VILAS	8.4	NORTHWEST CENTRAL
-TEXACO INC				RECEIVED:	07/13/83	JA: KS			
8344703	K-83-0227	1505500000		108		A J STRASSER #1	HUGOTON	7.1	NORTHERN NATURAL
8344730	K-83-0197	1509521247		103		ALDEN DUCKWORTH #3	BELMONT CENTER POOL	11.9	PEOPLES NATURAL G
8344794	K-83-0172	1505500000		108		BERTHA PREISSER UNIT #1	HUGOTON	11.4	NORTHERN NATURAL
8344674	K-83-0171	1505500000		108		L W GRAVES "A" #1	HUGOTON	10.4	NORTHERN NATURAL
-TEXAS ENERGIES INC				RECEIVED:	07/13/83	JA: KS			
8344727	K-83-0188	1518521638		103		GRUNDER 1-33	EMERSON SOUTH	75.0	CENTRAL STATES GA
8344736	K-83-0069	1500721501		102-4		HINZ 'B' 1-22	WILDCAT	50.0	REPUBLIC NATURAL
8344739	K-83-0068	1500721447		102-4		HINZ 1-22	WILDCAT	50.0	REPUBLIC NATURAL
-TGT PETROLEUM CORPORATION				RECEIVED:	07/13/83	JA: KS			
8344797	K-83-0327	1509720938		103		RICE "D" #4	EINSEL	58.5	PANHANDLE EASTERN
-THE MAURICE L BROWN COMPANY				RECEIVED:	07/13/83	JA: KS			
8344695	K-83-0184	1503320291		103		FISHER #2	WILMORE	15.0	KANSAS GAS SUPPLY
8344699	K-83-0216	1509720913		103		YOST GAS UNIT #2 (EMERSON A #3)	ALFORD NORTH	109.5	KANSAS GAS SUPPLY
-TOM F MARSH INC				RECEIVED:	07/13/83	JA: KS			
8344737	K-83-0074	1518920621		103		RICKART #1	PANOMA	22.0	PANHANDLE EASTERN
-TXO PRODUCTION CORP				RECEIVED:	07/13/83	JA: KS			
8344729	K-83-0193	1502520631		102-2		BERRYMAN "B" #1	WILDCAT	300.0	
8344775	K-83-0213	1509710926		102-4		UNRUH-GREY #1	NICHOLS	75.0	
-WELLS ENERGY CORP				RECEIVED:	07/13/83	JA: KS			
8344785	K-83-0292	1509521307		103		BIRKENBAUGH #1		11.0	NORTHWEST CENTRAL
-WILDCAT RESOURCES INC				RECEIVED:	07/13/83	JA: KS			
8344655	K-83-0275	1509521211		103		TIP TOP CREDIT UNION #2	BROADWAY	48.0	PEOPLES NATURAL G

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PENNSYLVANIA DEPARTMENT OF ENVIRONMENTAL RESOURCES

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-C & C TROYER BROTHERS RECEIVED: 07/13/83 JA: PA

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8344616	19861	3704921185		108		DON TROYER #1	UNION TOWNSHIP	2.0	NATIONAL FUEL GAS
8344615	19860	3704921308		108		HAROLD ADAMS #2	WASHINGTON TWP	7.0	NATIONAL FUEL GAS
8344614	19858	3704920836		108		SALMON #1	WATERFORD TWP	2.0	NATIONAL FUEL GAS
-D & P DRILLING CO				RECEIVED:	07/13/83	JA: PA			
8344632	20274	3706327446		103		COVER UNIT #1	INDIANA	36.0	PEOPLES NATURAL G
-DOC-MCC SERVICE CO				RECEIVED:	07/13/83	JA: PA			
8344613	19802	3712921422		108		D A PORTER & R E PORTER 8890-1	E HUNTINGDON	19.6	TEXAS EASTERN TRA
8344612	19794	3712921339		108		E R BRILHART 8765-1	E HUNTINGDON	17.7	TEXAS EASTERN TRA
-DORAN & ASSOCIATES INC				RECEIVED:	07/13/83	JA: PA			
8344608	I7218	3712921522		108		J T COMPTON #1 KR-5	UPPER-DEVONIAN SANDS	20.0	T W PHILLIPS GAS
8344607	I0614	3706521345		108		JOHN C BOTAMER #1 K-1	UPPER DEVONIAN SANDS	30.0	CONSOLIDATED GAS
-ENVIROGAS INC				RECEIVED:	07/13/83	JA: PA			
8344625	20230	3704922343		107-TF		C BORSTORFF #1	CORRY	18.0	TENNESSEE GAS PIP
8344624	20229	3704922344		107-TF		C BORSTORFF #2	CORRY	18.0	TENNESSEE GAS PIP
8344617	20068	3704922455		107-TF		F WINGERTER #1	ELK CREEK	18.0	
8344623	20228	3704922324		107-TF		G FEUCHT #1	CORRY	18.0	TENNESSEE GAS PIP
8344626	20231	3704922246		107-TF		H VAN TASSELL #1	CORRY	18.0	TENNESSEE GAS PIP
-GERSZBERG SHEPHERD				RECEIVED:	07/13/83	JA: PA			
8344609	18878	3703121023		103		ANNA LOVE #1	CLARION	0.0	NATIONAL FUEL GAS
-J & J ENTERPRISES INC				RECEIVED:	07/13/83	JA: PA			
8344635	20291	3706522618		103		R & P COAL CO #57	WINSLOW	0.0	COLUMBIA GAS TRAN
8344634	20289	3706327157		103		W A SCHROTH #1 (77A)	GRANT	0.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	07/13/83	JA: PA			
8344622	20207	3706522755		103		JACK BUFFINGTON PS-457	BIG RUN BOROUGH	0.8	
8344621	20206	3706522756		103		VINTON KELLAR "A" PS-456	BIG RUN BOROUGH	42.0	
-KEPCO INC				RECEIVED:	07/13/83	JA: PA			
8344638	20249	3705921714		102-4		ADOLPH MOHR #1 (PK-31)	KHEDIVE	15.5	TEXAS EASTERN TRA
8344639	20250	3705921790		102-4		ALVIE BLACK #1 PK-60	BROOKS-MEEKS	5.0	TEXAS EASTERN TRA
8344640	20251	3705921798		102-4		INEZ M DILLIE #2 (PK-61)	BROOKS-MEEKS	17.5	TEXAS EASTERN TRA
8344627	20257	3705921798		103		INEZ M DILLIE #2 PK-61	BROOKS-MEEKS	17.5	TEXAS EASTERN TRA
8344637	20248	3705921731		102-4		SAMUEL YARECK JR #1 (PK-38)	KHEDIVE	15.0	TEXAS EASTERN TRA
8344641	20252	3705921795		102-4		STANLEY MYERS #4 PK-62	BROOKS-MEEKS	12.5	TEXAS EASTERN TRA
-NORTHWEST NATURAL GAS CO				RECEIVED:	07/13/83	JA: PA			
8344611	19544	3704921975		107-TF		ANNA D SILFIES #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
8344610	19508	3704921975		103		ANNA D SILFIES #1	CONNEAUTVILLE	0.0	NATIONAL FUEL GAS
-PENN PROJECTS LTD DRILLING PROGRAM				RECEIVED:	07/13/83	JA: PA			
8344628	20269	3712922124		102-4		JOS J SOVICH #1	E HUNTINGDON	25.0	
8344630	20272	3712922126		102-4		JOS M PIPER #1	E HUNTINGDON	25.0	
8344629	20271	3712922090		102-4		LLOYD SHERBONDY #4	E HUNTINGDON	25.0	
8344631	20273	3712922089		102-4		PAUL KENDI #1	E HUNTINGDON	25.0	
-PIONEER WESTERN ENERGY CORP				RECEIVED:	07/13/83	JA: PA			
8344618	20104	3712922144		103		SHALER #1	HEMPFIELD	25.0	
-S T JOINT VENTURE - 81-B				RECEIVED:	07/13/83	JA: PA			
8344636	20297	3706326544		103		STRONG #1	GREEN	25.0	ATLAS RESOURCES I
-S T JOINT VENTURE 82-C				RECEIVED:	07/13/83	JA: PA			
8344620	20197	3706522711		103		REYNLOW PARK AUTHORITY #1	WINSLOW	25.0	NATIONAL FUEL GAS
8344619	20196	3706522713		103		REYNLOW PARK AUTHORITY #3	WINSLOW	25.0	NATIONAL FUEL GAS
-S T JOINT VENTURE 82-D				RECEIVED:	07/13/83	JA: PA			
8344633	20275	3706522742		103		HILLIS #1	WINSLOW	25.0	NATIONAL FUEL GAS
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WEST VIRGINIA DEPARTMENT OF MINES									
**********	**********	**********		**********	**********	**********	**********	**********	**********
-COLUMBIA GAS TRANSMISSION CORP				RECEIVED:	07/13/83	JA: WV			
8344835		4701501339		108		BRATTON SAMPLES-800891	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8344836		4701501345		108		BURDETTE COAL & LD CO 800203	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8344837		4701501347		108		FRED GARDNER-800169	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8344832		4700501196		108		GEN CC WATTS 800230	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8344829		4703903006		108		HILARY HIVELY-800671	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8344834		4700501197		108		HORSE CK COAL LTD-800846	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8344831		4703903133		108		J M STAUNTON 801258	W VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8344827		4705900903		108		JAMES BREWER-800446	WVA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8344830		4703903141		108		MATT BURGESS 801383	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8344828		4703903045		108		ST ELMORE-800691	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8344833		4700501208		108		T J PRICE 800500	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
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** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, LOS ANGELES,CA									
**********	**********	**********		**********	**********	**********	**********	**********	**********
-UNION OIL COMPANY OF CALIF				RECEIVED:	07/08/83	JA: CA 2			
8344838	OCS-P 11-83	0431120555		102-5		SANTA CLARA UNIT 5-13	CALIFORNIA OFFSHORE	0.0	PACIFIC LIGHTING

[FR Doc. 83-21342 Filed 8-4-83; 8:45 am]

BILLING CODE 6717-01-C

[Vol. 942]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: August 2, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd, Springfield, Va 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease

Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation

Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS VOLUME 942
ISSUED AUGUST 2, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
TEXAS RAILROAD COMMISSION									
-A R ARCHER JR			RECEIVED:	07/15/83		JA: TX			
8345125	F-7C-069260	4241331205		103		HENDERSON # 11 09846	VELREX (HENDERSON UPP	10.2	FARMLAND INDUSTRI
8345126	F-7C-069262	4241331206		103		HENDERSON #10 09841	VELREX (HENDERSON)	58.5	FARMLAND INDUSTRI
-ADOBE OIL & GAS CORPORATION			RECEIVED:	07/15/83		JA: TX			
8345110	F-8A-069039	4244531113		103		MULDROW "B" 3	PRENTICE N W (SAN AND	9.0	AMOCO PRODUCTION
-ALEXANDER G KASPAR			RECEIVED:	07/15/83		JA: TX			
8345040	F-7C-067524	4246131951		103		HOLLY 3-U 809978	AMACKER-TIPPETT (SW W	172.6	PHILLIPS PETROLEU
-ALPAR RESOURCES INC			RECEIVED:	07/15/83		JA: TX			
8345163	F-10-069498	4235731325		102-4		DAVIS 1-106	ALPAR (HUNTON)	150.0	
-ALTA VISTA EXPLORATION INC			RECEIVED:	07/15/83		JA: TX			
8345156	F-04-069460	4224731323		102-2		GUADALUPE #1	YNOJOSA	109.5	AMERICAN PIPELINE
-AMAX PETROLEUM CORPORATION			RECEIVED:	07/15/83		JA: TX			
8344945	F-10-64413	4239330874		103		MCMORDIE "B" #1	MCMORDIE RANCH (9400)	91.0	WESTAR TRANSMISSI
-AMERADA HESS CORPORATION			RECEIVED:	07/15/83		JA: TX			
8345172	F-8A-069537	4216532407		103		ADAIR SAN ANDRES UNIT #1210R	ADAIR FIELD (SAN ANDR	14.6	WESTAR TRANSMISSI
-AMERICAN PETROFINA COMPANY OF TEXAS			RECEIVED:	07/15/83		JA: TX			
8344957	F-03-64633	4207100000		103		CASEY HEIRS #1	ALLIGATOR BAYOU SW (6	500.0	
-AMINOIL USA INC			RECEIVED:	07/15/83		JA: TX			
8344928	F-04-63497	4249733289		102-4	103	GUERRA #2	GUERRA (9,800')	250.0	EL PASO NATURAL G
8345107	F-04-069016	4247933413		102-4	103	GUERRA #4	GUERRA (10,500)-PROPO	365.0	EL PASO NATURAL G
-AMOCO PRODUCTION CO			RECEIVED:	07/15/83		JA: TX			
8345111	F-08-069155	4222732134		103		C B MUSGROVE #2	COAHOMA (MISS)	1.4	GETTY OIL CO
8345050	F-06-067638	4236531559		103	107-TF	CARTHAGE GAS UNIT 3A #3	CARTHAGE (COTTON VALL	450.0	TEJAS GAS CORP
8345064	F-10-068018	4235700000		108		MARGARETTE BRUNER #1	HANSFORD	11.0	NORTHERN NATURAL
8345112	F-8A-069156	4244531096		103		PRENTICE NORTHEAST UNIT #151	PRENTICE/6700/	0.0	AMOCO PRODUCTION
-ANDERSON PETROLEUM INC			RECEIVED:	07/15/83		JA: TX			
8344952	F-03-64480	4247730398		102-2	103	HARDING HARMEL #1	GIDDINGS (AUSTIN CHAL	255.0	PHILLIPS PETROLEU
8344858	F-7C-046796	4210531096		108		IRA CARSON "B" 1-11	OZONA (CANYON SAND)	0.0	ANDERSON PIPELINE
8344910	F-7C-061298	4210534167		103		JOE FRIEND ESTATE 4-28	ALDWELL RANCH (CANYON	400.0	OZONA PIPELINE CO
8345016	F-7C-066768	4210534311		103	107-TF	LAURA HOOVER GAS UNIT 2-52	OZONA (CANYON SAND)	100.0	ANDERSON PIPELINE
-APEX PETROLEUM INC			RECEIVED:	07/15/83		JA: TX			
8345129	F-7B-069303	4208333266		102-4		JOHN E WOLF #12	WOLF (SERRATT)	0.0	EL PASO HYDROCARB
-ARCO OIL AND GAS COMPANY			RECEIVED:	07/15/83		JA: TX			
8345053	F-01-067724	4231130972		102-4		VIRGINIA RAGSDALE #1	WILLIFORD (1570 PROPO	100.0	TEXAS EASTERN TRA
-ARMSTRONG PETROLEUM CORP			RECEIVED:	07/15/83		JA: TX			
8344978	F-7B-65732	4247733337		102-4		J T DAVIS #2	SLUDER (CADDO)	20.0	H S T GATHERING C
-B D PRODUCTION CO INC			RECEIVED:	07/15/83		JA: TX			
8345153	F-03-069446	4205100000		103		LEO HEIN #1 RRC #16332	GIDDINGS (AUSTIN CHAL	25.6	FERGUSON CROSSING
-BASS ENTERPRISES PRODUCTION CO			RECEIVED:	07/15/83		JA: TX			
8345119	F-08-069215	4210332409		103		L D MOSS #27	TROPORO N (QUEEN)	7.3	NORTHERN GAS PROD
8345118	F-08-069214	4210333078		103		L D MOSS #28	TROPORO N (QUEEN)	7.3	NORTHERN GAS PROD
-BEST PETROLEUM EXPLORATION INC			RECEIVED:	07/15/83		JA: TX			
8344894	F-09-057910	4223700000		102-4		GRAVES #1 100869	ENIS (CONGL)	0.0	LONE STAR GAS CO
-BETTIS BOYLE & STOVALL			RECEIVED:	07/15/83		JA: TX			
8344906	F-7B-060553	4236300000		102-2		L H HUFFAKER #1		70.0	INTRASTATE GATHER
-BRIDWELL OIL CO			RECEIVED:	07/15/83		JA: TX			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8345177	F-09-069547	4207732897		102-4		SCALING RANCH "P" #20	TALLY	250.0	FAGADAU ENERGY CO
-BTA OIL PRODUCERS				RECEIVED:	07/15/83	JA: TX			
8345097	F-08-068887	4217370031		103		8102 JV-P GLASS -C- #4	BLALOCK LAKE E (WOLFC	54.7	PHILLIPS PETROLEU
-BURK ROYALTY CO				RECEIVED:	07/15/83	JA: TX			
8344973	F-09-65458	4249732502		103		BOULIN #2	MORRIS (CONS CONGL)	3.7	NATURAL GAS PIPEL
-C F LAWRENCE & ASSOC INC				RECEIVED:	07/15/83	JA: TX			
8345087	F-08-068545	4237134262		103		MCMURTRY #7	LEHN-APCO	0.0	
-CHAMPLIN PETROLEUM COMPANY				RECEIVED:	07/15/83	JA: TX			
8345055	F-04-067747	4227331382		103		G P WARDNER #148	STRATTON (W-39-3)	0.0	TENNESSEE GAS PIP
8345015	F-04-066715	4235531638		103		G P WARDNER #150	STRATTON (D-18)	0.0	TENNESSEE GAS PIP
8344864	F-04-052299	4235500000		102-4	103	G P WARDNER #159	WILDCAT	0.0	TENNESSEE GAS PIP
8344913	F-03-061432	4205132368		102-2		HERMAN SCHULTZ #3	BIG A (TAYLOR)	662.8	FERGUSON CROSSING
8344874	F-03-059237	4205532249		102-2		MARTIN KNESEK #2	BIG A (TAYLOR)	1138.0	FERGUSON CROSSING
8344914	F-03-061434	4204136829		102-2		PAULINE GRANT #2	KURTEN (BUDA)	129.0	
-CIRCLE SEVEN PRODUCTION CO				RECEIVED:	07/15/83	JA: TX			
8345154	F-09-069448	4225734141		102-4		MARY C SEWELL #2	MIGL (5350')	0.0	LONE STAR GAS CO
-CITIES SERVICE OIL & GAS CORP				RECEIVED:	07/15/83	JA: TX			
8344853	F-03-040000	4208900000		108-ER		SCHOGNEBERG A #1	DUBINA SOUTH	0.0	UNITED GAS PIPELI
-CLEMCO INC				RECEIVED:	07/15/83	JA: TX			
8344862	F-06-049919	4249900000		108-ER		CARROLL GREEN (960887)	QUITMAN (HILL)	258.0	FARMLAND INDUSTRI
8344924	F-06-63150	4249931061		102-2		L L DELANEY #2	QUITMAN (PETTIT)	20.0	FARMLAND INDUSTRI
8344923	F-06-63149	4242330619		103		V L SNOFNER #1	CHAPEL HILL (RODESSA)	20.0	ETEXAS PRODUCERS
-CONOCO INC				RECEIVED:	07/15/83	JA: TX			
8345069	F-10-068132	4206500000		108		BURNETT 112A	WEST PANHANDLE	0.0	NORTHWEST CENTRAL
8345043	F-04-062594	4247933454		102-2	107-TF	VAQUILLAS RANCH A #30	VAQUILLAS RANCH (WILC	410.0	E I DUPONT DE NEM
-COURSON OIL & GAS INC				RECEIVED:	07/15/83	JA: TX			
8345094	F-10-068792	4235700000		103		ELDON 1-747 C	ELLIS RANCH (CLEVELAN	208.0	TRANSWESTERN PIPE
-D L BISHOP				RECEIVED:	07/15/83	JA: TX			
8345008	F-7C-066612	4248431980		103		SKELLY-UNIVERSITY #5	PRICE (GRAYBURG)	1.0	J L DAVIS
8345007	F-7C-066611	4238331901		103		SKELLY-UNIVERSITY #6	PRICE (GRAYBURG)	1.0	J L DAVIS
8345006	F-7C-066610	4238332065		103		SKELLY-UNIVERSITY #7	PRICE (GRAYBURG)	1.0	J L DAVIS
8345005	F-7C-066609	4238332066		103		SKELLY-UNIVERSITY #8	PRICE (GRAYBURG)	1.0	J L DAVIS
8345009	F-7C-066613	4210534026		103		WEGER UNIT #1110	WEGER (SAN ANDRES)	1.0	J L DAVIS
-DELTA DRILLING CO				RECEIVED:	07/15/83	JA: TX			
8344953	F-06-64490	4242300000		102-4	103	M RAYFORD #1	CHAPEL HILL (TRAVIS P	0.0	ETEXAS PRODUCERS
-DERRICK OIL & GAS INC				RECEIVED:	07/15/83	JA: TX			
8345070	F-03-068143	4205900000		103		CALDWELL #3	JULIFF FRIO 7600'	100.0	HOUSTON PIPE LINE
-DIAMOND SHAMROCK CORPORATION				RECEIVED:	07/15/83	JA: TX			
8344996	F-10-66184	4221100000		108		BILLY JARVIS & SONS "B" #2-216	CANADIAN SE	0.0	NORTHERN NATURAL
8344871	F-10-053995	4234100000		108-ER		C R JONES C #1	PANHANDLE WEST	0.0	NORTHERN NATURAL
8345030	F-10-067082	4235700000		108		CARL ELLIS "D" #2	ELLIS RANCH	0.0	NATURAL GAS PIPE
8344997	F-10-66187	4221131277		108		DAVID D ISAACS SR #3	CANADIAN SE	0.0	NORTHERN NATURAL
8344994	F-10-66178	4221100000		108		E S F BRAINARD "J" #2-95	CANADIAN	0.0	NORTHERN NATURAL
8344995	F-10-66182	4235700000		108		HELEN NABERS "A" #1	DUTCHER	0.0	SOUTHWESTERN PUBL
-DISCOVERY OPERATING INC				RECEIVED:	07/15/83	JA: TX			
8345106	F-7C-069002	4241331299		102-2	103	LIN "CX" #1	DEB (CANYON)	60.0	FARMLAND INDUSTRI
8345106	F-7C-069002	4241331299		107-TF		LIN "CX" #1	DEB (CANYON)	60.0	FARMLAND INDUSTRI
8345081	F-8A-068382	4231732673		103		MIDDLETON "A" #1	ACKERLY (DEAN SAND)	0.0	TEXACO INC
-DRILLERS ENERGY SEARCH INC				RECEIVED:	07/15/83	JA: TX			
8344930	F-04-63652	4245900000		102-4		F D SMITH #3	HIBERNIA 4860	120.0	HOUSTON PIPE LINE
-EDWIN S NICHOLS EXPLORATIONS LTD				RECEIVED:	07/15/83	JA: TX			
8345158	F-03-069969	4204130899		102-2		V DITTFURTH UNIT 1 WELL #1	KURTEN (BUDA) FIELD	50.0	FERGUSON CROSSING
-EL PASO NATURAL GAS COMPANY				RECEIVED:	07/15/83	JA: TX			
8345045	F-10-057613	4208726028		108		BETENBOUGH B #1	PANHANDLE EAST	32.0	EL PASO NATURAL G
8344863	F-10-047581	4217923702		108-PB		DARSEY #2	PANHANDLE WEST	0.0	EL PASO NATURAL G
8344852	F-7C-63781	4243519207		108		DEBERRY A #2	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344921	F-7C-62723	4243500000		108-PB		DEBERRY A #3	SONORA	0.0	EL PASO NATURAL G
8344899	F-7C-059278	4243519203		108-PB		DEBERRY-BOYETT UNIT #1	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344848	F-7C-033032	4243530555		108-PB		DEBERRY-BOYETT UNIT #2		0.0	EL PASO NATURAL G
8344877	F-10-054499	4217923711		108-PB		HANNER X #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8344875	F-10-054313	4217923712		108-PB		HERRINGTON #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8344840	F-10-013291	4217923731		108-PB		KROUCH #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8344869	F-10-052827	4217923735		108-PB		MAGEE #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8344898	F-10-059277	4248326161		108		MAGNOLIA A #3	PANHANDLE - EAST	22.5	EL PASO NATURAL G
8344856	F-7C-065746	4243519213		108-PB		MARTIN #1	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344846	F-10-029858	4208726179		108-PB		MCDOWELL #5	PANHANDLE EAST	0.0	EL PASO NATURAL G
8344904	F-10-060468	4208726180		108-PB		MCDOWELL #6	PANHANDLE EAST	0.0	EL PASO NATURAL G
8344897	F-7C-059015	4243532057		108-PB		MECKEL #18	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344905	F-7C-060468	4243519217		108-PB		MECKEL #3	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344855	F-7C-042712	4243530316		108-PB		MECKEL #7	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344850	F-10-037519	4217923744		108-PB		REEVES #1	PANHANDLE WEST	0.0	EL PASO NATURAL G
8344860	F-7C-049576	4243500000		108-PB		SIMMONS #1	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
8344839	F-7C-009196	4243530557		108-PB		THOMSON C #4	SONORA (CANYON UPPER)	0.0	EL PASO NATURAL G
8344847	F-7C-030872	4243519227		108-PB		THOMSON 62 #1	SONORA CANYON UPPER	0.0	EL PASO NATURAL G
-ELSINORE CATTLE CO				RECEIVED:	07/15/83	JA: TX			
8344884	F-08-056394	4237100000		102-4		ELSINORE CATTLE COMPANY #56 #60218	ELSINORE WEST FARM (D	91.3	LONE STAR GAS CO
-EMCO OIL & GAS INC				RECEIVED:	07/15/83	JA: TX			
8345130	F-09-069314	4250336703		102-4		BRITTON-MORELAND #2	MORELAND (STRAWN)	0.0	DAMSON GAS PIPELI
-ENERGY-AGRI PRODUCTS INC				RECEIVED:	07/15/83	JA: TX			
8345183	F-10-069585	4206531404		103		GORES #5 (ID #05201)	PANHANDLE CARSON	45.0	GETTY OIL CO
8345181	F-10-069583	4206531365		103		HENRY #3 (ID #04912)	PANHANDLE CARSON	135.0	GETTY OIL CO
-ENRE CORP				RECEIVED:	07/15/83	JA: TX			
8344885	F-7B-056517	4205930804		108		MARSTON SURLES #1 (063507)	CALLAHAN COUNTY REGUL	0.0	BENGAL GAS TRANSM
-ENSERCH EXPLORATION INC				RECEIVED:	07/15/83	JA: TX			
8344950	F-7B-64450	4242933538		103		R W BROOKS #9	MANNING-O'CONNER	0.0	LONE STAR GAS CO
8344949	F-06-64447	4220330998		103		W T COOK #2	WHELAN	0.0	TEXAS EASTERN TRA
-EXXCEL PRODUCTION CO				RECEIVED:	07/15/83	JA: TX			
8345182	F-10-069584	4217931348		103		FELIX #9 (ID #05118)	PANHANDLE GRAY	60.0	CABOT PIPELINE CO
-EXXON CORPORATION				RECEIVED:	07/15/83	JA: TX			
8345171	F-04-069534	4213133982		102-4		C W HAHL B-22 #186384	DEJAY (6TH QUEEN CITY	10.8	ARMCO STEEL CORP
8344849	F-7C-036732	4210532685		102-4		HENDERSON TRUST #1	HOWARDS CREEK (PENN)	383.0	
8345159	F-08-069488	4210333122		103		J B TUBB A/C 1 #272	SAND HILLS (MCKNIGHT)	24.0	EL PASO NATURAL G
8345051	F-06-067654	4220330941		102-2	107-TF	JOE W SCOGGIN #1	BLOCKER (COTTON VALLE	182.0	DELHI GAS PIPELIN
8344946	F-03-64423	4247330375		103		KATY GAS FIELD UNIT II W-69	KATY (FIRST WILCOX)	250.0	ARMCO STEEL CORP
8344998	F-03-66218	4247330376		103		KATY GAS FIELD UNIT 2 W-66	KATY (FIRST WILCOX)	912.0	ARMCO STEEL CORP
8345148	F-04-069411	4227331431		102-4		KING RANCH TIJERINA A-66 (08935)	T-C-B EAST (20-I-3)	17.0	ARMCO STEEL CORP
8345144	F-08-069390	4208302465		108		MEANS/SAN ANDRES/UNIT #610	MEANS	1.0	PHILLIPS PETROLEU
8344956	F-06-64616	4240131497		102-4		R E L SILVEY "A" OIL UNIT #1 #1	OVERTON N E (PETTIT)	44.2	ARMCO STEEL CORP
8344966	F-8A-64942	4216532463		103		ROBERTSON CLEARFORK UNIT #7403	ROBERTSON N (CLEAR FO	15.0	PHILLIPS PETROLEU
8345146	F-8A-069392	4216502549		108		ROBERTSON CLEARFORK UNIT #8	ROBERTSON N (CLEAR FO	2.0	PHILLIPS PETROLEU
8345145	F-8A-069391	4216531679		108		ROBERTSON CLEARFORK UNIT #902	ROBERTSON N (CLEAR FO	2.0	PHILLIPS PETROLEU
8344955	F-03-64613	4247330377		102-3		SOUTH KATY GAS UNIT 3 #1	KATY S (FIRST WILCOX)	730.0	ARMCO STEEL CORP
-FEDERAL ENERGY DEVELOPMENT CO				RECEIVED:	07/15/83	JA: TX			
8345038	F-09-067426	4212130414		102-4		GIBBS #2	ROANOKE (CADDO CONGL)	4.0	LONE STAR GAS CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-FORUM ENERGY INC				RECEIVED:	07/15/83	JA: TX			
8345011	F-7B-066483	4242933574		102-4		C A BROWN #1	FRANKEL S (STRAWN)	88.0	WARREN PETROLEUM
-FOUR WAY JOINT VENTURE				RECEIVED:	07/15/83	JA: TX			
8345080	F-7B-068363	4225532479		102-4		HORACE H DRIVER #2	FOUR WAY (FLIPPEN LIM	5.0	TEXAS UTILITIES F
8345029	F-7B-068362	4225532496		102-4		JESSIE MAE DILLARD #2	FOUR WAY (FLIPPEN LIM	10.0	TEXAS UTILITIES F
-FRED M NEWMAN INC				RECEIVED:	07/15/83	JA: TX			
8345000	F-7C-66278	4210500000		108		SHANNON "I" 1	TODD	0.0	EL PASO NATURAL G
8344922	F-8B-62767	4237100000		102-4		UNIVERSITY 48 #2 #103942	CARDINAL (TANSILL)	72.0	NORTHERN NATURAL
-FUNK EXPLORATION INC				RECEIVED:	07/15/83	JA: TX			
8344965	F-10-64940	4235731327		102-4		JAMES 1-146	RICKS UPPER MORROW	110.0	HIGH PLAINS NATUR
-GENERAL PRODUCTION CO INC				RECEIVED:	07/15/83	JA: TX			
8345018	F-8B-066795	4205100000		102-2		JACK CONDON #2	WILLARD (NAVARRO)	0.0	FERGUSON CROSSING
-GEORGE L ROUSSEAU				RECEIVED:	07/05/83	JA: TX			
8344958	F-8B-64675	4205132316		102-4		ROBERT L JONES UNIT #1	WILLARD (NAVARRO)	30.0	FERGUSON CROSSING
-GEORGE L ROUSSEAU				RECEIVED:	07/15/83	JA: TX			
8345134	F-8B-069328	4205100000		102-4		FRED OWEN #3-A (16352)	HOOKER CREEK (NAVARRO	56.0	FERGUSON CROSSING
8344959	F-8B-64676	4205132345		102-4		FRED OWENS #1	HOOKER CREEK (NAVARRO	36.0	FERGUSON CROSSING
-GETTY OIL COMPANY				RECEIVED:	07/15/83	JA: TX			
8344916	F-8B-061612	4236500000		105	107-TF	S S HARRIS #4	CARTHAGE (COTTON VALL	0.0	UNITED GAS PIPELI
-GOLDKING PRODUCTION COMPANY				RECEIVED:	07/15/83	JA: TX			
8345135	F-8B-069341	4203900000		103		TEN BRINK #3	CHENANGO 8900-A	0.0	HOUSTON PIPE LINE
-GROVER J GEISELMAN				RECEIVED:	07/15/83	JA: TX			
8344951	F-8B-64471	4215731384		103		DIPPEL GAS UNIT #3	KEEDVILLE (FLT BLK 41	100.0	PHILLIPS PETROLEU
-GULF AMERICAN OIL & GAS CO				RECEIVED:	07/15/83	JA: TX			
8345109	F-8Z-069028	4246900000		103		RIVERSIDE COTTON FARMS "A"-17	FRIDHAM LAKE (4300')	45.0	VALERO TRANSMISSI
-GULF OIL CORPORATION				RECEIVED:	07/15/83	JA: TX			
8345065	F-8B-068025	4232931114		103		J M KING "A" WELL #4	AZALEA (DEVONIAN)	31.0	ODESSA NATURAL GA
8345077	F-8B-068326	4238931333		103		TXL "BM" (NCT-C) #3	JESS BURNER (DELAWARE	129.0	
8345052	F-8B-067674	4247532765		103		UNIVERSITY 18-31 #6	QUITO EAST (CHERRY CA	572.0	TEXACO INC
8344975	F-10-65570	4221130916		108-PB		W CAMPBELL #3-56	RED DEER CREEK	0.0	TRANSWESTERN PIPE
8344891	F-7B-057687	4236330483		108-ER		WILSON-HITTSON UNIT #1	RIFE (CONGL 3900)	30.0	BRAZOS FUEL CO
-H & S OPERATING INC				RECEIVED:	07/15/83	JA: TX			
8345078	F-8B-068340	4249732508		105		CORA FLEECE #1	CAUGHLIN NGR	240.0	TEXAS UTILITIES F
-H C W EXPLORATION INC				RECEIVED:	07/15/83	JA: TX			
8345068	F-8B-068121	4231732667		103		KEY #1	SPRAYBERRY (TREND ARE	98.0	PHILLIPS PETROLEU
-HARGIS EXPLORATION & PRODUCTION INC				RECEIVED:	07/15/83	JA: TX			
8345042	F-7B-067586	4236732453		102-4		H SCARBOROUGH #2	DENNIS WEST (STRAWN)	189.0	TEXAS UTILITIES F
-HARRY E NELSON				RECEIVED:	07/15/83	JA: TX			
8344918	F-8B-061967	4233930479		105		SNOW #1 74123	WEST WILLIS	0.0	MORGAS COMPANY
-HENRY PETROLEUM CORP				RECEIVED:	07/15/83	JA: TX			
8345033	F-8B-067103	4231700000		103		BARROW 82-1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
8344988	F-8A-65997	4211500000		103		BEEMAN "A" 82-1	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
8344990	F-8A-65999	4211500000		103		BEEMAN 82-1	TEX-HAMON (DEAN)	0.0	GETTY OIL CO
8344986	F-8A-65991	4211500000		103		BULSTERBAUM 82 #1-Y	TEX-HAMON (DEAN)	0.0	ADOBE OIL & GAS C
8344987	F-8A-65992	4231700000		103		HOLCOMB 82-1	TEX-HAMON (DEAN)	0.0	ADOBE OIL & GAS C
8344989	F-8A-65998	4211500000		103		KIMBRELL 82-1	TEX-HAMON (DEAN)	0.0	ADOBE OIL & GAS C
8345032	F-7C-067102	4238300000		103		ROCKER "B" A-41 #4	SPRABERRY (TREND AREA	0.0	
8344976	F-7C-65578	4238300000		103		ROCKER "B" 40-3	SPRABERRY (TREND AREA	0.0	NORTHERN NATURAL
8345031	F-7C-067101	4238300000		103		ROCKER "B" 41-3	SPRABERRY (TREND AREA	0.0	NORTHERN NATURAL
-HILL PRODUCTION CO-WISCONSIN				RECEIVED:	07/15/83	JA: TX			
8345020	F-03-066826	4233930549		102-4		HILL #1	LAKE CREEK (D-9)	730.0	TEJAS-SOUTHWESTER
-HILLIARD OIL & GAS INC				RECEIVED:	07/15/83	JA: TX			
8345098	F-8A-068891	4211531745		102-2		NIX #1	KEY WEST (SPRABERRY)	40.0	PHILLIPS PETROLEU
-HINTON PRODUCTION COMPANY				RECEIVED:	07/15/83	JA: TX			
8344936	F-8A-64190	4240131532		102-4		LUMPKIN #1	MINDEN (RODESSA 6350)	500.0	TEXAS UTILITIES F
-HNG OIL COMPANY				RECEIVED:	07/15/83	JA: TX			
8345147	F-04-069399	4247933470		102-4	107-TF	RAYMUNDO T SALDIVAR #1	JUANITA (LOBO)	200.0	HOUSTON PIPE LINE
-HOWELL DRILLING INC				RECEIVED:	07/15/83	JA: TX			
8345088	F-02-068722	4223900000		103		MENEFEE #6	TEXANA N	0.0	HOUSTON PIPELINE
8345105	F-02-068995	4228500000		103	107-TF	WOYTEK-EDWARDS UNIT #2	WORD N	0.0	TEXAS EASTERN TRA
-HUFO PRODUCTION CORP				RECEIVED:	07/15/83	JA: TX			
8344888	F-10-057206	4206500000		103		ELLER #7	PANHANDLE CARSON COUN	0.0	CABOT PIPELINE CO
8344981	F-10-060098	4206500000		103		ELLER #9	PANHANDLE CARSON COUN	0.0	CABOT PIPELINE CO
8344963	F-10-64367	4234130775		103		JOHNSON "A" #4	PANHANDLE (MOORE COUN	0.0	PANHANDLE EASTERN
-HUGHES & HUGHES				RECEIVED:	07/15/83	JA: TX			
8344988	F-04-65813	4235531589		102-4		HERBERT K SCHULZE #7	AGUA DULCE (8880) (PR	548.0	HOUSTON PIPE LINE
-HUMBLE EXPLORATION CO INC				RECEIVED:	07/15/83	JA: TX			
8344981	F-01-65897	4217731114		102-4	103	ESTHER #1	PEACH CREEK (AUSTIN C	0.0	
-INDIAN WELLS OIL CO				RECEIVED:	07/15/83	JA: TX			
8345027	F-7C-067029	4223532039		102-2		HARRIS 60-4	PROSANDT (CANYON)	0.0	NORTHERN NATURAL
8345026	F-7C-066997	4223531604		102-2		HARRIS 61-1	PROBANDT (CANYON)	0.0	NORTHERN NATURAL
8345046	F-7C-067416	4223531979		103		ROCKER "B" 5-1	ROCKER "B" (CANYON)	0.0	NORTHERN NATURAL
8345028	F-7C-067030	4223531997		102-2		SMITH 59-3	PROBANDT (CANYON)	0.0	NORTHERN NATURAL
-INTERNORTH INC				RECEIVED:	07/15/83	JA: TX			
8345047	F-7C-067617	4223531993		103		ROCKER B-3-2	ROCKER B- (CANYON)	0.0	NORTHERN NATURAL
-JOHN H HENDRIX CORP				RECEIVED:	07/15/83	JA: TX			
8345063	F-8B-067983	4243131116		103		MCENTIRE #1	MCENTIRE (FUSSELMAN)	184.5	INTRATEX GAS CO
-JOHN OATES TRUSTEE				RECEIVED:	07/15/83	JA: TX			
8345044	F-10-067611	4223500000		103		STEVENSON #10	PANHANDLE	2.9	PANHANDLE PRODUCI
-KAARI OIL CO				RECEIVED:	07/15/83	JA: TX			
8345162	F-10-069497	4217931340		103		FUTURE "B" #1-15 (ID #05365)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8345161	F-10-069496	4217931341		103		FUTURE "B" #2-16 (ID #05365)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
8345168	F-10-069495	4217931320		103		RANDALL #1 (ID #05364)	PANHANDLE GRAY	40.0	CABOT PIPELINE CO
-KEN PETROLEUM CORP				RECEIVED:	07/15/83	JA: TX			
8344962	F-02-64748	4223931818		102-4	103	LORENZEN #7	JOHN COFFEE	170.0	UNITED TEXAS TRAN
-KERR-MCGEE CORPORATION				RECEIVED:	07/15/83	JA: TX			
8345022	F-8B-066892	4213534014		103		FOSTER "C" #15	FOSTER	9.0	ODESSA NATURAL GA
-KILLAM & HURD LTD				RECEIVED:	07/15/83	JA: TX			
8344967	F-04-64980	4247933453		103		B M T BRUNI-LEYENDECKER #6	KETAMIA (WILCOX)	0.0	
-KLING INC				RECEIVED:	07/15/83	JA: TX			
8344969	F-02-65048	4217531707		102-4		WESTPHAL #1	DORNBURG (REKLAW 1-E)	110.0	UNITED GAS PIPELI
-L R SPRADLING				RECEIVED:	07/15/83	JA: TX			
8344873	F-10-056228	4234100000		103		KILGORE #3	PANHANDLE WEST	75.0	DIAMOND SHAMROCK
-LAKE RONEL OIL CO				RECEIVED:	07/15/83	JA: TX			
8344870	F-05-052904	4228900000		102-4		RODELL GAS UNIT #1	CENTERVILLE	110.0	TEXAS UTILITIES F
-LEGACY PETROLEUM / MCCONATHY				RECEIVED:	07/15/83	JA: TX			
8344992	F-06-66105	4236500000		102-4		F C BAGLEY #1	BELLE BOWER (PALUXY U	109.0	UNITED GAS PIPELI
-M BRAD BENNETT INC & RKH LTD				RECEIVED:	07/15/83	JA: TX			
8345133	F-8B-069326	4247532804		102-4		MOBIL #4	COLLIE (DELAWARE)	36.5	INTRATEX GAS CO
-MADDUX OIL & GAS				RECEIVED:	07/15/83	JA: TX			
8345072	F-7B-068225	4222130704		102-4		E I WILSON #1	DENNIS SW (2490)	146.0	NORTHERN GAS PROD
-MAGUIRE OIL COMPANY				RECEIVED:	07/15/83	JA: TX			
8345092	F-03-068784	4220100000		108		DOOLEY #5C	ALCO-MAG	0.2	TEXAS EASTERN TRA
-MARATHON OIL COMPANY				RECEIVED:	07/15/83	JA: TX			

JD NO	DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8345082	F-7C-068449	4246100000		108		BENEDUM SPRABERRY UNIT #1003	BENEDUM SPRABERRY UNI	11.0	EL PASO NATURAL G
8345085	F-7C-068452	4246100000		108		BENEDUM SPRABERRY UNIT #301	BENEDUM SPRABERRY UNI	6.0	EL PASO NATURAL G
8345083	F-7C-068450	4246100000		108		BENEDUM SPRABERRY UNIT #3203	BENEDUM SPRABERRY UNI	12.0	EL PASO NATURAL G
8345086	F-7C-068453	4246100000		108		BENEDUM SPRABERRY UNIT #5201	BENEDUM SPRABERRY UNI	4.0	EL PASO NATURAL G
8345084	F-08-068451	4200300000		108		R B COWDEN -1- WELL #2	GOLDSMITH 5600 FIELD	7.0	PHILLIPS PETROLEU
-MARIANAS OPERATING CO INC				RECEIVED:		07/15/83 JA: TX			
8344947	F-7B-64439	4208332029		102-4		FREEMAN -E- #2	TRIPLE -H- (GRAY)	104.0	EL PASO HYDROCARB
8344948	F-7B-64440	4208332334		102-4		G ED RAGSDALE #3	LONE OAK (DOG BEND)	54.0	EL PASO HYDROCARB
-MARLINE OIL CORP				RECEIVED:		07/15/83 JA: TX			
8345025	F-08-066987	4237133563		107-DP		KOONTZ-LEA-TREES #1	WILDCAT-ELLENBERGER	365.0	LONE STAR GAS CO
-MARSHALL EXPLORATION INC				RECEIVED:		07/15/83 JA: TX			
8345002	F-06-66504	4241930423		102-4	103	ELLINGTON #1	SHELBYVILLE (PETTIT)	420.0	UNITED GAS PIPELI
8344889	F-06-057274	4236531493		103		JOHNSON #1	BELLE BOWER (TRAVIS P	220.0	TENNESSEE GAS PIP
8344970	F-06-65865	4200131371		102-4	103	WALLACE #1	PURT W (RODESSA 10,20	200.0	ESPERANZA PIPELIN
8344903	F-06-060233	4241930421		102-4	103	WATERS-MCCAULEY #1	HAWKEYE (BLOSSOM SAND	50.0	UNITED GAS PIPELI
-MARTIN OIL & GAS CO				RECEIVED:		07/15/83 JA: TX			
8344993	F-03-66154	4214931436		102-2		RING "D" #1	GIDDINGS (AUSTIN CHAL	0.0	PHILLIPS PETROLEU
-MCCLYMOND BROTHERS				RECEIVED:		07/15/83 JA: TX			
8345151	F-7B-069421	4242933383		103		CUNNINGHAM HEIRS 19166 #1	STEPHENS CO REGULAR	10.8	BRECKENRIDGE GASO
8345173	F-7B-069539	4242933339		103		SATTERWHITE HEIRS LEASE 105054	STEPHENS COUNTY REGUL	72.0	WARREN PETROLEUM
-MCMORAN EXPLORATION CO				RECEIVED:		07/15/83 JA: TX			
8344907	F-02-060687	4270330284		102-4		STATE TRACT 629-L SE/4 #1-A-L	BLOCK 630-L	730.0	MATAGORDA PIPE LI
-MEG PETROLEUM CORP				RECEIVED:		07/15/83 JA: TX			
8345017	F-7C-066781	4223532013		103		SPRING CREEK #2	CAL (CANYON)	54.7	NORTHERN NATURAL
-MITCHELL ENERGY CORPORATION				RECEIVED:		07/15/83 JA: TX			
8345004	F-7C-066544	4245131141		102-4	103	ANDERSON #1	K W B (STRAWN)	27.4	ESPERANZA PIPELIN
8344841	F-09-018840	4223700000		108-PB		C A LAWRENCE A #1	BOONSVILLE BEND CONGL	0.0	NATURAL GAS PIPEL
8344844	F-09-025619	4249700000		108-PB		C P SMITH #1	BOONSVILLE BEND CONGL	0.0	LONE STAR GAS CO
8344842	F-09-019802	4249700000		108-ER		DALY-HERRING #1	BOONSVILLE BEND	0.0	NATURAL GAS PIPEL
8344895	F-09-058556	4223700000		108-PB		EUGENE MOSER #2	CRAFTON WEST CADDO	0.0	CITIES SERVICE CO
8345180	F-09-069559	4249732519		103		HARTSELL-CASTLEBERRY #2	BOONSVILLE/BEND CONGL	395.9	NATURAL GAS PIPEL
8344915	F-09-061552	4233700000		108		J D ORTON #4 #15583	ORTON (CADDO)	13.5	LONE STAR GAS CO
8344968	F-09-65000	4249700000		108-ER		J E PARSONS #1	BOONSVILLE	0.0	NATURAL GAS PIPEL
8344843	F-09-023646	4249700000		108-ER		LAVONIA VANDIVER #1	BOONSVILLE BEND CONGL	0.0	NATURAL GAS PIPEL
8344857	F-09-046450	4249700000		108-ER		N D COLWELL #1	BOONSVILLE BEND	0.0	NATURAL GAS PIPEL
8345179	F-09-069556	4223700000		103		OLIVER HAAG #2 21109	GATES (ATOKA CONGLOME	26.7	
8344851	F-09-038363	4223700000		108-ER		S WILLIS #1	PERRIN NE	0.0	SOUTHWESTERN GAS
8345074	F-09-068258	4249732444		103		T M COFFMAN #2	BOONSVILLE (BEND CONG	221.3	NATURAL GAS PIPEL
8344886	F-09-056619	4249700000		108		W E MCDONALD #2 #028736	BOONSVILLE (BEND CONG	14.0	NATURAL GAS PIPEL
8344900	F-09-059647	4223700000		108-ER		W R RICHARDS #1	CARY-MAG SOUTH CONGL	0.0	SOUTHWESTERN GAS
-MONSANTO COMPANY				RECEIVED:		07/15/83 JA: TX			
8344854	F-10-040555	4235700000		108-ER		FLOWERS #1	PARSELL (MORROW LOWER	3.5	TRANSWESTERN PIPE
-MORAN EXPLORATION INC				RECEIVED:		07/15/83 JA: TX			
8345127	F-03-069286	4203931731		102-4		DARRINGTON STATE FARM TR 3 #1A	DARRINGTON (6620' SAN	0.0	TENNGASCO INC
-MORMAC ENERGY CORP				RECEIVED:		07/15/83 JA: TX			
8345013	F-04-066702	4250531188		103		VELA GAS UNIT #1	ROLETA (7483)	0.0	DELHI GAS PIPELIN
-MORRIS STEPHENS				RECEIVED:		07/15/83 JA: TX			
8345184	F-09-069587	4223735037		103		MINCOLA RIDER B #3	JACK COUNTY REGULAR (	72.0	LONE STAR GAS CO
-MUELLER ENGINEERING CORP				RECEIVED:		07/15/83 JA: TX			
8345024	F-02-066928	4239100000		102-4		F B SHELTON #1	MISSION RIVER	146.0	VALLEY PIPE LINES
-NELSON & TUCKER OPERATING CO				RECEIVED:		07/15/83 JA: TX			
8345099	F-03-068896	4248132113		102-4		SORRELL #12	SPANISH CAMP (FRIO 45	146.0	UNITED TEXAS TRAN
-NIELSON ENTERPRISES INC				RECEIVED:		07/15/83 JA: TX			
8345113	F-06-069158	4220330898		103		ONEY #4	WHELAN (UPPER PETTIT)	90.0	ARKANSAS LOUISIAN
-NORTH CENTRAL OIL CORPORATION				RECEIVED:		07/15/83 JA: TX			
8344887	F-10-057051	4211130098		103		J E AMEND #1	KERRICK (CISCO LIME)	19.0	DIAMOND SHAMROCK
-NORTH RIDGE CORP				RECEIVED:		07/15/83 JA: TX			
8344932	F-7B-63686	4213331291		102-4	103	ERNEST SNEED #1	REB (MARBLE FALLS)	0.0	LONE STAR GAS CO
8344931	F-7B-63685	4213331526		102-4	103	ERNEST SNEED "A" #1	REB (MABLE FALLS)	0.0	LONE STAR GAS CO
8344925	F-7B-63494	4213331759		102-4	103	RAYMOND BECK #2	REB (MARBLE FALLS)	5.8	LONE STAR GAS CO
8344927	F-7B-63496	4213334082		102-4	103	RAYMOND BECK #3	REB (MARBLE FALLS)	9.0	LONE STAR GAS CO
8344926	F-7B-63495	4213331582		102-4	103	RAYMOND BECK ONE #1	REB (MARBLE FALLS)	7.6	LONE STAR GAS CO
-NORTHERN OIL & GAS INC				RECEIVED:		07/15/83 JA: TX			
8345170	F-10-069519	4223300000		108		BURNETT "A" WELL #2 RRC #01728	PANHANDLE	5.3	GETTY OIL CO
8345169	F-10-069518	4223300000		108		BURNETT "A" WELL #4 RRC #01728	PANHANDLE	5.0	GETTY OIL CO
8345168	F-10-069517	4223300000		108		BURNETT "A" WELL #5 RRC #01728	PANHANDLE	4.1	GETTY OIL CO
8345167	F-10-069516	4223300000		108		BURNETT "A" WELL #6 RRC #01728	PANHANDLE	4.1	GETTY OIL CO
8345166	F-10-069503	4223300000		108		COCKRELL WELL #6 RRC #03091	PANHANDLE	0.2	GETTY OIL CO
8345165	F-10-069502	4223300000		108		COCKRELL WELL #7 RRC #03091	PANHANDLE	0.2	GETTY OIL CO
8345164	F-10-069501	4223300000		108		ELLIS COCKRELL "D" WELL #2 RRC #03*	PANHANDLE	0.8	GETTY OIL CO
-OIL & GAS RESERVES INC				RECEIVED:		07/15/83 JA: TX			
8345057	F-02-067826	4217531690		102-4		THOMAS VOELKEL #1	MARSHALL EAST (9350'	400.0	LIBRA ENERGIES IN
-OXOCO-TEXAS INC				RECEIVED:		07/15/83 JA: TX			
8344963	F-04-64889	4235532053		103		LEHMAN E #19	LONDON SW (4900)	36.0	
-P & R OIL INC				RECEIVED:		07/15/83 JA: TX			
8345128	F-7B-069293	4205932618		103		WOLFE #2 (16434)	NICHOLAS (DUFFER)	1080.0	EL PASO HYDROCARB
-PARKER & PARSLEY INC				RECEIVED:		07/15/83 JA: TX			
8345149	F-08-069417	4231700000		103		GLASS "C" WELL #2	SPRABERRY (TREND AREA	15.0	ADOBE OIL & GAS C
8345178	F-7C-069549	4246132006		103		MCGILL "62" #1	SPRABERRY (TREND AREA	0.0	PHILLIPS PETROLEU
-PAUL E CAMERON JR INC				RECEIVED:		07/15/83 JA: TX			
8345155	F-02-069459	4217500000		102-4		WILKINSON #2 ID #090940	BERCLAIR E (1550)	88.0	UNITED TEXAS TRAN
-PENNZOIL PRODUCING COMPANY				RECEIVED:		07/15/83 JA: TX			
8345056	F-04-067748	4250531620		102-4		LAURO GARZA #2	ESCOBAS S (9,300')	548.0	TENNESSEE GAS PIP
-PETRO-LEWIS CORPORATION				RECEIVED:		07/15/83 JA: TX			
8345010	F-08-066624	4210332053		103		J B TUBB STATE NO 12	SAND HILLS (MCKNIGHT)	24.0	EL PASO NATURAL G
-PETRO-MEGA INC				RECEIVED:		07/15/83 JA: TX			
8345141	F-7B-069377	4208333316		103		DANIELS #1	WILLIAMS	10.0	UNION TEXAS PETRO
-PETROLEUM EQUITIES CORP				RECEIVED:		07/15/83 JA: TX			
8344983	F-7C-65917	4243532919		103	107-TF	VANDERSTUCKEN #17	SAWYER (CANYON)	90.0	LONE STAR GAS CO
8344982	F-7C-65916	4243532917		103	107-TF	VANDERSTUCKEN #21	SAWYER (CANYON)	36.0	LONE STAR GAS CO
8344984	F-7C-65921	4243532920		103	107-TF	VANDERSTUCKEN #7A	SAWYER (CANYON)	54.0	LONE STAR GAS CO
-PHILLIPS PETROLEUM COMPANY				RECEIVED:		07/15/83 JA: TX			
8345120	F-7C-069227	4246104178		108		(03913) N PEMBROOK S UN #54-01	SPRABERRY (TREND AREA	4.0	NORTHERN NATURAL
8344872	F-09-054015	4249700000		108-PB		BLANTON A #1	MORRIS (CONSOLIDATED	0.0	C R UPHAM OIL & G
8344974	F-10-65482	4229500000		108		CRUISE D #3	BRADFORD - CLEVELAND	0.0	PANHANDLE EASTERN
8345034	F-10-067133	4234130927		103		WITHERBEE #3	PANHANDLE MOORE	0.0	EL PASO NATURAL G
-POLK & PATTON INC				RECEIVED:		07/15/83 JA: TX			
8345091	F-09-068740	4223734899		102-4		PATTON "2555" #1	PERRIN (MARBLE FALLS)	60.0	TEXAS UTILITIES F
8345090	F-09-068738	4223732857		102-4		WOODS #1	PERRIN (MARBLE FALLS)	215.0	SOUTHWESTERN GAS
-PRAIRIE PRODUCING CO				RECEIVED:		07/15/83 JA: TX			
8344985	F-06-65986	4234700000		102-4		A M FOSHEE #2-C	NACONICHE CREEK (RODE	0.0	UNITED GAS PIPE L
-PYRO ENERGY CORP				RECEIVED:		07/15/83 JA: TX			
8344999	F-04-66255	4224700000		102-4		MESTENA '390' #1	COYOTE W (6150)	0.0	AMERICAN PIPELINE
8345061	F-04-067952	4224700000		102-4	103	W W JONES #2 104843	JONES (6400) FIELD	0.0	AMERICAN PIPELINE

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-QUINTANA PETROLEUM CORP				RECEIVED:	07/15/83	JA: TX			
8345104	F-02-068930	4239131608		103		THOMAS O'CONNOR "C" 84	TOM O'CONNOR (5900' S	20.0	UNITED TEXAS TRAN
8345103	F-02-068929	4239131609		103		THOMAS O'CONNOR "C" 81	TOM O'CONNOR (5900' S	100.0	UNITED TEXAS TRAN
8345102	F-02-068928	4239131610		103		THOMAS O'CONNOR "C" 82	TOM O'CONNOR (5900' S	60.0	UNITED TEXAS TRAN
8345101	F-02-068927	4239131611		103		THOMAS O'CONNOR "C" 83	TOM O'CONNOR (5900' S	100.0	UNITED TEXAS TRAN
8345100	F-02-068926	4239131612		103		THOMAS O'CONNOR "C" 84	TOM O'CONNOR (5900' S	100.0	UNITED TEXAS TRAN
-R K O ENGINEERING INC				RECEIVED:	07/15/83	JA: TX			
8345139	F-08-069375	4237100000		103		EMMA GAY WOODWARD #2 #104759	PUTNAM (ELLENBURGER)	1300.0	DELHI GAS PIPELIN
8345140	F-08-069376	4237100000		102-4		GULF "16" #1 #104760	ALPHA (QUEEN)	0.0	LARCO GAS CORP
8345138	F-08-069374	4237100000		102-4		GULF "17" #1 #104675	ALPHA (QUEEN)	0.0	LARCO GAS CORP
8345137	F-08-069373,	4237100000		102-4		GULF "17" #2 #104676	ALPHA (QUEEN)	0.0	LARCO GAS CORP
-R L ADKINS CORP				RECEIVED:	07/15/83	JA: TX			
8345117	F-7B-069210	4235331426		102-4		WILSON #3	J & J (CADDO)	70.0	PALO DURO PIPELIN
-RAM PETROLEUM CORP				RECEIVED:	07/15/83	JA: TX			
8344911	F-08-061322	4237133605		103		KRAMER #1	WILDCAT	0.0	PERRY PIPELINE CO
-RANKIN OIL CO				RECEIVED:	07/15/83	JA: TX			
8345108	F-08-069825	4213533736		103		JOHN T 1	HARPER	1.0	PHILLIPS PETROLEU
-RICHEY & CO INC				RECEIVED:	07/15/83	JA: TX			
8345152	F-7B-069424	4213334888		102-4		J B GREER #1	REB (MARBLE FALLS)	55.0	ENSERCH EXPLORATI
8345131	F-7B-069318	4213334746		102-4		J M OSBORN #1	REB (MARBLE FALLS)	11.0	ENSERCH EXPLORATI
-RICO EXPLORATION INC				RECEIVED:	07/15/83	JA: TX			
8345115	F-09-069182	4223700000		102-4		SHAWVER #1	R J ONE (STRAWN)	112.0	TEXAS UTILITIES F
-ROSELAND OIL & GAS INC				RECEIVED:	07/15/83	JA: TX			
8345014	F-06-066714	4242330656		102-4		CITY OF TYLER #1	ANN MCKNIGHT (PALUXY)	0.0	
-SAGE ENERGY CO				RECEIVED:	07/15/83	JA: TX			
8345185	F-7C-069588	4210534436		103		SUPERIOR STATE "7" #2 RRC #09917	FARMER (SAN ANDRES)	0.4	NORTHERN NATURAL
8345186	F-7C-069587	4210534372		103		UNIVERSITY 7 #4 RRC #07555	FARMER (SAN ANDRES)	0.2	NORTHERN NATURAL
-SANDEFER OIL & GAS INC				RECEIVED:	07/15/83	JA: TX			
8344845	F-03-027297	4232100000		102-4		CORNELIUS GAS UNIT #1 ID #87394	WADSWORTH (LEWIS 9900	330.0	DOW CHEMICAL USA
-SAXON OIL COMPANY				RECEIVED:	07/15/83	JA: TX			
8344934	F-08-63843	4231700000		103		RICHARDS #1	BREEDLOVE EAST (SPRAB	0.0	PHILLIPS PETROLEU
-SBO CORP				RECEIVED:	07/15/83	JA: TX			
8345124	F-08-069243	4237133992		102-3		G R WHITE 1-A	SHEFFIELD NORTHWEST (	280.0	NORTHERN NATURAL
8345123	F-08-069242	4237134028		102-3		G R WHITE 2-A	SHEFFIELD NORTHWEST (	280.0	NORTHERN NATURAL
-SCANDRILL INC				RECEIVED:	07/15/83	JA: TX			
8345114	F-09-069163	4250334612		103		MORRIS STEPHENS "B" #2	YOUNG COUNTY REGULAR	5.5	SUN GAS TRANSMISS
-SEAGO OIL INC				RECEIVED:	07/15/83	JA: TX			
8345132	F-7C-069319	4239932704		102-4		BONNIE CLARK #3	BIG ED N (GARDNER LIM	36.0	K-B GAS CO
-SENECA PETROLEUM INC				RECEIVED:	07/15/83	JA: TX			
8344954	F-7C-64564	4241300000		103	107-TF	MEADOR "A" #1	SAWYER (CANYON)	145.8	INTRATEX GAS CO
-SESCO PRODUCTION CO				RECEIVED:	07/15/83	JA: TX			
8344971	F-06-65330	4240131026		107-TF		V A HUGHES #1	SUNSHINE (LOWER COTTO	0.0	DELHI GAS PIPELIN
-SHANE OIL CORP				RECEIVED:	07/15/83	JA: TX			
8345067	F-7B-068897	4242900000		102-4		BROWN #1	FRANKEL S (STRAWN)	95.0	BENGAL GAS TRANSM
-SHELL OIL CO				RECEIVED:	07/15/83	JA: TX			
8344979	F-01-65781	4231131781		102-4		BRACKEN #5	A W P (OLMOS)	108.0	HPI TRANSMISSION
8344920	F-04-62550	4221531875		102-4		JONES RANCH "A" #5	JONES RANCH (VICKSBUR	200.0	CHANNEL INDUSTRIE
-SKLAR & PHILLIPS OIL CO				RECEIVED:	07/15/83	JA: TX			
8345066	F-03-068072	4204130803		102-2		MIDWEST VIDEO UNIT #1	BRYAN (WOODBINE)	90.0	FERGUSON BRAZOS C
-SLACK R C & CLAY				RECEIVED:	07/15/83	JA: TX			
8344861	F-08-049774	4249500000		108-ER		BROWN & ALTMAN AL #16	EMPEROR DEEP YATES	0.0	WEST TEXAS GATHER
-SOUTHEASTERN RESOURCES CORP				RECEIVED:	07/15/83	JA: TX			
8345059	F-7B-067873	4213334575		102-4		NASH #4	JMJ (MARBLE FALLS)	45.0	EL PASO HYDROCARB
-SPENCER PETROLEUM CO				RECEIVED:	07/15/83	JA: TX			
8345041	F-7B-067530	4208335540		103		O C BERTRAND #1 (15268)	GLEN COVE S (PALO PIN	2.0	UNION TEXAS PETRO
-SPUR PETROLEUM INC				RECEIVED:	07/15/83	JA: TX			
8344879	F-10-055921	4219530841		103		JACKSON #1-50	HITCHLAND (4640')	180.0	PANHANDLE EASTERN
-STAHL PETROLEUM CO				RECEIVED:	07/15/83	JA: TX			
8344859	F-10-048758	4217900000		108-PB		PATTERSON #2	PANHANDLE WEST	8.0	EL PASO NATURAL G
-STEVE STAMPER				RECEIVED:	07/15/83	JA: TX			
8345023	F-09-066895	4223700000		103		DENNING #1	JACK COUNTY REGULAR	130.3	LONE STAR GAS CO
8345176	F-09-069542	4223700000		103		HOLMAN #1	BRYSON EAST	22.5	LONE STAR GAS CO
8345175	F-09-069541	4223700000		103		PEAVY #1	BRYSON EAST	6.5	LONE STAR GAS CO
8345174	F-09-069540	4223700000		103		PEAVY #4	BRYSON EAST	4.0	LONE STAR GAS CO
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	07/15/83	JA: TX			
8345039	F-03-067482	4224531618		102-4		BROUSSARD & HEBERT #40	LABELLE SE	51.0	UNITED TEXAS TRAN
8345089	F-04-068723	4202731723		102-4		D LAUREL #13	SUN NORTH	88.0	
8344896	F-06-058730	4236531452		103	107-TF	DAHLIA O CAUDLE GU #3	CARTHAGE	0.0	DELHI GAS PIPELIN
8345048	F-04-067623	4215531932		102-4		F E &NDON NO 7L	DOUGHTY W	42.0	HOUSTON PIPELINE
8344935	F-08-64015	4213534805		103		GRAYBURG GAS UT XI #2	GOLDSMITH EAST (GRAYB	45.0	WESTAR TRANSMISSI
8345122	F-04-069239	4213100000		108		L WIEDERKEHR #137	GOVERNMENT WELLS N (W	16.0	TENNESSEE GAS PIP
8345071	F-04-068150	4242700000		108		M M GARCIA -L- #5	GARCIA (SOLIS A-V-B)	0.9	TRANSCONTINENTAL
8345037	F-8A-067400	4221933670		103		SOUTHEAST LEVELLAND UNIT #141-A	LEVELLAND	6.0	AMOCO PRODUCTION
8345121	F-03-069238	4203931562		102-4		THOMAS JAMISON #96	DANBURY DOME	2.0	
8345049	F-7C-067624	4210534183		103		UNIVERSITY "D" #11	FARMER (SAN ANDRES)	2.0	J L DAVIS
8345012	F-03-066690	4216730913		103		ZINN & FORMAN #21	CAPLEN (FB-2 10X)	99.0	TEXAS GAS PIPE LI
-SUPERIOR OIL CO				RECEIVED:	07/15/83	JA: TX			
8344917	F-03-061771	4203931836		102-4	103	GRACE MCILVAINE O U #1 WELL #2	CHOCOLATE BAYOU SE (M	767.0	HOUSTON PIPE LINE
8345019	F-02-066802	4228531697		102-3	107-TF	LEO HOFFER GAS UNIT #2	WORD N (EDWARDS)	0.0	UNITED TEXAS TRAN
8344912	F-03-061391	4208900204		108		M A TAIT #4	ALTAIR (WILCOX 8300)	0.0	TRUNKLINE GAS CO
8345021	F-04-066867	4240931647		103		M W FORD #2	PORTILLA (9000')	0.0	
8345003	F-08-66508	4237134112		102-4	103	UNIVERSITY "19-2" #1	TUNIS CREEK EAST (PEN	0.1	
-TA-LEE-HO ENERGY CORP				RECEIVED:	07/15/83	JA: TX			
8344902	F-03-060224	4231330353		103		SANTA ELENA LECONA #1	MADISONVILLE (SUB CLA	0.0	LONE STAR GAS CO
-TED TRUE INC				RECEIVED:	07/15/83	JA: TX			
8344865	F-10-052300	4234100000		103		BRENT 24-1	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344866	F-10-052302	4234100000		103		BRENT 24-3	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344867	F-10-052303	4234100000		103		BRENT 24-4	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344868	F-10-052304	4234100000		103		BRENT 24-5	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344883	F-10-056176	4234100000		103		BRENT 25-11	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344882	F-10-056174	4234100000		103		BRENT 25-4	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344880	F-10-056154	4234100000		103		BRENT 59-11	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344881	F-10-056155	4234100000		103		BRENT 59-12	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344890	F-10-057459	4234100000		103		BRENT 66-6	PANHANDLE MOORE COUNT	0.0	PANHANDLE EASTERN
8344893	F-10-057886	4206500000		103		WARE 84-5	PANHANDLE (CARSON COU	0.0	CABOT PIPELINE CO
8344892	F-10-057885	4234100000		103		WARE 84-6	PANHANDLE (CARSON COU	0.0	CABOT PIPELINE CO
8344908	F-10-060836	4206500000		103		WARE 84-8	PANHANDLE (CARSON COU	0.0	CABOT PIPELINE CO
-TEM OIL OPERATING CO				RECEIVED:	07/15/83	JA: TX			
8345060	F-08-067910	4231732646		103		RUTLEDGE-MCALISTER #2	SPRABERRY (TREND AREA	18.0	PHILLIPS PETROLEU
-TERRY L MCIVER				RECEIVED:	07/15/83	JA: TX			
8344964	F-7B-64899	4208333318		102-4		C D BRUCE #1	MATHEWS (BRENEKE)	109.0	LONE STAR GAS CO
8344933	F-7B-63716	4208333284		102-4		TERRY L MCIVER #1-B	TRICKHAM (CROSSCUT LO	36.0	LONE STAR GAS CO
-TEXACO INC				RECEIVED:	07/15/83	JA: TX			
8344876	F-04-054474	4242731625		102-2	103	BARRERA ESTATE NCT-1 #1	CAPRICORN	1277.0	INTRASTATE GATHER

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8344919	F-01-062299	4216332198		103		ELLA BURNS #8	KYOTE	0.0	
8344960	F-01-64688	4231131753		102-4	103	H E GOUGER FEE NCT-1 #37	CAMPANA SOUTH	1144.0	HOUSTON PIPE LINE
8344977	F-03-65651	4224531374		102-4	103	MITCHELL GAS UNIT #1	CONSTITUTION	183.0	TRANSCONTINENTAL
-THOMAS D COFFMAN INC				RECEIVED:		07/15/83 JA: TX			
8345093	F-06-068789	4240330198		102-2		TEMPLE-EASTEX "D"	PINELAND (SARATOGA/AN	36.0	ESPERANZA TRANSMI
-TIDEMARK EXPLORATION CO				RECEIVED:		07/15/83 JA: TX			
8345054	F-10-067742	4229531238		103		BRADFORD #1-A	BRADFORD LOWER MORROW	200.0	TRANSWESTERN PIPE
-TIPCO				RECEIVED:		07/15/83 JA: TX			
8344929	F-03-63615	4205100000		102-2		STERN #3	BIG "A" TAYLOR	0.0	CLAJON GAS CO
-TOT RICHARDS DOZER INC				RECEIVED:		07/15/83 JA: TX			
8344972	F-7B-65397	4244732275		102-4		DARLA JANICE #5	JANICE (SADDLE CREEK)	61.0	H S T GATHERING C
8345029	F-7B-067065	4244733448		102-4		JUSTIN #1	TOT (GUNSIGHT)	0.0	H S T GATHERING C
-TOWNER PETROLEUM CO				RECEIVED:		07/15/83 JA: TX			
8345116	F-03-069206	4214930758		102-2		HI-JINX GAS UNIT #1	GIDDINGS (EDWARDS-GAS	1296.0	CLAJON GAS CO
-TXO PRODUCTION CORP				RECEIVED:		07/15/83 JA: TX			
8344991	F-06-66104	4240131612		102-4		BRADSTREET #1	TALIAFERRO (PETTIT UP	0.0	
8345073	F-08-068227	4222700000		103		BUCHANAN "B" #1	BIG SPRING (FUSSELMAN	15.0	GETTY OIL CO
8345001	F-03-66471	4219931775		102-4		MCRAE "A" #3	ARRIOLA (YEGUA 9100)	0.0	
8344909	F-06-061295	4231530317		102-4		ORR "A" #1	AVINGER (PETTIT)	0.0	DELHI GAS PIPELIN
8345142	F-10-069378	4229500000		103		PINCKARD "B" #3	DARREN	182.0	TRANSWESTERN PIPE
8344961	F-02-64731	4223931671		102-4		STAFFORD A-3	MORALES (3780')	0.0	TENNESSEE GAS PIP
-U S OPERATING INC				RECEIVED:		07/15/83 JA: TX			
8345035	F-03-067138	4247730495		102-2		CONNIE #1 RRC ID #N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8345036	F-03-067372	4228731339		102-2		NORA #1 RRC ID #N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
8345058	F-03-067834	4228731189		102-2		WHITNEY #1 RRC ID # N/A	GIDDINGS (AUSTIN CHAL	0.0	PERRY PIPELINE CO
-UNITED CO				RECEIVED:		07/15/83 JA: TX			
8345143	F-8A-069386	4207930493		103		SEABOARD WRIGHT #17 072163	LEVELLAND (SAN ANDRES	21.3	EL PASO NATURAL G
-VINSON EXPLORATION				RECEIVED:		07/15/83 JA: TX			
8344937	F-7C-64227	4210500000		102-4		UNIVERSITY "29-D" #1	INGHAM (QUEEN)	73.0	SOUTHWESTERN GAS
-W W WEST				RECEIVED:		07/15/83 JA: TX			
8344878	F-7C-055750	4239932289		103		BROOKSHIEP GORDON "B" 18	SAXON	0.0	VALERO TRANSMISSI
-WALTON BILLY D				RECEIVED:		07/15/83 JA: TX			
8345150	F-7B-069418	4213331542		108		BILLY D WALTON NO I	EASTLAND COUNTY REGUL	3.5	LONE STAR GAS CO
-WATCO ENERGY INC				RECEIVED:		07/15/83 JA: TX			
8344944	F-7C-64390	4239931588		102-4		CORA PETRIE #1	PETRIE (MORRIS)	67.9	UNION TEXAS PETRO
-WILLIAMS R E				RECEIVED:		07/15/83 JA: TX			
8345062	F-7B-067965	4208300000		108		BERTRAND O C #1	COLEMAN COUNTY REGULA	0.0	LONE STAR GAS CO
8345075	F-7B-068297	4208300000		108		BERTRAND O C #2	COLEMAN COUNTY REGULA	0.0	LONE STAR GAS CO
8345076	F-7B-068298	4208300000		108		BERTRAND O C #3	COLEMAN COUNTY REGULA	0.0	LONE STAR GAS CO
-WILSON ENERGY INC				RECEIVED:		07/15/83 JA: TX			
8345136	F-08-069347	4232931072		102-4		BENTON #1	BETTY SUE (STRAWN)	215.0	PHILLIPS PETROLEU
8344942	F-7C-64323	4210532444		108		MAGGIE NEAL #3	FARMER (SAN ANDRES)	0.1	J L DAVIS
-WINDSOR GAS CORP				RECEIVED:		07/15/83 JA: TX			
8344940	F-7C-64269	4243532657		103	107-TF	DUKE WILSON #1763	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
8344939	F-7C-64268	4243532656		103	107-TF	DUKE WILSON #1781	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
8344938	F-7C-64267	4243500000		103	107-TF	DUKE WILSON #1855	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
8344941	F-7C-064270	4243532801		103	107-TF	DUKE WILSON #1885	SHURLEY RANCH (CANYON	0.0	VALERO TRANSMISSI
-WINN EXPLORATION/DULCE CO				RECEIVED:		07/15/83 JA: TX			
8345096	F-01-068831	4250731608		102-4		PRYOR RANCH #48	WINN-DULCE	0.0	NORTHERN NATURAL
-WOODS PETROLEUM CORPORATION				RECEIVED:		07/15/83 JA: TX			
8345095	F-8A-068796	4207931633		102-4		RJR RANCH "A" #2	BONANZA (SAN ANDRES)	5.0	WARREN PETROLEUM
-3-M ENERGY CORP				RECEIVED:		07/15/83 JA: TX			
8345157	F-7C-069468	4245100000		102-4		WEATHERFORD #1 07C-088508	VERIBEST E (HARKEY)	72.0	SUN EXPLORATION &

[FR Doc. 83-21343 Filed 8-4-83; 8:45 am]

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federal register

Friday
August 5, 1983

Part V

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Insured Financial Institutions, Retail Food Stores and Wholesale Food Concerns; Proposed Amendments

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 278 and 279

[Amt. No. 257]

Food Stamp Program; Insured Financial Institutions; Retail Food Stores and Wholesale Food Concerns; Miscellaneous Amendments

AGENCY: Food and Nutrition Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Department proposes to amend various provisions of the regulations governing insured financial institutions, retail food stores and wholesale food concerns participating in the Food Stamp Program. These proposed amendments are being published in response to violations and abuses observed by the Food and Nutrition Service. These amendments clarify distinctions between retail food stores and wholesale food concerns; specify additional conditions under which the authorizations of firms may be withdrawn; increase the accountability of insured financial institutions in the coupon redemption process; and expand the authority of the Food and Nutrition Service to establish claims against violators. There are also several technical revisions intended to ensure greater consistency between statutory and regulatory provisions.

DATES: Comments must be received by October 4, 1983.

ADDRESS: Comments should be submitted to Thomas O'Connor, Chief, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302. All written comments will be open to public inspection at the office of the Food and Nutrition Service during regular business hours (8:30 a.m. to 5:00 p.m., Monday through Friday), at 3101 Park Center Drive, Alexandria, Virginia, Room 706.

FOR FURTHER INFORMATION CONTACT: Daniel Woodhead, Supervisor, Issuance and Benefit Delivery Section, Program Design and Rulemaking Branch, Program Planning, Development and Support Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Alexandria, Virginia 22302; (703) 756-3425.

SUPPLEMENTARY INFORMATION:

Classification

Executive Order 12291. The Department has reviewed this rule under Executive Order 12291 and Secretary's Memorandum No. 1512-1. The rule will affect the economy by less than $100 million a year. The rule will not significantly raise costs or prices for consumers, industries, government agencies or geographic regions. There will not be significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, the Department has classified the rule as "not major".

Regulatory Flexibility Act

This rule has been reviewed with regard to the requirements of the Regulatory Flexibility Act, Pub. L. 96-354. Robert E. Leard, Administrator of the Food and Nutrition Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Although a large number of small entities (retail food stores and insured financial institutions) will be affected, the economic impact on such entities will be negligible.

Recordkeeping Requirements

The reporting requirements contained in this rule (in § 278.5(a)(2)) have been approved by the Office of Management and Budget (OMB). (OMB approval No. 0584-0085.)

Amendments

1. Authorization of Retail Food Stores

The Department has recently received applications for authorization as retail firms from several formerly authorized wholesale food concerns. These firms were withdrawn from the program pursuant to regulations published December 29, 1981, at 46 FR 62808 on the basis that their continued authorization as wholesale food concerns was not required for the effective and efficient operation of the Food Stamp Program. The authorization as retailers of firms which are primarily wholesalers and which do little, if any, retail business would allow such firms to accept coupons as wholesalers and redeem them under their retailer authorizations. Such authorizations would circumvent the effect of the December 29 regulations and create a potential for fraudulent redemptions by wholesalers. Therefore, the Department proposes to add criteria regarding the authorization, as retail food stores, of certain firms which have both a retail and wholesale food business. Under Section 9(b) of the Food Stamp Act of 1977, as amended (7 U.S.C. 2018(b)), no firm may be authorized to accept and redeem coupons as both a retail food store and a wholesale food concern at the same time. The Department recognizes that the authorization as retail food stores of certain wholesale food concerns may be required to provide adequate service to recipient households and would add criteria for the authorization of such firms. Such firms may be authorized only if they have a significant retail food business.

Determinations of what constitutes a significant retail food business will necessarily be made on a case-by-case basis. Factors which FNS will consider in determining whether a wholesale firm has a significant retail food business include the percent of total sales and dollar value, represented by retail sales, as well as whether the firm holds itself out to the public as a retail food store and whether it actively seeks retail food trade. It is anticipated that very few wholesale firms will be authorized as retailers under the proposed criteria. If authorized as a retailer, a firm with a retail and wholesale business would be prohibited from accepting or redeeming coupons as a wholesale food concern. (§ 278.1(b)(1)(iv)).

2. Withdrawal of Authorized Firms

The Department proposes to add three additional conditions under which the authorization of a firm may be withdrawn. Two of these conditions are refusal to accept correspondence from FNS and refusal to respond to inquiries from FNS. These two conditions would primarily affect firms which refuse to accept charge letters or notices of disqualification, or refuse to respond to other correspondence from FNS. The third condition would allow FNS to withdraw the authorization of a firm if the firm cannot be readily located. This condition primarily affects certain "rolling stores," which by definition do not operate from a fixed location, or firms which have relocated without notifying FNS (§ 278.1(1)).

3. Acceptance and Redemption of Food Coupons by Authorized Firms

The Department proposes to amend § 278.2(a) to specifically prohibit authorized retail food stores from accepting coupons form other retail stores. Although the acceptance of food coupons by an authorized retail food store from another food store is clearly inconsistent with Congressional intent that no firm accept and redeem coupons as both a retail firm and wholesale food concern, several authorized retail firms have accepted coupons from other such firms. The Department has determined that a specific prohibition would more

effectively discourage the practice of authorized retail firms acting as wholesale firms in food coupon transactions. (§ 278.2(a)).

The Department also proposes to amend § 278.2(d) to prohibit an authorized retail firm from engaging in any series of coupon transactions to provide the same customer an amount of cash change greater than the maximum 99 cents allowed in one transaction. Currently, a series of transactions of less than 1 dollar is prohibited. Although very small transactions would be used in most cases to circumvent the cash change limitation, it has come to the Department's attention that on at least a few occasions, larger transactions were used in an attempt to circumvent the limitation. Because the amount of each transaction was more than 1 dollar, the regulations did not forbid the circumvention. Therefore, the Department proposes to prohibit any series of such transactions. (§ 278.2(d)).

4. Redemption of Coupons by Financial Institutions

The Food Stamp Program Regulations (§ 278.4(c)) require that retail food stores and wholesale food concerns execute and surrender a redemption certificate each time they redeem food coupons at insured financial institutions. Presently the Food and Nutrition Service does not require a redeeming financial institution to verify the amount of coupons being redeemd by recording its count on the redemption certificate. Currently, financial institutions forward the food coupons to the Federal Reserve Bank through normal banking channels. The Federal Reserve Bank credits the financial institution for coupons received, destroys the food coupons and charges FNS for the face value of food coupons received and destroyed. The Federal Reserve Banks send the redemption certificates directly to the FNS Computer Center in Minneapolis, Minnesota. The center tabulates the value of coupons shown on the redemption certificates and generates various operational and management reports.

The present system does a good job in monitoring the activities of authorized retail food stores. It does not, however, reconcile the individual redemption certificate with the value of coupons it reflects, nor does it provide data to verify Federal Reserve Bank charges for food coupons received and destroyed. A new redemption procedure was recently tested as a cooperative effort between FNS and the Federal Reserve Bank of Atlanta.

Under the test, redeeming financial institutions verified the amount of coupons being redeemed and entered the count on the redemption certificate. Financial institutions recorded their count by encoding the count on the redemption certificate to permit Magnetic Ink Character Recognition (MICR) or by handprinting the count on the redemption certificate. With MICR encoding, a 98 percent read rate with automated scanning equipment can be anticipated; with handprinting, a 60 percent rate is expected. During the test, food coupons, redemption certificates and the transmitting Food Coupon Deposit Document (cash letter) were forwarded to the Federal Reserve Bank. The Federal Reserve Bank went through its normal procedure of counting the coupons, crediting the depositing financial institution and destroying the coupons. It also sent redemption certificates and a copy of the Food Coupon Deposit Document, for each depositing financial institution, to the FNS Computer Center for data entry and report generation.

Each redemption certificate identifies the authorized firm and the financial institution's count of redeemed coupons. Each Food Coupon Deposit Document identifies the depositing financial institution, the value of the coupons being deposited and the value of redemption certificates sent with the transmittal. With this information, test clearly tightened the entire redemption process by providing a complete audit trail from the authorized firm to the financial institution to the Federal Reserve Bank. Additional results of the test show that the difference between the dollar value of coupons redeemed and the amount shown on the redemption certificate was greatly reduced. On the basis of these results, the Department proposes to institute the strengthened redemption procedures program wide. Also, to reduce processing costs and to improve the accuracy of data entry, the proposed amendment encourages financial institutions to MICR encode redemption certificates. (§ 278.5(a)).

To further enhance the quality of accountability of the redemption process, the Department is proposing one additional redemption procedure for redeeming financial institutions. The proposed regulations would require the depositing institution's name or its routing symbol transit number to appear on the straps affixed to each bundle of cancelled coupons of like denomination if this information does not appear on the coupon face. In addition to this requirement, the amendment would also provide that FNS monitor coupons presented for redemption at the Federal Reserve and, at its discretion, return to the depositing institution deposits not meeting cancellation requirements (§ 278.5(a)).

After accepting coupons from authorized firms, redeeming financial institutions forward coupons for credit either directly to Federal Reserve Banks or through ordinary collection channels. Federal Reserve Banks receive coupon deposits as cash items and charge those items to the general account of the Treasurer of the United States. If the coupons never reach the Federal Reserve, no debiting occurs. It has been presumed that coupons lost by burglary or robbery or lost in transit never reach the Federal Reserve or were endorsed and, therefore, not negotiable. Therefore, FNS currently reimburses financial institutions for such losses. (Financial institutions were reimbursed a total of $2.5 million for losses in transit during fiscal years 1975–81.)

Recently, however, evidence has indicated that lost coupons may occasionally be found and redeemed subsequent to FNS reimbursement for those coupons, resulting in FNS paying for them twice. The Department therefore proposes to rescind FNS' liability for losses in transit and losses by burglary or robbery and would make financial institutions liable for such losses. (§ 278.5 (c) and (d)).

5. Establishment of Claims by FNS for Funds Lost Through Violations

The Department proposes to alter some of the provisions in § 278.7 concerning claims by FNS to recover funds lost to the agency through the acceptance or redemption of coupons in violation of the Food Stamp Act or regulations. One of the amendments would permit FNS to establish a claim against any person or firm which has accepted or redeemed coupons in violation of the Act or regulations. Currently, the regulations provide that FNS may establish a claim only against an authorized firm. This limitation precludes FNS from recovering funds lost to the agency through violations by firms or entities other than authorized firms. The proposed amendment would enhance the Department's ability to recover funds lost through the unauthorized acceptance or redemption of coupons. This change is based on the authority in Section 13 of the Food Stamp Act of 1977 which provides that "The Secretary shall have the power to determine the amount of and settle and adjust any claim . . . arising under the provisions of this Act or the regulations issued pursuant to this Act."

The amendment to § 278.7 would also allow FNS to deny any application for

authorization or reauthorization of a firm for failure to pay a claim asserted by FNS for coupons accepted in violation of the Act or regulations. FNS may deny a firm's application for authorization or reauthorization regardless of whether the firm was authorized at the time that the violations which gave rise to the claim occurred. (§ 278.7(a)).

6. Administrative Review of Claims by Authorized Firms Against FNS

Sections 278.7(e), 278.8(a) and 279.3(a)(3) are amended to clarify that the denial of claims brought by firms against FNS is subject to administrative review, but claims asserted by FNS against firms are not subject to administrative review. The current regulatory provisions have been misconstrued to provide for administrative review of claims asserted by FNS against firms. Under Section 14 of the Food Stamp Act of 1977, as amended (7 U.S.C. 2023), the denial by FNS of a claim brought by a retail food store or wholesale food concern against FNS is subject to administrative review. The Act does not provide for administrative review of claims asserted by FNS against firms. Therefore, the Department is proposing to amend the applicable regulatory provisons to eliminate the current ambiguity in the regulations. Although the amendment would provide that claims asserted by FNS against firms are not subject to administrative review, a firm may, under the provisions of § 278.8(a), request administrative review of any refusal to authorize, disqualification, civil money penalty, or withdrawal from program participation which relates to a claim asserted by FNS. (§§ 278.7(e), 278.8(a) and 279.3(a)(3)).

7. Requests by Firms for Administrative Review of FNS Actions

The address to be used by firms requesting administrative review is being revised to reflect the relocation of the Food and Nutrition Service. This change is effective immediately. (§ 278.8(b)).

Implementation

Except as noted below, the provisions of this amendment shall be effective 30 days following the publication of this amendment as a final rule in the **Federal Register**. The Department proposes to implement § 278.5(a) requiring redeeming financial institutions to verify that coupon deposits are supported by redemption certificates 30 days following publication of this amendment as a final rule in the **Federal Register**. Implementation will be phased in by Federal Reserve Bank districts in accordance with a schedule determined by the Federal Reserve Board.

List of Subjects

7 CFR Part 278

Administrative practice and procedure, Banks, banking, Claims, Food stamps, Groceries—retail, Groceries, General line—wholesaler, Penalties.

7 CFR Part 279

Administrative practice and procedure, Food stamps, Groceries—retail, Groceries, General line—wholesaler.

Accordingly, 7 CFR Parts 278 and 279 are proposed to be amended as follows:

PART 278—PARTICIPATION OF RETAIL FOOD STORES, WHOLESALE FOOD CONCERNS AND INSURED FINANCIAL INSTITUTIONS

1. In § 278.1, a new paragraph (b)(1)(iv) is added. Paragraphs (l), (m), (n), and (o), are redesignated as paragraphs (m), (n), (o), and (p), respectively, and a new paragrph (l) is added. The additions read as follows:

§ 278.1 Approval of retail food stores and wholesale food concerns.

* * * * *

(b) *Determination of authorization.*

* * *

(1) * * *

(iv) A firm whose primary business is the sale of food at the wholesale level may not be authorized as a retail firm unless it also has a significant volume of retail food sales. In addition to criteria applicable to all retail firms, the FNS officer in charge shall also consider the volume of the firm's retail food business in relation to its wholesale food business, whether the firm holds itself out to the public as a retail food store, and whether the firm actively seeks retail food trade. A firm authorized under this subparagraph may not accept coupons as a wholesale food concern.

* * * * *

(l) *Refusal to accept correspondence or to respond to inquiries.* FNS may withdraw the authorization of any firm which:

(1) Refuses to accept correspondence from FNS;

(2) Fails to respond to inquiries from FNS; or

(3) Cannot be located by FNS.

* * * * *

2. In § 278.2, paragraph (a) is revised, and paragraph (d) is amended by removing the phrase "of less than 1 dollar" appearing in the last sentence. The revision reads as follows:

§278.2 Participation of retail food stores.

(a) *Use of coupons.* Coupons may be accepted by an authorized retail food store only from eligible households or the households' authorized representatives, and only in exchange for eligible food. Coupons may not be accepted in exchange for cash, except when cash is returned as change in a transaction in which coupons were accepted in payment for eligible food, under paragraph (d) of this section. Coupons may not be accepted in payment of interest on loans, or for any other nonfood use. An authorized retail food store may not accept coupons from another retail food store.

* * * * *

3. In § 278.5, paragraphs (a) and (c) are revised, paragraph (d) is removed, and paragraphs (e), (f) and (g) are redesignated as paragraphs (d), (e) and (f) respectively. The revisions read as follows:

§ 278.5 Participation of insured financial institutions.

(a) *Accepting coupons.* (1) Financial institutions that are insured by the Federal Deposit Insurance Corporation (FDIC) or the Federal Savings and Loan Insurance Corporation (FSLIC) may redeem coupons only from authorized retail food stores, meal services, and wholesale food concerns in accordance with this part and the instructions of the Federal Reserve Banks. Coupons submitted to insured financial institutions for credit or cash must be properly endorsed in accordance with § 278.4 of this part and shall be accompanied by a properly completed and signed redemption certificate.

(2) Insured financial institutions shall verify the amount of the coupons being redeemed by recording its count on the redemption certificate. The count may either be encoded to permit Magnetic Ink Character Recognition (MICR) or hand written. However, financial institutions are encouraged to MICR encode the count. Redemption certificates accepted by insured financial institutions shall be forwarded with the corresponding coupon deposits, to their Federal Reserve Bank along with the transmitting Food Coupon Deposit Document (cash letter).

(3) Redeemed coupons must be indelibly cancelled on the face of the coupon by the first insured financial institution receiving them. If the

cancellation on the coupon face does not show the depositing institution's name or its routing symbol transit number, this identifying information must appear on the straps affixed to each bundle of coupons of like denomination. FNS shall monitor coupons presented for redemption at the Federal Reserve. Deposits not meeting these cancellation requirements may be returned to the depositing institution for reprocessing at FNS discretion. A portion of a coupon consisting of less than three-fifths of a whole coupon may bot be redeemed.

(4) Insured financial institutions which are members of the Federal Reserve System, insured nonmember clearing institutions, and insured nonmember institutions which have arranged with a Federal Reserve Bank to deposit coupons for credit to the account of a member institution on the books of a Federal Reserve Bank may forward coupons directly to the Federal Reserve Bank. Other insured financial institutions may forward cancelled coupons through ordinary collection channels.

* * * * *

(c) *FNS liability for losses.* FNS shall not be liable for losses of shipments of coupons while in transit to Federal Reserve Bank or correspondent insured financial institutions, or for losses as a result of burglary or robbery.

* * * * *

4. In § 278.7, paragraphs (a) and (e) are revised to read as follows:

§278.7 Determination and disposition of claims—retail food stores and wholesale food concerns.

(a) *Claims against violators.* FNS shall establish and pursue claims against firms or other entities which have accepted or redeemed coupons in violation of the Food Stamp Act or this part. If a firm fails to pay a claim, FNS may collect the claim by offsetting against amounts due the firm on redemption of other coupons. FNS shall deny an application for authorization or reauthorization by a firm which has failed to pay a claim.

* * * * *

(e) *Denials of Claims Brought by Authorized Firms Against FNS.* If a claim brought by a firm against FNS under this section is denied in whole or in part, notification of this action shall be sent to the firm by certified mail or personal service. If the firm is aggrieved by this action, it may seek administrative review as provided in § 278.8.

* * * * *

5. In § 278.8, paragraphs (a)and (b) are revised to read as follows:

§ 278.8 Administrative review—retail food stores and wholesale food concerns.

(a) *Requesting review.* A food retailer or food wholesaler aggrieved by administrative action under §§ 278.1, 278.6 or 278.7(b), (c) or (d) may, within the period stated in § 279.5 file a written request for review of the administrative action with the review officer. On receipt of the request for review, the questioned administrative action shall be stayed pending disposition of the request for review by the review officer except that a permanent disqualification will not be subject to an automatic stay. An administrative stay of a permanent disqualification may be available upon a showing by the appellant that there is a substantial likelihood that no disqualification is warranted. A disqualification for failing to pay a civil money penalty shall not be subject to an administrative review.

(b) *Addressing the request.* The request for review shall be filed with the Director, Administrative Review Division, FNS, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, Virginia 22302.

* * * * *

6. Part 278 is amended by adding a new § 278.9 to read as follows:

§ 278.9 Implementation of amendments relating to the participation of retail food stores, wholesale food concerns and insured financial institutions.

Amendment No. 257. With the exception of the provisions in § 278.5 requiring redeeming financial institutions to verify that coupons are supported by redemption certificates, the revisions to Part 278 shall be effective 30 days following publication of the amendment as a final rule in the **Federal Register.** Redeeming financial institutions shall begin verifying coupon deposits as required by § 278.5 in accordance with the schedule determined by the Federal Reserve Board. Implementation is to be phased in by Federal Reserve Bank districts beginning 30 days following publication of the amendment as a final rule in the **Federal Register.**

PART 279—ADMINISTRATIVE AND JUDICIAL REVIEW—FOOD RETAILERS AND FOOD WHOLESALERS

7. In § 279.3, paragraph (a)(3) is revised to read as follows:

§ 279.3 Authority and jurisdiction.

* * * * *

(a) *Jurisdiction.* * * *

(3) Denial of all or part of any claim by a firm against FNS under § 278.7

* * * * *

8. Part 279 is amended by adding a new Subpart D consisting of § 279.11 to read as follows:

Subpart D—Implementation

§ 279.11 Implementation of amendments relating to administrative and judicial review.

Amendment No. 257. The program charge to § 279.3(a)(3) shall be effective 30 days following publication of the amendment as a final rule in the **Federal Register.**

(91 Stat., 958 (7 U.S.C. 2011–2029))

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

Dated: July 26, 1983.

John H. Stokes III,

Acting Administrator.

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE 41 FR 32914, August 6, 1976.) Documents normally scheduled for publication on a day that will be a Federal holiday will be published the next work day following the holiday.

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/SECRETARY	USDA/ASCS		DOT/SECRETARY	USDA/ASCS
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.**

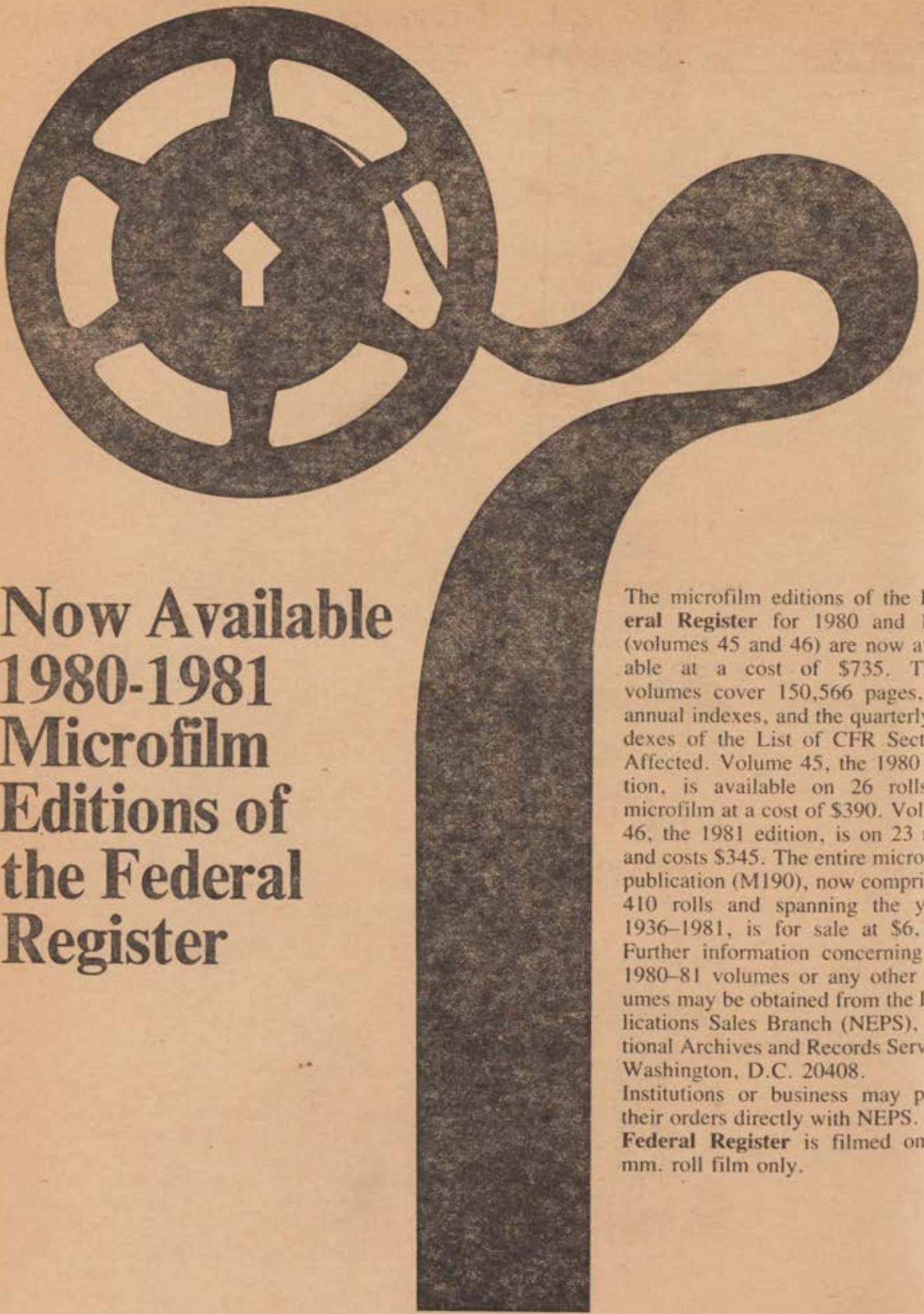
List of Public Laws

Last Listing August 3, 1983

This is a continuing list of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (phone 202-275-3030).

S. 419/Pub. L. 98-64 To provide that per capita payments to Indians may be made by tribal governments, and for other purposes. (August 2, 1983; 97 Stat. 365) Price $1.50

H.R. 2637/Pub. L. 98-65 To amend the District of Columbia Self-Government and Governmental Reorganization Act to increase the amount authorized to be appropriated as the annual Federal payment to the District of Columbia. (August 2, 1983, 97 Stat. 367) Price: $1.50



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