9-8-83
Vol. 48 No. 175
Pages 40497-40694

Federal Register

Thursday
September 8, 1983

Selected Subjects

Agricultural Commodities
Agricultural Marketing Service

Animal Drugs
Food and Drug Administration

Authority Delegations (Government Agencies)
Small Business Administration

Aviation Safety
Federal Aviation Administration

Community Development Block Grants
Community Planning and Development, Office of Assistant Secretary

Fisheries
National Oceanic and Atmospheric Administration

Food Additives
Food and Drug Administration

Handicapped
Transportation Department

Income Taxes
Internal Revenue Service

Marketing Agreements
Agricultural Marketing Service

Milk Marketing Orders
Agricultural Marketing Service

Old-Age, Survivors and Disability Insurance
Social Security Administration

CONTINUED INSIDE

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

The **Federal Register** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders and Federal agency documents having general applicability and legal effect, documents required to be published by Act of Congress and other Federal agency documents of public interest. Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless earlier filing is requested by the issuing agency.

The **Federal Register** will be furnished by mail to subscribers for $300.00 per year, or $150.00 for six months, payable in advance. The charge for individual copies is $1.50 for each issue, or $1.50 for each group of pages as actually bound. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington D.C. 20402.

There are no restrictions on the republication of material appearing in the **Federal Register.**

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

Selected Subjects

Contents

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

Separate Parts in This Issue

CFR PARTS AFFECTED IN THIS ISSUE

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

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

Presidential Documents

Title 3—

The President

Proclamation 5087 of September 6, 1983

Fire Prevention Week, 1983

By the President of the United States of America

A Proclamation

This great Nation of ours, the richest and most technologically advanced in the world, continues to lead all major industrialized countries in per capita deaths and property loss from fire.

Each year thousands of American lives are lost, billions of dollars in property are needlessly destroyed, and thousands of persons are permanently disfigured or disabled by burn injuries from preventable fires.

Obviously, we must continue to address fire prevention as a national priority, and I strongly urge each citizen to make a personal commitment to aid in the reduction of this senseless and tragic waste of precious lives, property, and natural resources from fire. Through a concentrated effort our Nation can substantially reduce the human suffering and economic losses from fire.

Since most deaths and injuries from fire occur in the home, it is essential that families install and maintain smoke detectors to provide early warning should a fire occur. In addition, each family should establish and practice home fire escape plans. Commercial enterprises and State and local governments should consider installation of fast-response sprinklers to protect lives in residences, hotels, motels, and nursing homes.

An indispensable ingredient of fire prevention is our professional firefighter. Firefighting is one of our most hazardous occupations. We are indebted to the brave men and women who serve communities across the Nation so bravely—often at the risk of their own safety and sometimes at the cost of their own lives.

We must also applaud the efforts of our fire chiefs, the National Fire Protection Association, the Fire Marshals Association of North America, the International Association of Fire Chiefs, the International Association of Firefighters, the National Volunteer Fire Council, the International Society of Fire Service Instructors, the Joint Council of National Fire Service Organizations, the National Safety Council, and others for their work to reduce fire losses. These dedicated men and women need and merit our assistance and support.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate the week of October 9 through 15, 1983, as Fire Prevention Week, 1983.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24761
Filed 9-7-83; 11:08 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5088 of September 6, 1983

National School Lunch Week, 1983

By the President of the United States of America

A Proclamation

The National School Lunch Program—now in its 37th year—operates to provide nutritious and well-balanced meals to many young people of our country. The school lunch program is an outstanding example of the partnership between the Federal government and State and local governments to make available the food, funds, and technical support that insures continued nutritional assistance for school students.

The youth of America are our greatest resource. The school lunch program demonstrates the awareness, concern, and willingness to work together that we all share in promoting the health and well-being of our students.

Over 23 million lunches are served daily in some 90,000 schools throughout the country. This effort is being conducted by resourceful and creative food service managers and staff in cooperation with government, parents, teachers, and civic groups.

By joint resolution approved October 9, 1962, the Congress designated the week beginning on the second Sunday of October in each year as National School Lunch Week and requested the President to issue annually a proclamation calling for the observance of that week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby urge the people of the United States to observe the week of October 9, 1983, as National School Lunch Week and to give special and deserved recognition to those people at the State and local level who, through their innovative efforts, have made it possible to have a successful school lunch program.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24762
Filed 9-7-83; 11:09 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5089 of September 6, 1983

Columbus Day, 1983

By the President of the United States of America

A Proclamation

It is fitting that Americans honor those individuals who have altered the course of history in this country by exhibiting great moral character and courage—men and women who have contributed to the development of personal liberties we enjoy today. Thus, it is especially appropriate that I urge all Americans to honor one of those individuals, Christopher Columbus.

Columbus was a bold and adventurous navigator who left Europe in 1492 in search of new lands and first recorded the sighting of the North American continent. In this sense he personifies the courage and vision so many explorers exhibited during this period. Yet he is more than this. He represents a spirit, the spirit of the Renaissance which contributed to the development of America. Along with Galileo, Copernicus, and others, Columbus symbolizes a quest for knowledge, a willingness and fortitude to go beyond what is accepted as truth in the name of progress. Columbus did not fall off the face of the earth; rather, through daring, risk, and innovation, he discovered new horizons.

Since Columbus discovered America, numerous families have exhibited that same courage and fortitude in setting sail across the seas to become American citizens. By taking that step into the new and unknown, those same families created an opportunity to realize increased prosperity and greater freedom here in these United States. The accomplishments and contributions of Christopher Columbus provide an example of the rewards that can come from taking initiatives. Today Americans have the opportunity and freedom to make accomplishments and contributions of their own and to enjoy the feelings of accomplishment which follow.

Of course Columbus Day is a day of special importance to Americans of Italian heritage. It is a day when all Americans should join in recognizing the great contributions of Italian-Americans to this country's cultural, scientific, athletic and commercial achievements, and religious vitality.

In tribute to the achievement of Columbus, the Congress of the United States, by joint resolution approved April 30, 1934 (48 Stat. 657), as modified by the Act of June 28, 1968 (82 Stat. 250), has authorized and requested the President to issue a proclamation designating the second Monday in October of each year as Columbus Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate Monday, October 10, 1983, as Columbus Day. I invite the people of this Nation to observe that day in schools, churches and other suitable places with appropriate ceremonies in honor of this great explorer. I also direct that the flag of the United States be displayed on all public buildings on the appointed day in memory of Christopher Columbus.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th. day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24763
Filed 9-7-83; 11:10 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5090 of September 6, 1983

General Pulaski Memorial Day, 1983

By the President of the United States of America

A Proclamation

On October 11, 1779, the Polish and American patriot Casimir Pulaski was mortally wounded while leading his troops in battle at Savannah, Georgia. Pulaski died fighting in our American Revolution so that we could live as a free and independent Nation.

It is fitting that we should pay tribute to this martyr for freedom and that free men and women everywhere should take this occasion to rededicate themselves to the principles for which Pulaski gave his life. The power of the ideal of freedom remains vital, both in Pulaski's homeland and in his adopted country. In paying tribute to Casimir Pulaski, we pay tribute as well to all those Poles who have sacrificed themselves over the years for their common goal: the freedom of that heroic nation.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, in recognition of the supreme sacrifice General Pulaski made for his adopted country, do hereby designate October 11, 1983, as General Pulaski Memorial Day, and I direct the appropriate Government officials to display the flag of the United States on all Government buildings on that day.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24764
Filed 9-7-83; 11:11 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5091 of September 6, 1983

White Cane Safety Day, 1983

By the President of the United States of America

A Proclamation

One of the great blessings of life is to be able to move at will from place to place unhampered by fear for one's personal safety. For those who are blind, the white cane helps to make such freedom of movement possible. It enables the blind to use our streets and public facilities with maximum safety and thereby know the joys of self-reliance and independence and experience a more fulfilling life.

All Americans should be aware of the significance of the white cane and extend every courtesy and consideration to the men and women who carry it. In this way, we respect the privacy of the visually disabled and contribute to enlarging their mobility and independence.

In recognition of the significance of the white cane, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003), has authorized and requested the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim October 15, 1983, as White Cane Safety Day. I urge all Americans to mark this occasion by giving greater consideration to the special needs of the visually disabled, and, particularly, to observe White Cane Safety Day with activities that contribute to maximum independent use of our streets and public facilities by our visually handicapped.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24765
Filed 9-7-83; 11:12 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5092 of September 6, 1983

National Forest Products Week, 1983

By the President of the United States of America

A Proclamation

Throughout our history, our Nation's abundant forests have served us in so many vital respects that we sometimes forget this extraordinary renewable natural resource. The growing and harvesting of trees, and the work force that turns them into useful products, make a valuable contribution to the Nation's economic well-being, and to providing homes for our people.

Familiar and useful items ranging from furniture to grocery bags to turpentine were once parts of trees in the forest. Our forest lands also provide water for homes, agriculture, and industry and pastures for grazing animals. Our forests serve us in many other ways. They provide a home for wildlife and are a source of recreational activities ranging from driving through and enjoying the scenery, to mountain climbing and backpacking in our numerous parks and wilderness areas.

We recognize that maintaining a healthy environment and a healthy economy are essential and complementary goals. We can be proud of our success and commitment to effective forest management, which strikes a vital balance between preservation and development of our forests. Through wise and sensitive management, we will maintain this vitally important part of our Nation's heritage, so those who follow will inherit forests that are even more useful and productive.

To promote greater awareness and appreciation for our forest resources, the Congress, by Public Law 86–753, 36 U.S.C. 163, has designated the week beginning on the third Sunday in October as National Forest Products Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning on October 16, 1983, as National Forest Products Week and request that all Americans express their appreciation for the Nation's forests through suitable activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 6th day of Sept., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and eighth.

Ronald Reagan

[FR Doc. 83-24766
Filed 9-7-83; 11:13 am]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 51

United States Standards for Grades of American (Eastern Type) Bunch Grapes

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the voluntary U.S. Standards for Grades of American (Eastern Type) Bunch Grapes. This rule will provide more reasonable tolerance limitations for small consumer-size containers; make minor changes in bunch requirements for U.S. No. 1 Table Grapes; and, delete reference to specific varieties with respect to applicable size requirements.

The Agricultural Marketing Service has the responsibility, in cooperation with industry, to maintain grade standards in line with current cultural and marketing practices.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Michael V. Morrelli, Fresh Products Branch, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447–2011.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA Procedures and Executive Order 12291 and has been designated as a "non-major" rule. It will not result in an annual effect on the economy of $100 million or more. There will be no major increase in cost or prices for consumers; individual industries; Federal, State, or local government agencies; or geographic regions. It will not result in significant effects on competition, employment, investments, productivity, innovations, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

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, as defined in the Regulatory Flexibility Act, Pub. L. 96–354 (5 U.S.C. 601), because it reflects current marketing practices.

This amendment makes the following changes in the standards:

(1) The current container tolerance limitations of 1½ times for a lot tolerance of 10 percent or more and 2 times for a lot tolerance of less than 10 percent are increased to 3 times the specified lot tolerance for grapes packed in containers of 5 pounds or less. This provides more reasonable container limitations for small consumer-size units. Inasmuch as this change applies only to individual container tolerances and does not affect lot tolerances, the quality level for the lot as a whole is maintained as under the current standards.

(2) The U.S. No. 1 Table Grapes grade currently requires at least 85 percent of the bunches in each container to be fairly compact. This amendment will permit containers of 5 pounds or less to have not less than 50 percent fairly compact bunches, provided that the average for the lot is not less than 85 percent. Bunches may not be excessively small, except that portions of bunches consisting of not less than three berries may be use to fill open spaces between whole bunches. This provides more realistic bunch requirements for individual consumer-size packages.

(3) Deletes from the "Size of berries" sections of the U.S. Fancy and U.S. No. 1 Table Grapes grades references to specific varieties and adds "unless otherwise specified." This allows a minimum berry size, other than ⅝ inch, to be specified in connection with the grade for any variety.

A proposal to amend the U.S. Standards for Grades of American (Eastern Type) Bunch Grapes was published in the **Federal Register** on June 2, 1983 (48 FR 24723–24724) with a comment period ending August 1, 1983. Industry requested that the standards be amended to bring them in line with current cultural and marketing practices. Copies of the proposal were widely distributed to interested persons for review and comment.

Eleven responses were received during the comment period. Nine of them were in complete agreement with the proposed changes. A large grocery chain expressed concern that permitting the minimum berry size to be specified in connection with the grade by the seller, instead of a specified minimum size, would encourage inferior horticultural practices on the part of the grape-growing community and tend to weaken the grade standards. However, this change does not prevent the buyer from setting the minimum berry size desired in buyer-seller purchase contracts. Continuing to require a specific minimum berry size would reduce the flexibility necessary to keep the standards in line with changes in cultural and marketing practices and introduction of new varieties.

A State Director of Agriculture opposed the proposal to increase the amount of defects permitted in the individual container, contending that the individual container sold to the consumer would be a very poor quality package if it contained the proposed maximum allowable defects. The standards, in effect since 1926 (revised 1965), were established when the product was marketed in 8-quart or larger containers and the package limitations were based on what was considered to be reasonable for the size of the container. Industry now markets a substantial portion of the product in a much smaller consumer-size container. As a result, package limitations are overly restrictive in that a single 1-quart container exceeding limitations will cause a lot to fail to meet the U.S. grades even though the lot average is within or well within the specified tolerances.

After a careful review of the comments, the U.S. Department of Agriculture has determined that the issuance of these amended standards will benefit users in that they will be more in line with current cultural and marketing practices.

It is found that it is contrary to public and industry interests to postpone the effective date until 30 days after publication in the **Federal Register** [5 U.S.C. 553], and good cause exists for making this amendment effective upon

publication in that: (1) The domestic grape harvest will begin on or about the last week of August; (2) this rule remains the same as the proposed rule; (3) amending of the standards will not require industry to make any changes in their current marketing practices.

List of Subjects in 7 CFR Part 51

Agricultural commodities.

PART 51—[AMENDED]

Accordingly, 7 CFR Part 51 is amended as follows:

1. In § 51.3610, paragraph (b) is revised to read:

§ 51.3610 U.S. Fancy Table Grapes.

* * * * *

(b) Size of berries. Not less than 90 percent, by count, of the berries, exclusive of dried berries, on each bunch shall have a minimum diameter, unless otherwise specified, of 9/16 of an inch.

* * * * *

2. In § 51.3611, paragraph (a) and (b) are revised to read:

§ 51.3611 U.S. No. 1 Table Grapes.

* * * * *

(a) *Bunches.* At least 85 percent of the bunches in each container are fairly compact; except that for packages which contain 5 pounds or less, at least 50 percent of the bunches in any container are fairly compact, provided that the average for the lot is not less than 85 percent. Bunches shall not be excessively small, except that portions of bunches consisting of not less than three berries may be used to fill open spaces between whole bunches.

(b) *Size of berries.* Not less than 90 percent, by count, of the berries, exclusive of dried berries, on each bunch shall have a minimum diameter, unless otherwise specified, of 9/16 of an inch.

3. Section 51.3614 is amended by revising the introductory text, paragraph (a) and adding paragraph (b) to read:

§ 51.3614 Application of tolerances.

The contents of individual packages in the lot, based on sample inspection, are subject to the following limitations, provided that the averages for the entire lot are within the tolerances specified for the grade:

(a) Individual packages which contain more than 5 pounds: Shall contain not more than one and one-half times a specified tolerance of 10 percent or more and not more than double a specified tolerance of less than 10 percent.

(b) Individual packages which contain 5 pounds or less: Shall contain not more than three times the specified tolerance.

(Agricultural Marketing Act of 1946, Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended [7 U.S.C. 1622, 1624])

Done at Washington, D.C. on: September 1, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations.

[FR Doc. 83-24535 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-02-M

---

7 CFR Part 908

Valencia Oranges Grown in Arizona and Designated Part of California; Limitation of Handling
[Valencia Orange Reg. 316]

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period September 9–September 15, 1983. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: September 9, 1983.

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

SUPPLEMENTARY INFORMATION:

Findings

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

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

This action is consistent with the marketing policy for 1982–83. The marketing policy was recommended by the committee following discussion at a public meeting on February 22, 1983. The committee met again publicly on September 6, 1983 at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges continues to improve.

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

List of Subjects in 7 CFR Part 908

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

PART 908—[AMENDED]

1. Section 908.616 is added as follows:

§ 908.616 Valencia orange regulation 316.

The quantities of Valencia oranges grown in California and Arizona which may be handled during the period September 9, 1983 through September 15, 1983, are established as follows:

(a) District 1: 470,000 cartons;

(b) District 2: 530,000 cartons;

(c) District 3: Unlimited cartons.

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

Dated: September 7, 1983.

Charles R. Brader,

Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 24780 Filed 9-7-83; 11:47 am]

BILLING CODE 3410-02-M

7 CFR Part 1079

Milk in the Iowa Marketing Area; Temporary Revision of Shipping Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Temporary revision of rule.

SUMMARY: This action temporarily relaxes the supply plant shipping requirements under the Iowa Federal milk order for the months of September, October and November 1983 to prevent uneconomic shipments of milk to the market and to maintain the pool status of producers who regularly supply the market. The revisions are made in response to the request of the operator of a pool supply plant who ships milk to distributing plants regulated by the order.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, 202–447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Proposed Temporary Revision of Shipping Percentages: Issued August 12, 1983; published August 18, 1983 (48 FR 37424).

This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has also been determined that the need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the **Federal Register**. However, this would not permit the completion of the procedure in time to give interested parties timely notice that the supply plant shipping requirement for September 1983 would be modified. The initial request for the action was received on August 5, 1983. Public comments on the proposed action were due August 25, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers and would tend to assure that the market would be adequately supplied with milk for fluid use with a smaller proportion of milk shipments from pool supply plants.

This temporary revision is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and the provisions of § 1079.7(b)(1) of the Iowa milk order.

Notice of proposed rulemaking was published in the **Federal Register** (48 FR 37424) concerning a proposed decrease in the shipping requirements for pool supply plants for the months of September, October and November 1983. The public was afforded the opportunity to comment on the proposal by submitting written data, views and arguments. One comment, in addition to the original request, was received in favor of the temporary revision. No comments were received in opposition to the temporary revision.

After consideration of all relevant material, including the proposal set forth in the aforesaid notice and other available information, it is hereby found and determined that the supply plant shipping percentages should be lowered by 10 percentage points from the present 35 percent to 25 percent for each of the months of September, October and November 1983.

Pursuant to the provisions of § 1079.7(b)(1), the supply plant shipping percentages set forth in § 1079.7(b) may be increased or decreased by up to 10 percentage points during any month to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments.

Beatrice Foods Co., which requested the action, said that under the current supply conditions distributing plants in the Iowa market will have more than an adequate supply of milk for Class I use and that there will be no need for supply plants to ship 35 percent of their producer receipts to distributing plants during each of the months of September, October and November 1983. The petitioner said that a 25 percent shipping standard would be adequate for such months and would prevent uneconomic shipments of milk. If the shipping requirements were not lowered as requested, the spokesman indicated that his company would have to "back-haul" approximately three million pounds of milk each month. "Back-hauling" means that milk is hauled from a supply plant to a distributing plant when it is not needed for use there, and then is hauled back to the supply plant. The purpose of back-hauling would be to assure the continued pooling of the supply plant that has regularly supplied the market. He said such uneconomic shipments could be avoided if the shipping requirements were lowered.

Data for the first six months of 1983 indicate that producer milk receipts for the market were higher by more than 2 percent than for the same months of last year, while the pounds of pooled Class I milk were down more than 1 percent from a year ago.

The shipping percentage reductions are aimed at facilitating the delivery of milk to the market from supply plants for Class I use without requiring uneconomic shipments merely for pooling purposes. It is expected that less than 35 percent of the producer milk supply on the market will be needed for Class I use during each of the months of September, October and November 1983. It is concluded that the supply-demand conditions in the market warrant a lowering of the shipping requirements 10 percentage points for each month of September, October and November 1983.

It is hereby found and determined that 30 days' notice of the effective date hereof is impractical, unnecessary, and contrary to the public interest in that:

(a) This temporary revision is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the Iowa marketing area for the months of September, October, and November 1983;

(b) This temporary revision does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of the proposed temporary revision was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this temporary revision. No comments were received in opposition to the temporary revision.

Therefore, good cause exists for making this temporary revision effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1079

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, that the aforesaid provisions of § 1079.7(b) of the Iowa Federal milk order are hereby revised for the months of September, October and November 1983.

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

Effective Date: September 8, 1983.

Signed at Washington, D.C., on September 2, 1983.

Edward T. Coughlin,

Director, Dairy Division.

[FR Doc. 83-24544 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service.

9 CFR Part 75

[Docket No. 83-051]

Contagious Equine Metritis (CEM); Areas Released From Quarantine

Correction

In FR Doc. 83-23533 beginning on page 38793 in the issue of Friday, August 26, 1983, make the following correction:

In the amendment to § 75.7(a)(1), page 38794, second column, in the paragraph numbered 10, third and fourth lines, "paragraph (ii) is redesignated (iii)" should have read "paragraph (iii) is redesignated (ii)".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 61

Topical Reports in Support of the Implementation of Waste Classification and Waste Form Requirements

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of fee waiver for topical reports in support of the implementation of 10 CFR Part 61.

SUMMARY: The Nuclear Regulatory Commission is granting a limited waiver of fees for the review of topical reports submitted in support of the implementation of 10 CFR Part 61 waste classification and waste form requirements. The staff believes that the waiver will help ensure a cost-effective and orderly implementation of the new 10 CFR Part 61 requirements. The waiver applies to topical reports which are submitted prior to June 30, 1984 and are accepted for review.

ADDRESSES: Documents referred to in this notice may be examined at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Copies of technical positions and topical report review procedures may be obtained from the Low-level Waste Licensing Branch, U.S. Nuclear Regulatory Commision, Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Paul H. Lohaus, Low-Level Waste Licensing Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 427-4500.

SUPPLEMENTARY INFORMATION: On December 27, 1982 (47 FR 57446) the NRC amended its regulations to provide specific requirements for licensing the land disposal of low-level radioactive wastes. The amendments, 10 CFR Part 61, "Licensing Requirements for Land Disposal of Radioactive Waste," provide licensing facilities for the land disposal of radioactive waste. Specifically, the regulations establish performance objectives for land disposal of waste; technical requirements for the siting, design, operations, and closure activities for a near-surface disposal facility; technical requirements concerning the waste form that waste generators must meet for the land disposal of waste; classification of waste; institutional requirements; and administrative and procedural requirements for licensing a disposal facility. The NRC staff believes that the implementation of 10 CFR Part 61 waste classification and waste form requirements by waste generators will be extremely important in ensuring that the performance objectives for disposal sites are met.

NRC licensees will be required to classify wastes and meet the waste form requirements in 10 CFR Part 61 on December 27, 1983. To provide further guidance to waste generators, the NRC staff has prepared technical positions on waste classification and waste form. These technical positions present methods which are acceptable to the NRC staff for demonstrating compliance with 10 CFR Part 61. An announcement of the availability of the technical positions was made in the **Federal Register** on June 7, 1983 (48 FR 26295). In addition, copies were mailed to NRC licensees, to Agreement States, to firms which provide solidification equipment and services, and to firms which provide services related to waste classification.

Background

Compliance with the 10 CFR Part 61 waste classification and waste form requirements is the responsibility of the individual licensee. Individual licensees are not required to submit their compliance programs for formal NRC review and approval. However, subsequent to December 27, 1983 individual licensees will be required to have available for NRC inspectors data which demonstrates compliance with the waste classification and waste form requirements.

An alternate method for simplifying the review of 10 CFR Part 61 waste classification and waste form programs, however, is to reference previously reviewed and approved generic reports. Since many licensees utilize similar services from the same firm, NRC staff has encouraged these firms to submit for review generic topical reports on these services. If approved, these topical reports can be referenced in licensing documents and repetitive reviews by NRC inspectors can be eliminated.

The review of the information submitted by vendors would result in identification of solidification processes and containers determined to conform to the "waste stability" requirements of Part 61. The review of computer codes for classifying wastes would result in the identification of approved methods for meeting the waste classification requirements in 10 CFR Part 61. This information would then be used in the NRC inspection programs as a pro forma determination of compliance with the requirements; that is, determination of licensee compliance would be simplified if a licensee is using one of the "acceptable" codes, processes or products identified from the reviews.

In the absence of a review of this "topical information," compliance with the requirements for classifying or stabilizing waste will require detailed review of the information during inspections at each NRC licensee facility. This approach requires that a large number of inspectors receive detailed training in the testing and acceptance criteria related to the requirements for waste classification and waste stability in 10 CFR Part 61.

While both the topical report review and individual reviews during inspections are manpower intensive, the topical report reviews of the information submitted to NRC is a much more effective method and ensures NRC a much higher degree of consistency in the overall process of demonstrating compliance with the requirements of Part 61.

The results of the topical report reviews by the NRC would also be provided to the States, as the waste classification and stability requirements of 10 CFR Part 61 are matters of compatibility in the Agreement State program. Thus, the NRC would be providing technical assistance to and aiding the States in carrying out the intent of the Part 61.

A topical report review approach would permit NRC to continue its leadership role in dealing with the national problem of radioactive waste disposal, and would provide a centralized national level of review with active participation of the States. This will aid in assuring consistency in meeting requirements and lessening the possibility that States may adopt different approaches due to a perceived

absence of a nationally recognized waste management position.

The information from the review would also be provided to the operators of the waste disposal sites. While the persons shipping waste to the site must certify to the site operator that the waste has been classified and put in a stabilized form which meets Part 61 (and equivalent Agreement State) requirements, the results of the review should provide operators of waste disposal sites an added measure of confidence that waste classification and stability requirements have been fulfilled.

Fee Waiver

To ensure a cost-effective and orderly implementation of the new 10 CFR Part 61 requirements, NRC staff believes that a waiver should be granted for the review fees for topical reports related to meeting the 10 CFR Part 61 waste classification and waste form requirements.

The 10 CFR Part 61 waste classification and waste form requirements will involve the implemention of new testing, analytic, and administrative procedures which for waste generators will be important additions to their current practice. For these waste generators NRC staff believes that the referencing of topical reports will provide substantial benefits in terms of minimizing inspection resources required to ensure that their programs comply with 10 CFR Part 61. In addition, the use of topical reports will minimize waste generator costs required for testing, data presentation, and administration of the implementation programs.

This limited waiver of review fees is justified considering the importance of ensuring an orderly implementation of 10 CFR Part 61 and considering the benefits achieved in simplifying inspecitions of waste generators.

The waiver specifically applies to topical reports which qualify solidification agents and high-integrity containers to meet the 10 CFR Part 61 waste form requirements and to those computer code which are used to prepare waste classification documentation and waste manifest forms. The waiver is applicable to any solidification agent, high-integrity container, or waste classification computer codes which could be used by any NRC or Agreement State licensee. This waiver of fees for the review of topical reports relating to the 10 CFR Part 61 waste classification and waste form requirements will be effective for topical reports which are submitted prior to June 30, 1984 and are accepted for review.

Submittal procedures and the recommended content of 10 CFR Part 61 related topical reports are available from the Low-Level Waste Licensing Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Dated at Silver Spring, Maryland, this 29th day of August, 1983

For the Nuclear Regulatory Commission.

Leo B. Higginbotham,

Chief, Low-Level Waste Licensing Branch Division of Waste Management.

[FR Doc. 83-24468 Filed 9-7-83; 8:45 am]

BILLING CODE 7590-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 101

[Rev. 2—Amdt. 30]

Delegation of Authority To Conduct Program Activities in Field Offices

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Proposed changes to the Delegations of Authority for Field Offices were received from the Regional Administrators of Regions IV and VII, and were expanded by the Central Office. These changes affected Part III, Section C, Surety Guarantee (Region IV, Central Office) and Part X, Section A, Administrative (Region VII) of 13 CFR 101.3–2 and were approved. The change in Part III deletes all Region IV Surety Bond Guaranty Program authority at the District Office level and completes the consolidation of the program to the Atlanta Regional Office. Additionally, Surety Bond Guaranty authority is deleted in the San Francisco District Office. The change in Part X, for Region VII only, deletes the position of Administrative Officer. Added is the position of Budget Officer in certain administrative sections of that part.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Ronald Allen, Paperwork Management Branch, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416. Telephone No. (202) 653–8538.

SUPPLEMENTARY INFORMATION: Part 101 consists of rules relating to the Agency's organization and procedures; therefore, notice of proposed rulemaking and public participation thereon as prescribed in 5 U.S.C. 553 is not required and this amendment to Part 101 is adopted without resort to those procedures.

List of Subjects in 13 CFR Part 101

Authority delegations (Government agencies), Administrative practice and procedure, Organization and functions (Government agencies).

PART 101—[AMENDED]

For the reasons set forth in the preamble and pursuant to authority in section 5(b)(6) of the Small Business Act, 15 U.S.C. 634, Part 101, 13 CFR 101.3–2 is amended as set forth below:

§ 101.3–2 [Amended]

1. Part III, Section C, paragraph 1, existing subparagraphs g and h are removed and existing subparagraphs i and j are redesignated as subparagraphs g and h as follows:

g. Senior Surety Bond Guarantee Specialist	250,000
h. Surety Bond Officer	250,000

2. Part X, Section A, paragraph 1, subparagraph g is revised to read as follows:

g. Administrative Officer, Region VI only

3. Part X, Section A, paragraph 2, subparagraph g is revised, subparagraphs h through j are redesignated as i through k and a new subparagraph h is added as follows:

g. Administrative Officer, Region VI only.
h. Budget Officer, Region VII only.
i. District Director.
j. Deputy District Director.
k. Branch Manager.

4. Part X, Section A, paragraph 3, paragraphs f through h are redesignated as g through i and a new subparagraph f is added as follows:

f. Budget Officer, Region VII only.
g. District Director.
h. Deputy District Director.
i. Branch Manager.

5. Part X, Section A, paragraph 5, subparagraph g is revised to read as follows:

g. Administrative Officer, Region VI only.

6. Part X, Section A, paragraph 6, subparagraph g is revised and a new subparagraph h is added as follows:

g. Administrative Officer, Region VI only.
h. Budget Officer, Region VII only.

(Sec. 5(b)(6) of the Small Business Act, 15 U.S.C. 634)

Dated: August 31, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83-24440 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Real Estate Agents and Direct Sellers as Self-Employed

AGENCY: Social Security Administration, HHS.

ACTION: Final rule with comment period.

SUMMARY: The Social Security Administration has revised its regulations to implement section 269(b) of the "Tax Equity and Fiscal Responsibility Act of 1982" (Pub. L. 97–248). This statutory provision provides that certain real estate agents and direct sellers shall be treated as self-employed for Social Security coverage and tax purposes regardless of their status under the common-law rules.

DATES: These regulations are effective beginning September 8, 1983. We will consider any comments we receive by November 7, 1983 and will revise these regulations if public comment warrants it.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203, or delivered to the Office of Regulations, Social Security Administration, 3–A–3 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: Cliff Terry, Legal Assistant, Room 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594–7519.

SUPPLEMENTARY INFORMATION:

Prior Regulations

Prior regulations, before the Social Security Act was amended by section 269(b) of the "Tax Equity and Fiscal Responsibility Act of 1982" (Pub. L. 97–248), provided that a person is an employee for Social Security purposes if he or she is an officer of a corporation, is an employee under common-law rules, or works in any of four occupations listed in subsection 210(j)(3) of the Social Security Act under the conditions set out in that subsection. The four groups of statutory employees are certain agent-drivers or commission-drivers, full-time life insurance sales persons, home workers performing services on goods or materials, and full-time traveling or city sales persons.

Interim Statutory Provisions Relating to Classification Controversies

Section 530 of the Revenue Act of 1978 provided that taxpayers who had a reasonable basis for not treating workers as employees in the past could continue such treatment without incurring employment tax liabilities. This relief was available only if the taxpayer filed all Federal tax returns (including information returns) that are required to be filed with respect to workers whose status is at issue on a basis consistent with the taxpayer's treatment of the workers as independent contractors. Also, the Revenue Act of 1978 prohibited the Treasury Department from issuing any regulation or revenue ruling that classifies individuals for purposes of employment taxes under interpretations of the common law.

The interim provisions of section 530 of the Revenue Act of 1978 were extended, by subsequent legislation, through June 30, 1982.

The Statutory Change and Amended Regulations

Section 269(b) of Pub. L. 97–248 added section 3508 to the Internal Revenue Code (IRC) and subsection 210(p) to the Social Security Act. Subsection 210(p) provides that the section 3508 rules of the IRC shall apply under title II of the Social Security Act.

Section 3508 states that, for employment tax purposes, "qualified real estate agents" and "direct sellers" shall not be treated as employees and the persons for whom they perform services shall not be treated as employers. The effect of these provisions is that a "qualified real estate agent" or "direct seller," as defined in section 3508, will be considered self-employed without regard to whether he or she is an employee under the common-law rules. These statutory provisions apply to services performed after December 31, 1982.

Section 210(p) of the Social Security Act, which applies section 3508 of the IRC, and our amended regulations define a "qualified real estate agent" as any individual who is a salesperson if—

1. The individual is a licensed real estate agent;

2. Substantially all of the earnings (whether or not paid in cash) for the services performed by the individual as a real estate agent are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

3. The individual's services are performed under a written contract between the individual and the person for whom the services are performed which provides the individual will not be treated as an employee with respect to these services for Federal tax purposes.

Section 210(p) of the Social Security Act, which applies section 3508 of the IRC, and our amended regulations provide that a person is a "direct seller" if—

1. The person is engaged in the trade or business of selling (or soliciting the sale of) consumer products—

a. To any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the Treasury prescribes by regulations, for resale (by the buyer or any other person) in the home or in other than a permanent retail establishment; or

b. In the home or in other than a permanent retail establishment; and

2. Substantially all of the person's earnings (whether or not paid in cash) for the performance of these services are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

3. The person's services are performed under a written contract between the person and the person for whom the services are performed which provides that the person will not be treated as an employee with respect to these services for Federal tax purposes.

Section 269(c) of Pub L. 97–248 indefinitely extends the interim provisions of section 530 of the Revenue Act of 1978 from July 1, 1982, until such time as the Congress enacts legislation as to the classification of workers as independent contractors or employees. This provision, however, does not prohibit implementation (e.g., through issuance of regulations or rulings) of the provision in section 269(b) relating to statutory nonemployees.

Regulatory Procedures

We are publishing these regulations as a final rule without Notice of Proposed Rulemaking and opportunity for public comment because we find that notice and comment are "unnecessary" within the meaning of 5 U.S.C. 553(b)(B). Notice and comment are unnecessary because they merely revise the regulations to reflect changes mandated by Pub. L. 97–248, and do not grant or deny rights or impose obligations which do not already exist under the statute. Further, the statute does not permit any

discretion to be exercised by the Secretary of Health and Human Services in the regulations, even if public comment were to propose such an exercise of discretion. Any regulations interpreting the statutory provision will be issued by the Secretary of the Treasury.

These regulations are final and will become effective on the date they are published in the **Federal Register**.

Executive Order No. 12291—These regulations have been reviewed under Executive Order 12291. They will not have an annual effect on the economy of $100 million or more and do not meet any of the other criteria for a major regulation. Moreover, since the regulatory change merely conforms the regulations to the statutory change, any costs or other effects are not a result of the regulatory change. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act—We certify that these regulations will not have a significant economic impact on a substantial number of small entities. The only economic impact on small entities will be tax savings for the businesses (small and otherwise) previously considered the employers of the workers affected by the regulations since there will no longer be an employer share of Social Security tax to be paid. This economic impact will not be significant because the employer share of the tax is currently less than 7 percent of taxable payroll. Further, any benefits to small entities merely reflect statutory changes and are not a result of these regulations. Therefore, a regulatory flexibility analysis pursuant to the Regulatory Flexibility Act (Pub. L. 96-354) is not required.

Paperwork Reduction Act of 1980—These regulations impose no reporting/recordkeeping requirements requiring OMB clearance.

(Secs. 210, 205, and 1102 of the Social Security Act, as amended; sec. 269 of Pub. L. 97-248; 64 Stat. 494, as amended; 49 Stat. 624 and 647, as amended; 96 Stat. 324; 42 U.S.C. 410, 405, and 1302)

(Catalog of Federal Domestic Assistance Program Nos. 13.802 Social Security—Disability Insurance; 13.803 Social Security—Retirement Insurance; and 13.805 Social Security—Survivors Insurance.)

List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled, Old-Age, Survivors and Disability Insurance.

Dated: February 3, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: August 19, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Title 20, Chapter III, Part 404 of the Code of Federal Regulations is amended as set forth below:

1. § 404.1005 is amended by revising paragraph (b) to read as follows:

§ 404.1005 Who is an employee.

* * * * *

(b) A common-law employee as described in § 404.1007 (unless you are, after December 31, 1982, a qualified real estate agent or direct seller as described in § 404.1069); or

* * * * *

2. A new § 404.1069 is added to read as follows:

§ 404.1069 Real estate agents and direct sellers.

(a) *Trade or business.* If you perform services after 1982 as a qualified real estate agent or as a direct seller, as defined in section 3508 of the Code, you are considered to be engaging in a trade or business.

(b) *Who is a qualified real estate agent.* You are a qualified real estate agent as defined in section 3508 of the Code if you are a salesperson and—

(1) You are a licensed real estate agent;

(2) Substantially all of the earnings (whether or not paid in cash) for the services you perform as a real estate agent are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(3) Your services are performed under a written contract between yourself and the person for whom the services are performed which provides you will not be treated as an employee with respect to these services for Federal tax purposes.

(c) *Who is a direct seller.* You are a direct seller as defined in section 3508 of the Code if—

(1) You are engaged in the trade or business of selling (or soliciting the sale of) consumer products—

(i) To any buyer on a buy-sell basis, a deposit-commission basis, or any similar basis which the Secretary of the Treasury prescribes by regulations, for resale (by the buyer or any other person) in the home or in other than a permanent retail establishment; or

(ii) In the home or in other than a permanent retail establishment; and

(2) Substantially all of your earnings (whether or not paid in cash) for the performance of these services are directly related to sales or other output (including the performance of services) rather than to the number of hours worked; and

(3) Your services are performed under a written contract between yourself and the person for whom the services are performed which provides you will not be treated as an employee with respect to these services for Federal tax purposes.

[FR Doc. 83-24515 Filed 9-7-83; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 175

[Docket No. 82F-0390]

Indirect Food Additives; Adhesive Coatings and Components

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of hydrogenated styrene polymer resins as components of adhesives used in articles intended for packaging, transporting, or holding food. This action responds to a petition filed by Hercules, Inc.

DATES: Effective September 8, 1983; objections by October 11, 1983.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of January 18, 1983 (48 FR 2210), FDA announced that a food additive petition (FAP 3B3692) had been filed by Hercules, Inc., Wilmington, DE 19899, proposing that Part 175 (21 CFR Part 175) be amended to provide for the safe use of hydrogenated styrene polymer resins as components of adhesives used in articles intended for packaging, transporting, or holding food.

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

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

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

List of Subjects in 21 CFR Part 175

Adhesives, Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Bureau of Foods (21 CFR 5.61), Part 175 is amended as follows:

PART 175—INDIRECT FOOD ADDITIVES: ADHESIVE COATINGS AND COMPONENTS

1. Part 175 is amended:

a. In § 175.105(c)(5) by alphabetically inserting a new item in the list of substances, to read as follows:

§ 175.105 Adhesives.

* * * * *

(c) * * *

(5) * * *

Substances	Limitations
* * * * *	
Hydrocarbon resins (produced by the polymerization of styrene and *alpha*-methyl styrene), hydrogenated (CAS Reg. No. 68441-37-2)	
* * * * *	

Any person who will be adversely affected by the foregoing regulation may at any time on or before October 11, 1983, submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall become effective September 8, 1983.

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

Dated: August 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-24450 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 442

[Docket No. 83N-0210]

Antibiotic Drugs; Cefazolin Sodium Injection; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that amended the antibiotic drug regulations to provide for the inclusion of accepted standards for new antibotic drug, cefazolin sodium injection.

EFFECTIVE DATE: July 22, 1983.

FOR FURTHER INFORMATION CONTACT: Joan M. Eckert, National Center for Drugs and Biologics (HFN-140), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4290.

SUPPLEMENTARY INFORMATION: In FR Doc. 83–19535 in the issue of Friday, July 22, 1983, the following correction is made on page 33479 in the third column:

§ 442.211b [Corrected]

In § 442.211b *Cefazolin sodium injection*, paragraph (a)(3) (ii) (*a*) is corrected by removing the word "sodium" from the sentence.

Dated: September 1, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-24446 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

---

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Furosemide Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Biocraft Laboratories, Inc., providing for safe and effective use of furosemide tablets for oral treatment of dogs for edema associated with cardiac insufficiency.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Bob G. Griffith, Bureau of Veterinary Medicine (HFV-112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Biocraft Laboratories, Inc., P.O. Box 200, Elmwood Park, NJ 07407, filed NADA 131–806 providing for use of 50-milligram furosemide tablets for oral treatment of dogs of edema (pulmonary) congestion, ascites) associated with cardiac insufficiency.

The NADA is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information (FOI) summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and Information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

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

List of Subjects in 21 CFR Part 520

Animal drugs, Oral use.

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), § 520.1010a is amended by revising paragraph (b) and by adding new paragraph (c)(3) to read as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

§ 520.1010a Furosemide tablets or boluses.

* * * * *

(b) *Sponsor.* See No. 012799 in § 510.600(c) of this chapter for conditions of use provided for in paragraph (c) (1) and (2) of this section; see Nos. 000725 and 013983 in § 510.600(c) of this chapter for use in dogs as provided for in paragraph (c)(1) of this section; see No. 000332 in § 510.600(c) of this chapter for use of a 50-milligram tablet for conditions of use provided for in paragraph (c)(3) of this section.

(c) * * *

(3) *Dogs*—(i) *Amount.* 1 to 2 milligrams per pound of body weight, once or twice daily, with a 6- to 8-hour interval between successive daily doses.

(ii) *Indications for use.* It is used for the treatment of edema (pulmonary congestion, ascites) associated with cardiac insufficiency.

(iii) *Limitations.* The dosage should be adjusted to the animal's response. In severe cases, the dosage may be doubled or increased by increments of 1 milligram per pound of body weight to establish the effective dose. This dose should be administered once or twice daily on an intermittent schedule. Diuretic therapy should be discontinued after reduction of edema, or when necessary, maintained after determining a programmed dosage schedule to prevent recurrence. The drug, if given in excessive amounts or over extended periods of time, may result in dehydration and/or electrolyte imbalance. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. September 8, 1983.

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

Dated: August 29, 1983.

Lester M. Crawford,

Director, Bureau of Veterinary Medicine.

[FR Doc. 83-24448 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-83-1086]

Community Development Block Grants; State of Hawaii Small Cities Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: On May 23, 1983 (48 FR 22915), HUD published an interim rule amending its regulations governing the HUD-administered Small Cities Program for community development block grants. The interim rule amended the regulations to adopt special procedures applicable only to the State of Hawaii. This rule adopts the interim rule as final, without change.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Helen Duncan, State and Small Cities Division, Office of Community Planning and Development, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, telephone (202) 755-6322. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: 24 CFR Part 570, Subpart F establishes a competitive application process and a National Selection System for determining the distribution of funds under the HUD-administered Small Cities Program. However, factors unique to the State of Hawaii, such as the relatively small amount of funds provided, and the fact that the only applicants eligible for funding under the Small Cities Program are three counties, have made a competitive system unnecessary in that State.

On May 23, 1983 (48 FR 22915), HUD published an interim rule amending 24 CFR Part 570, Subpart F to add special application and selection provisions applicable only to the State of Hawaii. Those special provisions eliminated the former competitive procedure in Hawaii in favor of a new distribution procedure based upon the formula for allocating funds to Hawaii under section 106(d)(1)(A) of the Housing and Community Development Act of 1974.

This rule adopts the interim rule as final, without change. While the Department usually takes this opportunity to respond to comments submitted by members of the general public, we have received no such comments and have dispensed with that procedure for this rule.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 570, which implements Section 102(1)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Room 10278, 451 Seventh Street, SW., Washington, D.C. 20410.

This rule does not constitute a "major rule" as that term is defined in Section 1(b) of Executive Order 12291 on Federal Regulation issued on February 17, 1981. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of $100 million or more; (2) cause a major increase in 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 certifies that this rule does not have a significant economic impact on a substantial number of small entities because the changes are procedural in nature, and the amount of funds available to the applicants remains the same, with minimal adjustments in the amounts for which each applicant may apply.

This rule was listed as CPD-3-83 in the Department's most recent Semi-Annual Agenda of Regulations, published on April 25, 1983 (48 FR 18091) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program number is 14.219, Community Development Block Grants/Small Cities Program.

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the reporting or recordkeeping provisions that are included in this regulation have been approved by the Office of Management and Budget (OMB) and have been assigned OMB control number 2506-0060.

List of Subjects in 24 CFR Part 570

Community development block grants, Grant programs: housing and community

development, Loan programs: housing and community development, Low and moderate income housing, New communities, Pockets of poverty, Small cities.

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

Accordingly, the interim amendment to 24 CFR Part 570, published on May 23, 1983 (48 FR 22915) and effective on July 12, 1983, is hereby adopted as final without change.

Dated: August 29, 1983.

Stephen J. Bollinger,

Assistant Secretary for Community Planning and Development.

[FR Doc. 83-24409 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 31

[T.D. 7906]

Employment Taxes; Reporting by Certain Large Food or Beverage Establishments With Respect to Tips

Correction

In FR Doc. 83-22255 beginning on page 36807 in the issue of Monday, August 15, 1983, make the following correction:

In § 31.6053-3(d)(1)(ii)(A), page 36811, first column, eighteen lines from the top of the page, "attributable by the employee" should have read "attributable to the employee".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Employment Standards Administration

29 CFR Part 553

Fire Protection and Law Enforcement Employees of Public Agencies; Study of Average Number of Hours Worked

AGENCY: Employment Standards Administration, Labor.

ACTION: Rule-related notice.

SUMMARY: The Department of Labor was required by the Fair Labor Standards Amendments of 1974 to conduct studies of the average number of hours in tours of duty worked by fire protection personnel and by law enforcement personnel employed by public agencies. Under the Act, the average number of hours worked by such employees, if less than 216 hours in a 28-day work period, determines the overtime standard which applies to such employees, effective January 1, 1978. The Department designed and initiated studies of the relevant governments, including state and local governments. Before the studies were completed, the Supreme Court held in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), that firefighting and law enforcement employees of state and local governments (as well as certain other categories of employees) could not constitutionally be covered by the minimum wage and overtime provisions of the Fair Labor Standards Act. The Department finished the studies and based the overtime hours standards solely on the data collected from the federal government. This was challenged on various grounds, and in *Jones* v. *Donovan*, 25 WH Cases 380 (D.D.C. 1981), *aff'd per curiam*, No. 81-1615 (D.C. Cir. March 2, 1982), the Court ordered the Department to recompute the overtime standards by including valid state and local government data with the federal data. The Department has now completed this recomputation and published the results in the **Federal Register**, as required by the 1974 amendments.

DATE: The overtime standard required as a result of the study took effect on January 1, 1978, to the extent that it is less than 216 hours on a work period of 28 consecutive days. The 216-hour standard became effective by statute on January 1, 1977.

FOR FURTHER INFORMATION CONTACT: Willis J. Nordlund, Director, Division of Program Development and Research, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210, Telephone 202-523-8493.

SUPPLEMENTARY INFORMATION: Section 7(a) of the Fair Labor Standards Act ("FLSA" or "Act") requires that premium overtime wages be paid after 40 hours in a workweek. However, section 7(k) of the Act sets forth a partial overtime exemption for fire protection and law enforcement personnel (including security personnel in correctional institutions) who are employed by public agencies. Effective January 1, 1978, section 7(k) provides as follows:

> No public agency shall be deemed to have violated (the normal 40-hour overtime standard of the Act) with respect to the employment of any employee in fire protection activities or any employee in law enforcement activities (including security personnel in correctional institutions) if—
>
> (1) In a work period of 28 consecutive days the employee receives for tours of duty which in the aggregate exceed the lesser of (A) 216 hours, or (B) the average number of hours (as determined by the Secretary pursuant to section 6(c)(3) of the Fair Labor Standards Amendments of 1974) in tours of duty of employees engaged in such activities in work periods of 28 consecutive days in calendar year 1975; or
>
> (2) In the case of such an employee to whom a work period of at least 7 but less than 28 days applies, in his work period the employee receives for tours of duty which in the aggregate exceed a number of hours which bears the same ratio to the number of consecutive days in his work period as 216 hours (or if lower, the number of hours referred to in clause (B) of paragraph (1) bears to 28 days, compensation at a rate not less than one and one-half times the regular rate at which he is employed.

The Study referred to in section 7(k) is described in section 6(c)(3) of the Fair Labor Standards Amendments of 1974:

> The Secretary of Labor shall in the calendar year beginning January 1, 1976, conduct (A) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in fire protection activities, and (B) a study of the average number of hours in tours of duty in work periods in the preceding calendar year of employees (other than employees exempt from section 7 of the Fair Labor Standards Act of 1938 by section 13(b)(20) of such Act) of public agencies who are employed in law enforcement activities (including security personnel in correctional institutions). The Secretary shall publish the results of each such study in the **Federal Register**.

When the study was originally designed, it excluded those fire protection and law enforcement personnel (including security personnel in correctional institutions) who, as a result of the section 13(b)(20) exemption, were not subject to the special overtime standard in section 7(k).

During the time that the study was being designed and initiated, the Supreme Court took action which at first temporarily, and later permanently, prevented application of the special section 7(k) overtime standard to many other fire protection and law enforcement employees besides those exempted by section 13(b)(20). Specifically, on December 31, 1974, the day before the section 7(k) provisions

became effective, the Supreme Court stayed them, as well as regulations which the Department of Labor had issued, insofar as they applied to State and local governments. The stay order specifically enjoined "enforcement by the Secretary of Labor or by any other person in any Federal court" of the provisions referred to above with respect to State and local governments (see 419 U.S. 1321 (Dec. 31, 1974)). Later, in *National League of Cities* v. *Usery*, 426 U.S. 833 (1976), the Supreme Court struck down as unconstitutional the application of the FLSA's minimum wage and overtime provisions to State and local government employees engaged in "traditional" government functions, including firefighters and law enforcement personnel. As a result of the stay order and the 1976 decision by the Supreme Court, State and local firefighters and law enforcement personnel were never subject to section 7(k) (or any other overtime provisions of the Act).

In light of this action by the Supreme Court, the Department excluded from the computations not only the hours of those employees exempt from the section 7(k) overtime standard by reason of section 13(b)(20), but also the hours of rank and file employees of state and local government firefighting and law enforcement agencies.

The data with respect to the remaining public agency employees were published in the **Federal Register**, Vol. 44, No. 237, Friday, December 7, 1979. Based on these data, the partial overtime exemption for employees engaged in fire protection activities under section 7(k) was determined to be 216 hours per work period of 28 consecutive days in calendar year 1975. For employees engaged in law enforcement activities, the average was determined to be 186 hours per work period of 28 consecutive days in calendar year 1975.

In *Jones* v. *Donovan*, 25 WH Cases 380 (D.D.C. 1981), *aff'd per curiam*, No. 80–1615 (D.C. Cir. March 2, 1982), the Court held that the Department has erred in establishing the special overtime standards applicable to firefighters and law enforcement personnel under section 7(k) of the Fair Labor Standards Act, by failing to take into consideration the hours worked by state and local government employees in these areas. The Court determined that, although the Act's overtime pay standard may not be applied to such state and local government employees, the average number of hours these employees work remains relevant in determining the standard applicable to Federal employees. The Court ordered the Department to recompute the overtime standards by counting state and local data along with the federal data, including data obtained from the study of state and local firefighting and law enforcement agencies and any additional data provided by the plaintiffs which the Department judged to be vaild.

In accordance with the District Court's order, the Department has recomputed the average work hours for public fire protection and law enforcement employees and the results are as follows: For employees engaged in fire protection activities, the average number of hours in tours of duty in work periods of 28 consecutive days in 1975 was 212 hours. Consequently, the partial overtime exemption in section 7(k) for such employees is changed from 216 hours to 212 hours in a work period of 28 consecutive days (or a correspondingly lesser number of hours for a shorter work period).

For employees engaged in law enforcement activities (including security personnel in correctional institutions), the average number of hours in tours of duty in work periods of 28 consecutive days was 171 hours. Consequently, the partial overtime exemption in 7(k) for these employees is changed from 186 hours to 171 hours in a work period of 28 consecutive days (or a correspondingly lesser number of hours for a shorter work period).

As provided in section 6(e)(1)(D) of the Fair Labor Standard Amendments of 1974 (Pub. L. 93–259, 88 Stat. 610), the effective date of these changes is January 1, 1978. Where any Federal employee is entitled to additional overtime compensation as a result of the studies described herein, such overtime compensation shall be paid retroactively to January 1, 1978. The Office of Personnel Management has taken the position that this means the first applicable work period commencing on or after January 1, 1978.

As a result of these studies, pertinent changes will be made in 29 CFR Part 553 ("Employees of Public Agencies Engaged in Fire Protection or Law Enforcement Activities (Including Security Personnel in Correctional Institutions)").

Signed at Washington, D.C., on this 6th day of September, 1983.

Robert B. Collyer,

Deputy Under Secretary.

William M. Otter,

Administrator, Wage and Hour Division.

[FR Doc. 83-24587 Filed 9-7-83; 8:45 am]

BILLING CODE 4510-27-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 82-625; RM-3504; RM-3534; FCC 83-301]

Providing High Frequency Spectrum for Use by Eligibles in the Special Industrial, Petroleum, Telephone Maintenance and Power Radio Services

Correction

In FR Doc. 83-19285 beginning on page 32991 in the issue of Wednesday, July 20, 1983, make the following correction:

In § 2.106, in the table on page 32994, under "Band (kHz)" the entry now reading "5000–4550" should have read "5005–5450".

BILLING CODE 1505-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 1

[OST Docket No. I; Amdt. 1-183]

Organization and Delegation of Powers and Duties; Correction

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment corrects delegations to the Federal Highway Administrator which inadvertently displaced the delegations to the Administrator to carry out the functions vested in the Secretary by Section 30 of the Motor Carrier Act of 1980 and those functions relating to motor carriers which were vested in the Secretary by Executive Order 12316, relating to Superfund.

DATE: The effective date of this amendment is September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Robert I. Ross, Office of the General Counsel, C-50 Department of Transportation, Washington, DC (202) 426-4723.

SUPPLEMENTARY INFORMATION: Since this amendment relates to Departmental management, procedures, and practice, notice and comment on it are unnecessary and it may be made effective in fewer than thirty days after publication in the **Federal Register**.

In the **Federal Register** of August 5, 1982 (47 FR 33965), DOT published Amendment 1-174, which delegated to the Federal Highway Administrator the authority to complete the parking

facility and associated ramps at Union Station in Washington, DC, under section 118 of the National Visitor Center Facilities Act of 1968, as added by the Union Station Redevelopment Act of 1981. This delegation was mistakenly made paragraph (w) of Section 1.46, thereby displacing from the Code of Federal Regulations the then-existing delegation in paragraph (w) relating to Superfund, which itself had mistakenly displaced an even earlier paragraph (w) regarding the establishment of minimum levels of financial responsibility for motor carriers of property under Section 30 of the Motor Carrier Act of 1980. It was never intended in any way to affect the delegation to the Federal Highway Administrator under either Superfund or Section 30; consequently, those delegations are replaced in the Code of Federal Regulations as paragraphs (w) and (x) by this amendment, and the succeeding delegation regarding Union Station in Washington, DC, is redesignated accordingly. DOT emphasizes that it considers that these delegations have been in continuous effect since their original effective dates, despite the clerical errors which led to their removal from the Code of Federal Regulations and despite further that the effective date of this amendment is the date of its appearance in the **Federal Register.**

List of Subjects in 49 CFR Part 1

Authority delegations (government agencies), Organization and functions (government agencies), Transportation.

PART 1—[AMENDED]

In consideration of the foregoing, § 1.48 of Part 1 of Title 49, Code of Federal Regulations, is amended by revising paragraph (w), and adding new paragraphs (x) and (y) to read as follows:

§ 1.48 Delegations to Federal Highway Administrator.

The Federal Highway Administrator is delegated authority to:

* * * * *

(w) Carryout the functions vested in the Secretary by section 30 of the Motor Carrier Act of 1980 (Pub. L. 96–296), relating to the establishment of minimum levels of financial responsibility for motor carriers of property.

(x) Carry out the functions vested in the Secretary by sections 4(a) and (5)(c) of Executive Order 12316 of August 14, 1981 (46 FR 42237; August 20, 1981) (delegating sections 107(c)(1)(C) and 108(b), respectively, of the Comprehensive Environmental Response, Compensation, and Liability Act of 1981, Public Law 96–510), insofar as they relate to motor carriers.

(y) Carry out the functions vested in the Secretary by section 118 of the National Visitor Center Facilities Act of 1968 (Pub. L. 90–264, 82 Stat. 43), as added by the Union Station Redevelopment Act of 1981 (Pub. L. 97–125; 95 Stat. 1672), with respect to the completion of the parking facility and associated ramps at Union Station in Washington, D.C. (40 U.S.C. 818).

(49 U.S.C. 322, 49 CFR 1.57(1))

Issued in Washington, D.C., on August 31, 1983.

James H. Burnley IV,

General Counsel.

[FR Doc. 83-24522 Filed 9-7-83; 8:45 am]

BILLING CODE 4910-62-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1162 and 1307

[Ex Parte No. MC-165[1]]

Exemption of Motor Contract Carriers From Tariff Filing Requirements

AGENCY: Interstate Commerce Commission.

ACTION: Rule related notice; notice of court action.

SUMMARY: In Ex Parte No. MC–165, *Exemption of Motor Contract Carriers From Tariff Filing Requirements*, we exempted all motor contract carriers of property from the otherwise applicable tariff filing requirements. In No. 38749 (Sub-No. 1) et al. and No. 38895 et al., we granted final exemptions or affirmed final grants of exemption to certain individual motor contract carriers. By order filed July 20, 1983, the United States Court of Appeals for the District of Columbia Circuit stayed the Commission's decisions in: Ex Parte No. MC-165 (48 FR 24388, June 1, 1983 corrected at 48 FR 32024, July 13, 1983); No. 38749 (Sub-No. 1) et al. (served July 5, 1983); and No. 38895 et al. (served July 5, 1983), pending judicial review. By order filed July 29, 1983, the court denied motions for reconsideration, rehearing, and vacation of the stays and it also further clarified its July 20th order.

FOR FURTHER INFORMATION CONTACT:

Jane Morris, (202) 275–6434

or

Howell I. Sporn (202) 275–7691.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to inform the public of recent court decisions that affect these proceedings and to explain how we plan to handle contract carrier tariff exemption proceedings in the future.

In Ex Parte No. MC–165, *Exemption of Motor Contract Carriers From Tariff Filing Requirements*, served May 27, 1983, we exempted all motor contract carriers of property from the otherwise applicable tariff filing requirements. In No. 38749 (Sub-No. 1) et al., *UTF Carriers, Inc.—Petition for Exemption From Tariff Filing Requirements*, and No. 38895 et al., *International Transport, Inc.—Petition for Exemption From Tariff Filing Requirements*, we granted final exemptions or affirmed final grants of exemption to certain individual motor contract carriers.

The United States Court of Appeals for the D.C. Circuit stayed all three of these decisions pending judicial review in its order filed July 20, 1983.

Subsequently, by order filed July 29, 1983, the court denied motions for reconsideration, rehearing, and vacation of the stays and also offered the following clarification of its July 20th order:

> The movants erroneously characterize the stay of the Commission's July 5, 1983 orders as staying individual exemption proceedings. Individual exemption proceedings have not been stayed; we do no more than return each to the status quo existing prior to the July 5 orders. Rather, what has been stayed is the Commission's summary disposition of all pending individual exemption proceedings simply by reference to the findings and general conclusions made in issuing the prior industry-wide tariff exemption in *Ex Parte MC—165*. Our stay in No. 83–1581 of *Ex Parte MC–165* precludes such an automatic grant of individual exemption applications. Each such application must, pursuant to past practice, be examined on its own merits.

As a result of the court action, the decision granting industry-wide relief in Ex Parte No. MC–165 and the final decisions in the individual proceedings consolidated in No. 38749 (Sub-No. 1) et al. and No. 38895 et al., are no longer in effect. Provisional or permanent exemptions previously granted in those proceedings, however, remain in effect

[1] This notice also includes No. 38749 (Sub-No. 1) et al., *UTF Carriers, Inc.—Petition for Exemption From Tariff Filing Requirements*, and No. 38895 et al., *International Transport, Inc.—Petition for Exemption From Tariff Filing Requirements*.

since the court directed that each of the proceedings be returned to the status quo existing prior to our July 5th decisions. Therefore, those operating without tariffs under an existing provisional or permanent exemption may continue to do so.

Consistent with the court's July 29th order, we will continue to process petitions for exemption from tariff filing requirements. Each petition will be handled on an individual basis. When a carrier files a petition that makes a *prima facie* case for tariff relief, we will publish a notice of proposed exemption in the **Federal Register** and will issue a decision advising that the proposed grant will become effective at the close of the 15 day comment period unless timely filed adverse comments are received.[2] If timely adverse comments are received, we will issue a final decision granting or denying the relief sought within 20 days of the close of the comment period.

Factors which we will consider in individual tariff relief proceedings include (but are not limited to) the following:

1. Specific ways in which an exemption will increase the particular carrier's pricing flexibility and marketing ability.

2. Specific dollar amounts by which a particular contract carrier's costs will be lowered as a result of an exemption.

3. Any particular facts unique to the contracting shippers involved which make an exemption consistent with the public interest and the national transportation policy.

4. Any unnecessary burdens that will be alleviated by a tariff exemption.

Decided: August 29, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Andre and Gradison.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24533 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

[2] Individual exemption applications may be consolidated for **Federal Register** publication, but each should be addressed individually in the comments and will be decided separately.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 30831-175]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

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

ACTION: Notice of closure.

SUMMARY: The Secretary of Commerce issues this notice to close the recreational salmon fishery in the fishery conservation zone (FCZ) between Leadbetter Point, Washington, and the U.S.-Canada border at midnight September 5, 1983, to ensure that the quota for coho salmon is not exceeded in 1983. The Director, Northwest Region, National Marine Fisheries Service, has determined in consultation with the Washington Department of Fisheries and the Pacific Fishery Management Council that the recreational quota of 129,000 coho salmon for the area will be reached by September 5. This action is required by the Federal regulations for this fishery.

EFFECTIVE DATES: Closure of the FCZ from Leadbetter Point, Washington, to the U.S.-Canada border to recreational salmon fishing is effective at 2400 hours Pacific Daylight Time (P.D.T.), September 5, 1983.

FOR FURTHER INFORMATION CONTACT: H. A. Larkins (Director, Northwest Region, National Marine Fisheries Service), 7600 Sand Point Way NE, Bin C-15700, Seattle, Washington 98115; telephone 206-527-6150.

SUPPLEMENTARY INFORMATION: Emergency regulations to manage the ocean commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California were published in the **Federal Register** on May 11, 1983 (48 FR 21135). These emergency regulations were effective on May 23, 1983, for a 90-day period, and were extended for an additional 90-day period effective August 21, 1983 (48 FR 36823).

The emergency regulations specify at § 661.22(a)(2) that when the Director, Northwest Region, National Marine Fisheries Service (Regional Director), projects that a quota is to be reached by a certain date, the Secretary of Commerce (Secretary) shall, by publishing a notice in the **Federal Register**, close the fishery as of the date the quota will be reached.

The coho quota for the recreational fishery in the area from Leadbetter Point to the U.S.-Canada border is 129,000 fish as shown in Table 3, § 661.22(a)(1). Based on the most recent catch and effort information supplied by the Washington Department of Fisheries (WDF), the recreational fishery in the area is projected to reach the 129,000 coho salmon quota by midnight September 5, 1983. The Secretary therefore issues this notice to close the ocean recreational salmon fishery from Leadbetter Point to the U.S.-Canada border effective midnight, September 5, 1983. This notice affects only the fishery specified here.

The Regional Director held consultations with the Director of WDF and with representatives of the Pacific Fishery Management Council regarding this closure. The Director of WDF has indicated Washington will close the recreational salmon fishery in the ocean inshore of the FCZ at the same time this action closes the specified parts of the FCZ.

As provided under § 661.22(e), all information and data relevant to this notice of closure have been compiled in aggregate form and are available weekdays for public review at the above address from 8:00 am to 4:30 pm.

This action is taken under the authority of 50 CFR 661.22 and in compliance with Executive Order 12291.

(16 U.S.C. 1801 *et seq.*)

List of Subjects in 50 CFR Part 661

Fish, Fisheries, Fishing, Indians.

Dated: September 2, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-24532 Filed 9-2-83; 3:31 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

7 CFR Part 631

Great Plains Conservation Program

AGENCY: Soil Conservation Service (SCS), USDA.

ACTION: Proposed rule.

SUMMARY: SCS is revising its regulations for implementing the Great Plains Conservation Program (GPCP) which operates in the States of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming. This is a revision of the present GPCP rules published November 18, 1975 (40 FR 53370). The regulations were revised to simplify them and allow more decisions to be made at the State level.

DATE: Comments are due November 7, 1983. All comments received during the review period will be considered during preparation of the final rules.

ADDRESS: Interested persons are invited to submit written comments to Cletus J. Gillman, Deputy Chief for State and Local Operations, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 447-7145.

FOR FURTHER INFORMATION CONTACT: Dennie G. Burns, Director, Land Treatment Program Division, Soil Conservation Service, USDA, P.O. Box 2890, Washington, D.C. 20013, (202) 382-1870.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 to implement Executive Order 12291 and has been classified "nonmajor."

Peter C. Myers, Chief, Soil Conservation Service, has determined that this action: (1) Will not affect the national economy by $100 million or more, nor will it cause a major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; (2) will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (3) will not have a significant economic impact on a substantial number of small entities.

The rule will govern a program of technical and financial assistance in which participation is voluntary. Thus, it will not impose an unnecessary regulatory, information, or compliance burden on small businesses, organizations, or governmental jurisdictions as defined in the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601).

The Great Plains Conservation Program is authorized by the Soil Conservation and Domestic Allotment Act as amended by Pub. L. 84-1021, 70 Stat. 1115; Pub. L. 91-118, 83 Stat. 194; and Pub. L. 96-263 (16 U.S.C. 590p(b)).

The Soil Conservation and Domestic Allotment Act, as amended, authorizes the Secretary of Agriculture to assist farmers and ranchers to prepare and implement a land use and treatment program that will help prevent or reduce the effects of the erratic climate of the Great Plains area. The Great Plains Conservation Program provides financial and technical assistance to land users who have developed acceptable conservation plans for the entire farm or ranch operating unit.

The Secretary of Agriculture has delegated authority for administration of the Act to the Chief of the Soil Conservation Service (SCS).

List of Subjects in 7 CFR Part 631

Grant programs (agriculture), Grant programs (natural resources), Soil conservation, Technical assistance, and Water resources.

Accordingly, 7 CFR Part 631, Table of Contents and text are revised to read as follows:

PART 631—GREAT PLAINS CONSERVATION PROGRAM

Subpart A—General Provisions

Subpart B—Contracts

Subpart C—Miscellaneous

Authority: 16 U.S.C 590p(b).

Subpart A—General Provisions

§ 631.1 Purpose.

The Great Plains Conservation Program (GPCP) is a special program targeted to the total conservation treatment of farm or ranch units with the most severe soil and water resources problems. The program is supplemental to, not a substitution for, other programs in the Great Plains area. Program participation is voluntary and is carried out by applying a conservation plan encompassing an entire operating unit. A conservation plan is developed with the land user in consultation with the local conservation district and is used to establish a Great Plains Conservation Program contract. This contract provides for cost sharing between the land user and the Secretary of Agriculture for applying needed land use adjustments and conservation treatment within a specified time schedule.

§ 631.2 Definitions.

The terms defined shall have the following meaning in this part and in all contracts, forms, documents, instructions, and procedures in connection therewith, unless the contract or subject matter requires otherwise.

Applicant. A land user has requested in writing to participate in the GPCP.

Area Conservationist. The SCS employee who is the first line supervisor with primary responsibility for quality control. Serves as contracting officer as designated by the state conservationist.

Chief. The Chief of the Soil Conservation Service (SCS), USDA.

Conservation district (CD). A conservation district, soil conservation district, soil and water conservation district, natural resource district, or similar legally constituted body with which the Secretary of Agriculture cooperates pursuant to the Soil Conservation and Domestic Allotment Act. The members of governing bodies of these organizations may be known as supervisors, directors, or commissioners.

Conservation plan. A written record of the land user's decisions regarding planned land use and treatment, including estimates of extent and cost. The timing of applications for each practice and/or identifiable unit is scheduled in the conservation plan.

Conservation practice. A specific treatment which is planned and applied according to SCS standards and specifications as a part of a resource management system for land, water, and related resources.

Contract. A legal document that binds both the participants and the government to carry out the terms of the Great Plains Conservation Program.

Contracting officer. The SCS employee authorized to sign GPCP contracts on behalf of SCS.

County program committee. A group of Federal, state, and local officials selected by the designated conservationist. The committee provides ideas to the designated conservationist regarding program development and interagency program coordination.

Designated county. A county within a Great Plains state which has been designated for participation by the Chief.

Designated conservationist. A district conservationist or other SCS employee who is designated by the state conservationist to be responsible for administration of the Great Plains Conservation Program in a designated county.

District conservationist. The SCS employee assigned to direct and supervise SCS activities in one or more conservation districts.

Great Plains area. The area comprising those counties within the Great Plains states which have been designated for GPCP participation.

Great Plains states. The states of Colorado, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, and Wyoming.

Identifiable unit. A clearly identifiable component of a conservation practice.

Land user. An individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or other nonpublic legal entity having control of a unit of land. This definition includes two or more persons having a joint or common interest.

Life span. The period of time specified in the contract and/or operation and maintenance agreement during which the resource management systems or component practices are to be maintained and used for the intended purpose. Most practices will have a useful life beyond the specified life span.

Operation and maintenance agreement. A document signed by both the participant and the contracting officer outlining the operation and maintenance requirements for applied conservation treatment.

Operating unit. A parcel or parcels of land, whether contiguous or noncontiguous, constituting a single management unit for agricultural purposes.

Other land. Nonagricultural land on which erosion must be controlled to protect agricultural land and which can be covered by contract.

Participant. A land user who is a party to a GPCP contract.

Resource management system. A combination of conservation practices needed to protect or improve the resource base of the land covered by the contract.

Specifications. Minimum quantity or quality requirements established by the SCS to meet the standard for a specific conservation practice.

State conservationist. The SCS employee authorized to direct and supervise SCS activities within the state.

State program committee. A group of Federal, state, and local officials selected by the state conservationist. The committee provides ideas to the state conservationist regarding program development, coordination, general policies, and operating procedures of GPCP in the state.

Technical assistance. Guidance provided to land users regarding the use and treatment of soil, water, plant, animal and related resources. This assistance may include conservation plan formulation, application, and maintenance, and is usually confined to those activities which the recipient could not reasonably be expected to do without specialized assistance.

Technical Guide. A document containing detailed information on the conservation of soil, water, plant, animal and related resources applicable specifically to the area for which it is prepared.

§ 631.3 Administration.

(a) The Soil Conservation Service (SCS) is responsible for administration of GPCP.

(b) The program shall be carried out in close cooperation with interested Federal, state, and local governmental units and organizations. The program in designated counties shall be coordinated with the long-range program of conservation districts operating in such counties and with other USDA activities.

(c) Applicants who have USDA-Farmers Home Administration (FmHA) loans must furnish evidence satisfactory to SCS that the conservation plan used as a basis for the GPCP contract is compatible with planning assistance provided by FmHA. Such evidence may consist of written acknowledgement by the authorized FmHA official that the GPCP conservation plan is compatible with the farm management plan prepared for FmHA program purposes.

§ 631.4 Program applicability.

The program is applicable only to designated counties within the Great Plains states. County designation is a responsibility of the SCS Chief.

§ 631.5 Land user eligibility.

Any land user in a designated county may file an application for participation in the GPCP with the SCS field office. A land user who develops an acceptable conservation plan in cooperation with SCS and the conservation district in compliance with the terms and conditions of the program is eligible to sign a contract.

§ 631.6 Land eligible for the program.

The program is applicable to: (a) Privately owned land, (b) nonfederally owned public land under private control for the contract period and included in the participant's operating unit, and (c) federally owned land if installation of conservation practices would directly benefit nearby or adjoining privately owned land of persons who maintain and use the Federal land.

§ 631.7 Conservation treatment eligible for cost sharing.

(a) The state conservationist, in consultation with the state GPCP committee, shall select the resource management systems, or conservation practices or identifiable units eligible for GPCP cost sharing in the state.

(b) The designated conservationist, in consultation with the county program committee, shall select from the state list the eligible conservation systems, practices or identifiable units eligible for GPCP cost share in the county.

§ 631.8 Cost-share rates.

(a) The maximum Federal rate may not exceed 80 percent.

(b) The maximum Federal rate within each state for each practice or identifiable unit shall be established by the state conservationist.

(c) The maximum rate for each county is established by the designated conservationist not to exceed the state rate.

(d) The rate established by a state conservationist or a designated conservationist shall not exceed the amount necessary and appropriate to apply conservation treatment.

§ 631.9 Conservation plan.

(a) An applicant is responsible for developing a conservation plan, in cooperation with the conservation district, that protects the resource base in a manner acceptable to SCS. This plan will be used as a basis for developing a contract. Conservation treatment is to be planned and implemented as a resource management system.

(b) The applicant decides how the land will be used and selects the resource management systems that will achieve the applicant's objectives and provide protection of soil, water and related resources acceptable to SCS. At the option of the applicant, eligible practices may be included in the conservation plan to enhance fish and wildlife and recreation resources, promote the economic use of land, and reduce or control agriculture-related pollution.

(c) Technical assistance will be provided by SCS, as needed by the land user. SCS may utilize the services of private, state, and other Federal agencies in discharging its responsibilities for technical assistance.

(d) Participants are responsible for accomplishing the conservation plan and may sue all available sources of assistance, including other USDA programs that are consistent with the conservation plan.

(e) All conservation practices scheduled in the conservation plan will be carried out in accordance with the applicable SCS technical guide.

Subpart B—Contracts

§ 631.10 Contracts.

(a) To participate in the program, an applicant must enter into a contract in which the applicant agrees to implement a conservation plan. All persons who control or share control of the operating unit for the proposed contract period must sign the contract or one person with power-of-attorney may sign the contract for all persons. The applicant must provide the contracting officer with satisfactory evidence of control of the operating unit.

(b) Contracts may be entered into not later than September 30, 1991. The contract shall be for a period needed to establish conservation treatment scheduled in the conservation plan and must extend at least 3 years but not more than 10 years.

(c) Contracts may be transferred or modified by mutual consent. The transferee assumes full responsibility for the contract including all land treatment installed under the contract. This includes all payments made under the contract to the participant or preceding participants, before and after the transfer.

(d) Contracts may be terminated by mutual consent, or by SCS for cause.

§ 631.11 Conservation practice maintenance.

Each participant is obligated to maintain the resource management systems or conservation practices which have been applied under the contract for the duration of the contract. Practices installed before execution of the contract are to be maintained as specified in the contract. If the life span of practices or resource management systems extends beyond the period of the contract, state conservationists may make the operation and maintenance of those practices or systems a condition of the contract. The length of such operation and maintenance shall extend for the expected life span.

§ 631.12 Cost-share payments.

(a) Federal cost sharing shall be adjusted so that the combined cost share by Federal and state government or subdivision of a state shall not exceed 100 percent of the cost.

(b) Cost-share payments for completing resource management systems or a practice or an identifiable unit according to specifications will be made by SCS as specified in the contract.

§ 631.13 Disputes and appeals.

(a) If an applicant or a participant disagrees with a determination of the district conservationist, other than as to a contract violation, the person must notify the contracting officer in writing on the nature, extent, and reasons for the disagreement. The contracting officer will review the situation and attempt to negotiate a mutually acceptable solution. If a negotiated solution is not possible, the state conservationist will review the facts and notify the landowner of the decision.

(b) An applicant/participant may appeal a state conservationist's decision of a dispute to the Chief. The appeal must be in writing, setting forth the applicant/participant's disagreement with the state conservationists's decision, and must be made within 30 days of the state conservationist's decision. The Chief will review the facts of the appeal and notify the applicant/participant of his decision. The Chief's decision will constitute the final administrative determination within SCS.

§ 631.14 Contract violations.

Contract violations will be determined by and handled in accordance with the terms of the contract and attachments thereto.

Subpart C—Miscellaneous

§ 631.20 Setoffs.

If any participant to whom compensation is payable under the program is indebted to USDA, or any agency thereof, or is indebted to any other agency of the United States, and such indebtedness is listed on the county claim control record maintained in the office of the county ASC committee, the compensation due the participant shall be set off against the indebtedness. Indebtedness owing to USDA, or any agency thereof, shall be given first consideration. Setoffs made pursuant to this section shall not deprive the participant of any right to contest the justness of the indebtedness involved either by administrative appeal or by legal action. Participants who are indebted to this program for any reason will be placed on the USDA claim control record promptly by the state conservationist after the participant has been given opportunity to pay the debt.

§ 631.21 Compliance with regulatory measures.

Participants who carry out conservation practices shall be responsible for obtaining the authorities, rights, easements, or other approvals necessary for the implementation and maintenance of the conservation practices in keeping with applicable laws and regulations. Participants shall save the United States harmless from any infringements upon the rights of others or from any failure to comply with applicable laws or regulations.

§ 631.22 Access to operating unit.

Any authorized SCS representative shall have the right to enter an operating unit for the purpose of ascertaining the accuracy of any representations made in

a contract or leading up to a contract, and as to the performance of the terms and conditions of the contract. Access shall include the right to measure acreages, render technical assistance, and inspect any work undertaken under the contract.

§ 631.23 State conservationist's authority

The state conservationist, upon his own initiative, may revise or require revision of any determination made by the contracting officer or the district conservationist in connection with the program, except that the state conservationist may not revise any executed contract other than as may specifically be authorized herein.

Dated: September 1, 1983.

Peter C. Myers,

Chief, Soil Conservation Service.

[FR Doc. 83-24534 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 83-AGL-10]

Proposed Designation of Transition Area

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate controlled airspace near Valley City, North Dakota, to accommodate a new NDB Runway 31 instrument approach procedure for Valley City Municipal Airport, Valley City, North Dakota.

The intended effect of this action is to ensure segregation of the aircraft using approach procedures in instrument weather conditions from other aircraft operating under visual weather conditions in controlled airspace.

DATE: Comments must be received on or before October 3, 1983.

ADDRESS: Send comments on the proposal in triplicate to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 83-AGL-10, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

The official docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

An informal docket will also be available for examination during normal business hours in the Airspace, Procedures, and Automation Branch, Air Traffic Division, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Illinois 60018.

FOR FURTHER INFORMATION CONTACT: Edward R. Heaps, Airspace, Procedures, and Automation Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Illinois 60018, telephone (312) 694-7360..

SUPPLEMENTARY INFORMATION: The development of the proposed instrument procedure requires the FAA to lower the floor of the controlled airspace to ensure that the procedure will be contained within controlled airspace. .

The new instrument approach procedure is being established in an area which is now primarily uncontrolled airspace below an approximate average of 1,500 feet above the surface. This necessitates the designation of a transition area with a base of 1,200 feet above the surface to contain arriving instrument flight rules operations at 1,500 feet and higher above the surface and departing instrument flight rules operations from the point where they reach 1,200 feet above the surface. That 1,200-foot transition area includes the procedure turn area of the instrument procedure which is located southeast of Valley City Airport. The new procedure also requires the designation of an area with a base of 700 feet above the surface to contain arriving instrument flight rules operations below 1,500 feet above the surface and departing instrument operations until they reach 1,200 feet above the surface. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace.

Aeronautical maps and charts will reflect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Commments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 83-AGL-10." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed on the docket.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, S.W., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2, which describes the application procedures.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a new 700-foot controlled airspace transition area near Valley City, North Dakota.

Section 71.181 of Part 71 of the Federal Aviation Regulations was published in Advisory Circular Ac 70-3A dated January 3, 1983.

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

Valley City, ND

That airspace extending upward from 700 feet above the surface within a 6.5 mile radius of the Valley City Municipal Airport (lat. 46°56'30" N., long. 98°01'00" W.) and that

airspace extending upward from 1,200 feet above the surface within a 9-mile radius of the Valley City Municipal Airport (lat. 46°56'30" N., long. 98°01'00" W.); within 4.5 miles southwest and 9.5 miles northeast of the 133° bearing from the Valley City, North Dakota, NDB (lat. 46°52'39" N., long. 97°54'49" W.), extending from the NDB to 18.5 miles southeast of the NDB.

(Sec. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)

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

Issued in Des Plaines, Illinois, on August 18, 1983.

Monte R. Belger,

Acting Director, Great Lakes Region.

[FR Doc. 83-24518 Filed 9-7-83; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 101

Proposed Change in the Customs Service Field Organization; Kentucky et al.

AGENCY: Customs Service, Treasury.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the Customs Regulations to change the Customs Service field organization by (1) consolidating the geographical limits of the adjacent ports of Owensboro, Kentucky, and Evansville, Indiana, into a single consolidated port of Owensboro-Evansville, and (2) consolidating the geographical limits of the port of Cincinnati, Ohio, and Lawrenceburg, Indiana, into a single consolidated port of Cincinnati-Lawrenceburg. The change is being proposed as part of Customs continuing program to secure the most economical use of personnel, facilities, and resources, and to provide better service to carriers, importers, and the public.

DATES: Comments must be received on or before November 7, 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: Denise Crawford, 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 (1) consolidating the geographical limits of the adjacent ports of Owensboro, Kentucky, and Evansville, Indiana, into a single consolidated port of Owensboro-Evansville, and (2) consolidating the geographical limits of the ports of Cincinnati, Ohio, and Lawrenceburg, Indiana, into a single consolidated port of Cincinnati-Lawrenceburg.

There consolidations are being proposed because of the close proximity of both sets of ports and the low volume of Customs activities being conducted. Also, because of the new warehouse procedures established by T.D. 82-204, effective December 1, 1982, responsibility has been shifted from Customs personnel to warehouse proprietors to ensure that the necessary Customs procedures are followed in operating bonded warehouses. The new warehouse procedures have allowed Customs to remove its personnel from the duty of warehouse supervision previously required at these ports. Thus, the minimal service needs at these ports enable Customs to effect the two proposed port consolidations without any loss in operational efficiency.

If the proposed changes are adopted, the list of Customs regions, districts, and ports of entry in § 101.3(b), Customs Regulations, will be amended accordingly.

Owensboro—Evansville

The limits of the proposed consolidated port of Owensboro-Evansville would be the geographical territory of the existing two ports of Owensboro, Kentucky, and Evansville, Indiana. The geographical limits of the proposed consolidated port would be as follows:

All the territory within the corporate limits of the cities of Evansville, Indiana, Henderson, Kentucky, and Owensboro, Kentucky, including that territory encompassing the Owensboro-Daviess County Airport which, on the north is bounded by Kentucky Highways 54, 56, and 81, on the west by Kentucky Highway 81, on the south by Fisher Road, on the east by Carter Road until it intersects with U.S. Bypass 60 and northwest on U.S. Bypass 60 until it meets Kentucky Highways 54, 56, and 81. In addition, the consolidated port would also include that territory located between U.S. Route 60 on the south and the Ohio River on the north from the western city limits of Owensboro, Kentucky, to the eastern city limits of Henderson, Kentucky. It also would include only that territory occupied by U.S. Highway 41 proceeding from Evansville's northern corporate limits to the point where Indiana State Route 241 intersects with U.S. Highway 41.

Cincinnati—Lawrenceburg

The limits of the proposed consolidated port of Cincinnati—Lawrenceburg would be the geographical territory of the existing two ports of Cincinnati, Ohio, and Lawrenceburg, Indiana. The geographical limits of the proposed consolidated port would be as follows:

All the territory within the corporate limits of the cities of Lawrenceburg and Greendale, Indiana, and the territory bounded by a line proceeding north and east on U.S. Highway 50 from the northern corporate limits of Lawrenceburg to the junction of U.S. Highway 50 with the Great Miami River, then proceeding in a northeasterly direction along the eastern bank of the Great Miami River to the northern boundary of Hamilton County, then proceeding in an easterly direction along the northern boundary of Hamilton County to Ohio State Highway 747, then proceeding in a northerly direction in Butler County along Ohio State Highway 747 to Rialto Road, then proceeding in a generally northeasterly direction along Rialto Road to Allen Road, then proceeding in a southerly, then easterly direction on Allen Road to Cincinnati-Dayton Road, then proceeding in a southerly direction on Concinnati-Dayton Road to the northern boundary of Hamilton County, then proceeding in an easterly direction along the northern boundary of Hamilton County to the eastern boundary of Hamilton County, then proceeding in a southerly direction along the eastern boundary of Hamilton County to the north bank of the Ohio River, then proceeding in a westerly

direction along the northern bank of the Ohio River to the bridge at Interstate Highway 275, then proceeding in a westerly direction along Interstate Highway 275 to its intersection with Kentucky State Highway 9, then proceeding in a southeasterly direction along Kentucky State Highway 9 to its intersection with Pooles Creek Road 1, then proceeding due west from that intersection to the eastern bank of the Licking River, then proceeding in a northwesterly direction along the eastern bank of the Licking River to its intersection with Interstate Highway 275, then proceeding in a westerly direction along Interstate Highway 275 to its intersection with Interstate Highway 75, then proceeding in a southerly direction along Interstate Highway 75 to its intersection with Kentucky State Highway 18, then proceeding in a northwesterly direction along Kentucky State Highway 18 to its intersection with Kentucky State Highway 237, then proceeding in a generally northerly direction along Kentucky State Highway 237 to its intersection with Interstate Highway 275, then proceeding in a westerly direction along Interstate Highway 275 to its intersection with the northern bank of the Ohio River, then proceeding in a southwesterly direction to the eastern corporate limits of Lawrenceburg, Indiana.

Comments

Before adopting these proposals, 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

These changes are 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 these proposals. 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 these changes may have a limited effect upon some small entities in the Owensboro, Kentucky, Evansville and Lawrenceburg, Indiana, and Cincinnati, Ohio, areas, they are not expected to be significant because the consolidations of Customs ports of entry in other locations have not have 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 amendments, 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.

William von Raab,

Commissioner of Customs.

Approved: August 19, 1983.

John W. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-24529 Filed 9-7-83; 8:45 am]

BILLING CODE 4820-02-M

---

19 CFR Part 159

Currency Rates of Exchange

AGENCY: Customs Service, Treasury.

ACTION: Withdrawal of proposed rule.

SUMMARY: The Customs Regulations provide a list of foreign countries whose currencies are converted into equivalent United States currencies and certified on a quarterly basis.

This document withdraws a notice which proposed to amend the regulations by (1) removing the list of countries from the regulations, and (2) providing that Customs would establish, and publish as a Treasury Decision in the Customs Bulletin for each calendar quarter, a list of foreign countries for which quarterly currency rates were certified, and for the currency of each of the countries, the rate or rates first certified by the Federal Reserve Bank of New York for such foreign currency for a day in that quarter.

After analysis of the comments received in response to the proposal and further review of the matter, Customs has determined that the proposal should not be adopted.

DATE: Withdrawal effective September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Susan Ajello, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–5307).

SUPPLEMENTARY INFORMATION:

Background

In accordance with 31 U.S.C. 372, it is necessary to convert foreign currency into equivalent United States currency for the purpose of assessing and collecting duties upon merchandise imported into the United States. To do this, Customs must use the rates of exchange certified to the Secretary of the Treasury by the Federal Reserve Bank of New York ("FRB").

For currencies for which there is a high demand for rate information, certified rates of exchange are provided by the daily rate sheets. The daily rate sheets list (1) countries set forth in section 159.34(a), Customs Regulations (19 CFR 159.34(a)), whose currencies are converted into equivalent United States currencies and certified on a quarterly basis, and (2) countries not set forth in section 159.34(a), but for which there is a demand for currency rate information.

For those countries listed in section 159.34(a), certified quarterly rates of exchange are used. For these countries, Customs publishes in the Customs Bulletin, for the quarter beginning January 1, and for each quarter thereafter, the rate or rates first certified by the FRB for the respective foreign currency for a day in that quarter.

Customs published a notice in the **Federal Register** on May 20, 1982 (47 FR 21847), proposing to amend section 159.34(a) by removing the list of countries and, in its place, advised the public that Customs would establish, and publish as a Treasury Decision in the Customs Bulletin for each calendar quarter, a list of foreign countries for which quarterly rates of exchange are certified and for the currency of each of the countries, the rate or rates first certified by the FRB for such foreign currency for a day in that quarter. The supposed advantage of this proposed approach was that § 159.34(a) need not have been amended repeatedly each time another country was added to the daily rate sheets.

Interested parties were given until July 19, 1982, to submit written comments concerning the proposal. Two comments, both in opposition, were received in response to the notice.

Action

Withdrawal of Proposal

Based on the comments received and Customs review of the proposal, Customs has determined that the proposed procedure might cause confusion and the present system may not be significantly burdensome. Accordingly, the notice published in the Federal Register on May 20, 1982 (47 FR 21847), is withdrawn.

Drafting Information

The principal author of this document was James S. Demb, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

William von Raab,

Commissioner of Customs.

Approved: August 17, 1983.

John W. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 83-24527 Filed 9-7-83; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[LR-214-81]

Credit for Expenses for Household and Dependent Care Service Necessary for Gainful Employment

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide rules governing the credit for expenses for household and dependent care services necessary for gainful employment. Changes to the applicable tax law were made by the Economic Recovery Tax Act of 1981. The regulations would provide the public with the guidance needed to comply with changes to the credit made by the Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 7, 1983. The amendments are proposed to be effective for taxable years beginning on or after January 1, 1982.

ADDRESS: Send comments and requests for a public hearing to Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Nerman Dobynes Hubbard of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 44A of the Internal Revenue Code of 1954. These amendments are proposed to conform the Income Tax Regulations to section 124 (a) through (d) and (f) of the Economic Recovery Tax Act of 1981 (95 Stat. 197). The proposed regulations are to be issued under the authority contained in sections 44A (g) and 7805 of the Internal Revenue Code of 1954 (90 Stat. 1565, 26 U.S.C. 44A (g); 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

Prior to the modification by the Economic Recovery Tax Act of 1981, section 44A provided a tax credit equal to 20% of the employment-related expenses paid by a taxpayer for the care of a qualifying individual, *i.e.*, a dependent under the age of 15, or a dependent or spouse who is physically or mentally incapable of self-care. The employment-related expenses on which the credit is based were limited to $2,000 for the care of one qualifying individual and $4,000 if more than one qualifying individual was involved. Employment-related expenses which are incurred for services provided outside the taxpayer's household were taken into account only if incurred for the care of the taxpayer's dependent who is under the age of 15. Moreover, if a taxpayer is married, the employment-related expenses could not exceed the lesser of the taxpayer's or the spouse's earned income. For purposes of this earned income limitation, a spouse who is a full-time student or incapable of self-care was considered to have earned income of $166 per month if there was one qualifying individual, or $333 per month if there was more than one qualifying individual.

The Proposed regulations reflect the modification to section 44A made by the Economic Recovery Tax Act of 1981. The 1981 Act increases the credit from 20% of the employment-related expenses paid by a taxpayer in order to be gainfully employed to 30% of the employment-related expenses for a taxpayer whose adjusted gross income is $10,000 or less, phasing down to 20% where the adjusted gross income is above $28,000. The credit rate is reduced by one percentage point for each $2,000 (or fraction thereof) of adjusted gross income above $10,000. The employment-related expenses on which the credit is based is increased from $2,000 to $2,400 for the care of one qualifying individual and from $4,000 to $4,800 if more than one qualifying individual is involved.

The Act also provides that a taxpayer may take into account employment-related expenses incurred outside the taxpayer's household for the care of a physically or mentally incapacitated dependent (age 15 or over) or spouse of the taxpayer who regularly spends at least eight hours each day in the taxpayer's household. Payment for services provided outside the taxpayer's household for a qualifying individual by a dependent care center are to be taken into account as employment-related expenses only if the center complies with all applicable State and local laws and regulations. A dependent care center is any facility which provides care for more than six individuals (other than residents) and receives a fee, payment, or grant for providing services for any of the individuals. The proposed regulations provide, in general, that in order for a facility to be considered a dependent care center the care provided by the facility for more than six individuals must be on a regular basis during the taxpayer's taxable year. A rebuttable presumption is created when the center has six or less individuals (including the qualifying individual) enrolled on the day the qualifying individual enrolls in the center. In such a case, the center is presumed to provide care for six or less individuals on a regular basis during the taxpayer's taxable year. Also, if the qualifying individual continues to attend the same center the following taxable year and the center has six or less individuals (including the qualifying individual) enrolled on the first day the qualifying individual attends the center in that taxable year, the center is presumed to be a center that provides care for six or less individuals on a regular basis during that taxable year. The presumption is rebutted if the Internal Revenue Service shows that the center has more than six individuals enrolled on a regular basis during the taxpayer's taxable year.

Finally, the Act increases the amount of income deemed to be earned by the taxpayer's spouse who is a full-time student or incapable of self-care from $166 to $200 per month if there is one qualifying individual and from $333 to $400 per month if there is more than one qualifying individual.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be made available for public inspection and copying. A public hearing will be held upon written request of any person who has submitted written comments.

Special Analyses

The Commissioner of Internal Revenue has determined that these proposed regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983. Accordingly, a Regulatory Impact Analysis is not required.

Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these proposed regulations is Nerman Dobynes Hubbard of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, both on matters of substance and style.

List of Subjects in 1.0–1–1.58–8

Income taxes, Tax liability, Tax rates, Credits.

Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

PART 1—[AMENDED]

Paragraph 1. Section 1.44A–1 is amended by revising paragraph (a)(2), by revising paragraph (c)(4), by redesignating subparagraphs (5) and (6) of paragraph (c) as subparagraphs (6) and (7), respectively, and inserting a new subparagraph (5), to read as follows:

§ 1.44A–1 Expenses for household and dependent care services necessary for gainful employment.

(a) *In general.* * * *

(2) Section 44A allows a credit against the tax imposed by chapter 1 of the Code to an individual who maintains a household (within the meaning of paragraph (d) of this section) which includes as a member one or more qualifying individuals (as defined in paragraph (b) of this section). The amount of the credit is equal to the applicable percentage of the employment-related expenses (as defined in paragraph (c) of this section) paid by the individual during the taxable year (but subject to the limits prescribed in § 1.44A–2(a)). However, the credit cannot exceed the tax imposed by chapter 1, reduced by the sum of the allowable credits enumerated in section 44A(b). The term "applicable percentage" means 30 percent reduced by 1 percentage point for each $2,000 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year exceeds $10,000, but in no event shall the percent be less than 20 percent. Thus, for example, if a taxpayer's adjusted gross income is over $10,000, but less than $12,000.01, the applicable percentage is 29 percent. (For expenses incurred in taxable years beginning before January 1, 1982, the applicable percentage is a flat 20 percent).

* * * * *

(c) *Employment-related expenses.* * * *

(4) *Services outside the taxpayer's household.* The credit is allowed under section 44A with respect to employment-related expenses incurred for services performed outside the taxpayer's household only if those expenses are incurred for the care of—

(i) One or more qualifying individuals who are described in paragraph (b)(1)(i) of this section; or

(ii) One or more qualifying individuals (as to expenses incurred for taxable years beginning after December 31, 1981) who are described in paragraph (b)(1) (ii) or (iii) of this section and who regularly spend at least 8 hours each day in the taxpayer's household.

(5) *Dependent care centers.* The credit is allowed under section 44A with respect to employment-related expenses incurred in taxable years beginning after December 31, 1981, for services provided outside the taxpayer's household by a dependent care center only if:

(i) The center complies with all applicable laws and regulations of a State or unit of local government (*e.g.*, State or local requirements for licensing, if applicable, and building and fire Code regulations); and

(ii) The requirement provided in paragraph (c)(4) (i) or (ii) of this section is met.

The term "dependent care center" means any facility that provides full-time or part-time care for more than six individuals (other than residents of the facility) on a regular basis during the taxpayer's taxable year, and receives a fee, payment, or grant for providing services for any such individuals (regardless of whether such facility is operated for profit). For purposes of the preceding sentence, a facility will be presumed to provide full-time or part-time care for six or less individuals on a regular basis during the taxpayer's taxable year if the facility has six or less individuals (including the qualifying individual) enrolled for full-time or part-time care on the day the qualifying individual is enrolled in the facility (or on the first day of the taxable year the qualifying individual attends the facility in the case where the individual was enrolled in the facility in the preceding taxable year) unless the Internal Revenue Service demonstrates that the facility provides full-time or part-time care for more than six individuals on a regular basis during the taxpayer's taxable year.

* * * * *

Par. 2. Section 1.44A–2 is amended by revising paragraph (a) and by revising subparagraphs (3)(i) and (4) of paragraph (b) to read as follows:

§ 1.44A–2 Limitations on amount creditable.

(a) *Annual dollar limit on amount creditable.* The amount of the employment-related expenses incurred during any taxable year which may be taken into account under § 1.44A–1 (a) cannot exceed—

(1) $2,400 ($2,000 in the case of expenses incurred in taxable years beginning before January 1, 1982) if there is one qualifying individual with respect to the taxpayer at any time during the taxable year, or

(2) $4,800 ($4,000 in the case of expenses incurred in taxable years beginning before January 1, 1982) if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

For example, a calendar year taxpayer whose only qualifying individual reaches age 15 on April 1, 1982, is subject for 1982 to the entire annual dollar limit of $2,400, without proration of the $2,400 limit. However, only expenses incurred prior to the child's

15th birthday may be employment-related expenses.

(b) *Earned income limitation.* * * *

(3) *Special rule for spouse who is a student or incapable of self-care.* (i) For purposes of this section, a spouse is deemed, for each month during which the spouse is a full-time student or is a qualifying individual described in § 1.44A–1(b)(1)(iii), to be gainfully employed and to have earned income of not less than:

(A) $200 ($166 for taxable years beginning before January 1, 1982), if there is one qualifying individual with respect to the taxpayer at any one time during the taxable year, of

(B) $400 ($333 for taxable years beginning before January 1, 1982), if there are two or more qualifying individuals with respect to the taxpayer at any one time during the taxable year.

However, in the case of any husband and wife, this subparagraph shall apply with respect to only one spouse for any one month.

* * * * *

(4) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). During the 1982 taxable year, A, a married taxpayer, incurs and pays employment-related expenses of $4,000 for the care of a qualifying individual. A's earned income for the taxable year is $20,000 and his wife's earned income is $1,500. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A–1(a) is $1,500, determined as follows:

Employment-related expenses incurred during taxable year ($4,000, but limited to $2,400 by paragraph (a)(1) of this section), $2,400

Application of paragraph (b)((1)(ii) of this section (employment-related expenses, may not exceed wife's earned income of $1,500), $1,500

Employment-related expenses taken into account, $1,500

Example (2). Assume the same facts as in example (1) except that A's wife is a full-time student for nine months of the taxable year and earns no income for the year. Under these circumstances, the amount of employment-related expenses for the year which may be taken into account under § 1.44A–1 (a) is $1,800, determined as follows:

Employment-related expenses incurred during taxable year ($4,000 but limited to $2,400 by paragraph (a)(1) of this section), $2,400

Application of paragraph (b)(3) of this section [employment-related expenses may not exceed wife's earned income of $1,800 ($200 × 9)], $1,800

Employment-related expenses taken into account, $1,800

Par. 3. Paragraph (b) of § 1.44A–4 is amended by revising examples (1) and (3) to read as follows:

§ 1.44A–4 Other special rules relating to employment-related expenses.

* * * * *

(b) *Expenses qualifying as medical expenses.* * * *

Example (1). In 1982, a calendar year taxpayer incurs and pays $5,000 of employment-related expenses during the taxable year for the care of his child when the child is physically incapable of self-care. These expenses are incurred for services performed in the taxpayer's household and are of a nature which qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is $100,000. Of the total expenses, the taxpayer may take $2,400 into account under section 44A; the balance of the expenses, or $2,600, may be treated as medical expenses to which section 213 applies. However, this amount does not exceed 3 percent of the taxpayer's adjusted gross income for the taxable year and is thus not allowable as a deduction under section 213.

* * * * *

Example (3). In 1982, a calendar year taxpayer incurs and pays $12,000 of employment-related expenses during the taxable year for the care of his child. These expenses are incurred for services performed in the taxpayer's household, and they also qualify as medical expenses under section 213. The taxpayer's adjusted gross income for the taxable year is $18,000. The taxpayer takes $2,400 of such expenses into account under section 44A. The balance, or $9,600, he treats as medical expenses for purposes of section 213. The allowable deduction under section 213 for the expenses is limited to the excess of the balance of $9,600 over $540 (3 percent of the taxpayer's adjusted gross income of $18,000), or $9,060.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-24570 Filed 9-7-83; 8:45 am]

BILLING CODE 4830-01-M

Notices

Federal Register
Vol. 48, No. 175
Thursday, September 8, 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

Office of the Secretary

Forms Under Review by Office of Management and Budget

September 2, 1983.

The Department of Agriculture 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) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (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 provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Marshall L. Dantzler, Acting Department Clearance Officer, USDA, OIRM, Room 108–W Admin. Bldg., Washington, D.C. 20250, (202) 447–6201.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

New

• Economic Research Service
December 1983 Current Population Survey Hired Farm Worker Supplement CPS–1
Biennually
Individuals and households: 58,000 responses; 1,450 hours; not applicable under 3504(h)
Leslie Whitner (202) 763–2773

Extension

• Agricultural Marketing Service
Administrative Information Collection Under Marketing Order No. 910 and Proposal Marketing Agreement
Every 10 years
Farms, Business: 175 responses; 102 hours; not applicable under 3504(h)
William J. Doyle (202) 447–5975

• Economic Research Service
Farm Real Estate Taxies Levied
Annually
State or Local Governments: 3,323 responses; 1,255 hours; not applicable under 3504(h)
Jerome M. Stam (202) 447–7340

Reinstatement

• Agricultural Stabilization and Conservation Service
MQ–76 Tobacco Marketing Card, MQ–77 Excess Marketing Card, MQ–117 Application for Duplicate Marketing Card
MQ–76, MQ–77 MQ–117
On Occasion
Farms: 489,300 responses; 81,650 hours; not applicable under 3504(h)
Harry Millner (202) 447–4281.

Dewayne E. Hamilton,
Acting Department Clearance Officer.

[FR Doc. 83-24516 Filed 9-7-83; 8:45 am]
BILLING CODE 3410-01-M

Computer Matching of USDA Farmers Home Administration Rural Housing Borrowers and Rural Rental Housing Tenants Against Virginia Employment Commission Records

1. Introduction and Legal Authority

The Office of Inspector General (OIG) conducts continuing, antifraud reviews pursuant to its authority under Pub. L. 94–452 (the IG Act).

This notice is required by section 5f(1) of the Office of Management and Budget (OMB) Guidelines for conducting matching programs. 47 FR 21656.

2. Purpose

One of the responsibilities of OIG under the IG Act is to prevent and detect fraud and abuse in U.S. Department of Agriculture (USDA) programs. As part of OIG's efforts to meet this responsibility, it is performing a wage match of Farmers Home Administration (FmHA) tenants in the State of Virginia, against the wage files of the Virginia Employment Commission (VEC) to detect underreporting of income in order to receive higher mortgage interest subsidies or rent subsidies.

3. Description of Records To be Matched

The FmHA Borrower Finder File was obtained from the FmHA Management Finance Office in St. Louis, MO. The file is identified by Privacy Act System Name "Applicant/Borrower or Grantee File, USDA/FmHA–1" and was originally published in 40 FR 38923 on August 27, 1975.

From this file, OIG selected Direct and Insured Rural Housing loan data for loans which FmHA made in Virginia. This data was incorporated into the OIG Privacy Act System identified as USDA/OIG–6, Audit Information System, 44 FR 5174, January 25, 1979. This data is to be combined with information collected on Rural Rental Housing (RRH) tenants for selected areas. This file will be sent to VEC for matching against the VEC wage file. The results of this match will be returned to OIG. OIG will initially limit its match to the State of Virginia but will conduct matches in other States in the future.

4. Projected Start and Ending Dates of the Program

The survey work for this wage match in Virginia began in February, 1983, and field visits for review and analysis of information are scheduled to be completed by September 30, 1983.

5. Privacy Protection

The personal privacy of individuals identified on tapes is protected by strict compliance with the Privacy Act and OMB Circular A–71. Information from matching programs will not be used except for official audit purposes.

6. Procedures of the Matching Program

At the audit control point in Hyattsville, MD, the Regional Inspector General for Auditing will approve each key action required.

Processing of the FmHA information will result in printouts identifying all Rural Housing (RH) borrowers and all projects in Virginia. Matching social security numbers of RH borrowers and RRH tenants against social security numbers on file with the VEC will provide tapes of raw hits. These raw hits will be analyzed and printouts will be generated to tentatively identify those borrowers or tenants who have not reported or have underreported their earnings. These borrowers will be classified as hits.

If OIG's findings, relevant to specific borrowers or tenants, are substantiated, it may request FmHA to take action, or OIG may seek prosecution. The final results of OIG's overall reviews will be disclosed in conformance with the Privacy Act to those officers and employees of USDA who have need for the information in the performance of their duties, and to those others in conformance with the routine uses for the OIG Privacy Act System under which this matching program will be conducted (USDA/OIG–6, Audit Information System, 44 FR 5174, January 25, 1979).

OIG also plans to refer cases of tenants receiving "Section 8" rental assistance to the Department of Housing and Urban Development for followup by that Department.

7. Disposal of Records

Matching source records will not be retained by OIG for more than 6 months. The records supplied on tape by VEC will be scratched within 6 months. Printouts generated from this tape will be maintained in audit workpapers.

Done at Washington, D.C., this 31st day of August, 1983.

Anthony J. Gabriel,

Deputy Inspector Geneal.

[FR Doc. 83-24545 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-23-M

National Agricultural Research and Extension Users Advisory Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972, (Pub. L. 92–463, 86 Stat. 770–776) Science and Education announces the following meeting:

Name: National Agricultural Research and Extension Users Advisory Board.

Date: September 26–27, 1983.

Time: 8:00 a.m.–5:00 p.m., September 26, 1983—8:00 a.m.–5:00 p.m., September 27, 1983.

Place: U.S. Department of Agriculture, Room 107–A, Administration Bldg. (September 26)—Room 201–W, Administration Bldg. (September 27), 12th & Independence Avenue, SW, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: The Board will be having an orientation session to acquaint new members with the organization, mission, functions and funding levels and mechanisms of the Science and Education agencies.

Contact Person for Agenda and More Information: Barbara L. Fontana, Executive Secretary, National Agricultural Research and Extension Users Advisory Board; Room 351–A, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20250; telephone (202) 447–3684.

Done in Washington, D.C., this first day of September 1983.

Barbara L. Fontana,

Executive Secretary, National Agricultural Research and Extension Users Advisory Board.

[FR Doc. 83-24548 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-01-M

Forest Service

Land and Resource Management Plan; Sequoia National Forest, Fresno, Tulare, Kern County, California; Intent To Reevaluate Roadless Areas

The Department of Agriculture, Forest Service issued a national environmental impact statement in January 1979. This environmental impact statement documented the results of an analyses of 62 million acres of roadless and undeveloped land within the 190 million acre National Forest System. The purpose of this Roadless Area Review and Evaluation (RARE II) was to determine which of thse roadless areas were more suitable for wilderness than for other National Forest uses.

In California, RARE II analyzed over 6 million acres located in the Forest Service Pacific Southwest Region. Of the total acres analyzed, about 983,000 acres were recommended for wilderness; 2,643,000 acres for further planning for wilderness; and 2,395,000 acres were not considered suitable for wilderness or were designated nonwilderness.

In 1979 the State of California challenged the adequacy of the RARE II Environmental Impact Statement prepared as the basis for making the decisions for the allocation of the roadless land to either wilderness or nonwilderness use. In October 1982, the United States Court of Appeals for the Ninth Circuit affirmed a lower court decision which applied specifically to 46 roadless areas in California. This decision sets a binding precedent for all Federal Courts in the Ninth Court.

As a result of the October 1982 court decision all the roadless areas on the National Forests in California that were allocated to wilderness or nonwilderness in the RARE II FEIS will be re-evaluated. The re-evaluation of these RARE II areas on the Sequoia National Forest will be done as part of the Forest's present land and resource management planning. The areas to be re-evaluated are:

Name	Gross acres	Net N.F. acres
Staff	42,351	42,351
Black Mtn	15,600	15,600
Slate Mtn	13,100	13,100
Cannell	47,300	47,300
South Sierra	34,499	34,049
Jennie Lake	13,700	13,700
Rincon	59,700	56,866
Domeland Addition II	1,100	1,100
Chico	43,700	43,700
Lyon Ridge	5,200	5,200
Mill Creek	29,900	29,800
Greenhorn Creek	29,600	29,400
Total	335,950	334,366

Detailed information on the roadless areas and the re-evaluation process will be mailed to those on the Forest Planning mailing list by September 13, 1983. Individuals and organizations not on the Forest mailing list who wish this information should contact the Forest. In addition, there will be a briefing session held at 7:30 p.m. on Thursday, October 6, 1983 at the Sequoia National Forest Headquarters, 900 West Grand Avenue, Porterville, CA, to answer questions about the roadless areas and the re-evaluation process.

Written comments concerning the re-evaluation are encouraged. These comments should be directed to Charles R. Pickering, Planning Officer, Sequoia National Forest, 900 West Grand Ave., Porterville, CA 93257. Thse comments should be received by October 21, 1983. For further information about the proposed re-evaluation contact Charles Pickering, Planning Officer, Sequoia National Forest at the above address, or call (209) 784–1500.

Dated: August 29, 1983.

James A. Crates,

Forest Supervisor, Sequoia National Forest.

[FR Doc. 83-24478 Filed 9-7-83; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

International Trade Administration

Postponement of Final Determinations; Certain Carton Closing Staples and Staple Machines From Sweden

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of postponement of final antidumping determinations: Certain carton closing staples and staple machines from Sweden.

SUMMARY: This notice informs the public that the Department of Commerce (the Department) has received a request from Josef Kihlberg Trading AB (Kihlberg) that the final determinations be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)), and, that the Department has decided to postpone its final determinations as to whether sales of certain carton closing staples and staple machines from Sweden have occurred at less than fair value, until not later than October 17, 1983.

Kihlberg is qualified to make this request since it is an exporter which accounts for a significant proportion of the exports of the carton closing staples and the staple machines which are the subjects of these investigations.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Deborah A. Semb, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-3534.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the Department of Commerce published a notice in the **Federal Register** (January 13, 1983; 48 FR 1530) that it was initiating, under section 732(b) of the Act (19 U.S.C. 1673(b)), antidumping investigations to determine whether certain carton closing staples and staple machines from Sweden are being, or are likely to be, sold at less than fair value. The Department published affirmative preliminary determinations on June 2, 1983 (48 FR 24755). The notice stated that if these investigations proceeded normally, we would make our final determinations by August 9, 1983.

Section 735(a)(2) of the Act provides that the Department of Commerce may postpone its final determination concerning sales at less than fair value if, after an affirmative preliminary determination, an exporter who accounts for a significant proportion of exports of the merchandise which is the subject of the investigation requests an extension. The Department may postpone its final determination until not later than the 135th day after the date on which it published notice of its preliminary determination. Counsel for Kihlberg requested postponements on July 5, 1983 and July 27, 1983. On August 10, 1983, the Department published a notice of postponement of final antidumping determinations until September 15, 1983, 105 days after the date on which it published notice of its preliminary determinations (48 FR 36304).

On August 15, 1983, counsel for Kihlberg requested postponements of these investigations for the full period available under the Act. Accordingly, the Department will issue final determinations in these investigations not later than October 17, 1983.

This notice is published pursuant to section 735(d) of the Act.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

September 1, 1983.

[FR Doc. 83-24542 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

Lightweight Polyester Filament Fabrics From Japan; Amendment to Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Commerce.

ACTION: Amendment to the preliminary determination of sales at less than fair value.

SUMMARY: On August 8, 1983, we published a preliminary affirmative antidumping duty determination on lightweight polyester filament fabrics (LPFF) from Japan (48 FR 35976). Due to clerical errors in computing the cost of production and the cost of manufacturing of LPFF by Nishikawa Bussan, and a clerical error where linear meters were inadvertently interpreted as linear yards, foreign market value was incorrectly calculated.

Also, in the case of Teijin Limited, because we were unable to process the company's computerized response, we applied the weighted-average margin for all other companies to Teijin. We have now solved the data processing problem, and we are able to calculate a weighted-average margin for Teijin based on the company's response.

Fair Value Comparison

To determine whether sales of the subject merchandise by Nishikawa Bussan in the United States were made at less than fair value, we compared the United States price with the foreign market value, as explained in the above-cited preliminary determination on this merchandise. To determine whether sales of the subject merchandise by Teijin in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price for sales by Teijin, because the merchandise was sold to unrelated purchasers prior to its importation into the United States.

We calculated the purchase price based on the ex-go-down, landed, duty-paid, or delivered packed price to purchasers in the United States. We made deductions, where appropriate, for foreign inland freight and insurance, foreign brokerage and handling charges, ocean freight, marine insurance, U.S. brokerage and handling charges, U.S. excise and other special taxes, U.S. customs duties, U.S. inland freight and insurance.

Foreign Market Value

In accordance with section 773(a) of the Act, we calculated foreign market value based on home-market sales. We did not use constructed value for Teijin.

The petitioner alleged that sales in the home market were at prices below the cost of producing LPFF. We examined production costs which included all appropriate costs for materials, fabrication and general expenses. Sales below the cost of production were found to be made within certain categories of such or similar LPFF. Where sales within any of the categories were made over an extended period of time and in substantial quantities, and were at prices which did not permit recovery of all costs within a reasonable period of time in the normal course of trade, the Department disregarded these sales in its analysis in accordance with section 773(b) of the Act.

After having disregarded these sales, we found that sufficient sales of LPFF were made at or above the cost of production and, therefore, those sales were used in making price-to-price comparisons with sales in the U.S. market. We calculated the home-market prices for each type of LPFF on the basis of delivered packed prices to unrelated purchasers. From these prices, we deducted, where appropriate, foreign inland freight and rebated. We made

adjustments, where appropriate, for credit expenses, advertising expenses, warranty and servicing expenses, and after-sale warehousing expenses, in accordance with section 353.15 of the Commerce regulations. We also made adjustments for the cost of materials, labor, and direct factory overhead associated with differences in the merchandise in accordance with section 353.16 of the Commerce regulations. We also deducted home-market packing costs and added the packing cost incurred on sales to the United States.

The following claims were disallowed in calculating foreign market value. Teijin requested a circumstances-of-sale adjustment for other direct selling expenses. We disallowed this claim for other direct selling expenses because the claim includes both allowable and non-allowable selling expenses and we do not have sufficient information with which to allocate the allowable expenses. We will seek further information for purposes of our final determination. In addition, Teijin identified a small number of its home-market sales made at distress prices (in the case of out-of-fashion or end-of-season merchandise), which it claims are in the normal course of trade for the lightweight polyester filament fabric industry, and which permit the recovery of all costs over a reasonable period of time. However, Teijin did not provide sufficient documentation to support this claim. Therefore, these sales were treated in the same manner as all other home-market sales in calculating foreign market value.

Suspension of Liquidation

The "Suspension of Liquidation" section of the original notice is corrected to require the posting of a cash deposit, bond, or other security based on the following revised weighted-average margins.

Manufacturer and status	Weighted-average margin percentage
Nishikawa Bussan Co., Ltd. (excluded)	0.465
Teijin Limited (not subject to suspension but not excluded from this preliminary determination)	0.310
All other companies	1.056

Although Teijin Limited has only a *de minimis* margin, we are not excluding this firm from the preliminary determination because the Department needs to analyze supplemental information which has been requested in order to make more extensive comparisons.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

August 21, 1983.

[FR Doc. 83-24543 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-351-037]

Certain Castor Oil Products From Brazil; Final Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration.

ACTION: Notice of final results of Administrative review of countervailing duty order.

SUMMARY: On May 16, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on certian castor oil products from Brazil. The review covers the period January 1, 1980 through December 31, 1980. The notice stated that the Department had preliminarily determined the net subsidy for 1980 to be 2.22 percent *ad valorem*.

We gave interested parties an opportunity to comment on the preliminary results. After review of all timely comments received, the final assessment rates are the same as those presented in the preliminary results.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Lorenza Olivas or Brian Kelly, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On May 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 21982) the preliminary results of its administrative review of the countervailing duty order on certian castor oil products from Brazil (42 FR 8634, March 16, 1976). The Department has now completed that Administrative review, in accordance with section 751(a)(1) of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Brazilian hydrogenated castor oil products and 12-hydroxystearic acid. Such merchandise is currently classifiable under items 178.2000, 490.2650 and 490.2670 of the Tariff Schedules of the United States Annotated.

The review covers the period January 1, 1980 through December 31, 1980, and three programs: preferential financing for exports, income tax exemptions for export earnings, and an export credit premium for the Industrial Products Tax ("IPI").

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received timely comments from the Government of Brazil.

Comment 1: The Government of Brazil argues that the Department has overstated the benefit from the income tax exemption for export earnings. Brazilian federal tax laws permit corporations to invest 26 percent of taxes owed in certain specified corporations. The Brazilian government claims that this provision results in an effective reduction of the corporate income tax rate, which directly diminishes the benefit from the income tax exemption.

Department's Position: We disagree. As a threshold matter, we could only consider an adjustment if those other tax provisions result in a diminshed benefit. In this case, the amount a company invests does not diminish the amount of the tax exemption available for export revenue. Therefore, no offset is appropriate. *See also,* notice of "Suspension of Investigation" of frozen concentrated orange juice from Brazil (48 FR 8839, March 2, 1983).

Comment 2: The Government of Brazil claims that benefits derived from the income tax exemption for export earnings should be allocated over total revenue rather than export revenue. Under this program, a Brazilian exporter receives an exemption from income tax liabilities at the end of the fiscal year based upon the ratio of export to total revenue, provided that the firm has made an overall profit. The Brazilian government argues that, because the determining factor in a firm's eligibility for this benefit is its overall profitability for a given year, the benefit accrues to the operations of the whole firm and not just to exports. Further, an exemption from an income tax calculated on this basis cannot directly affect the price of the exported product alone; it must have a general effect on all prices, both domestic and export. Thus, by allocating the benefits only to export revenue, the Department overstates the value of the subsidy.

Department's Position: The Government of Brazil has made this

argument before in section 751 administrative reviews of countervailing duty orders on other Brazilian products. *See, e.g.*, notice of "Final Results of Administrative Review" of certain scissors and shears from Brazil (47 FR 10266, March 10, 1982). In those reviews we responded that, when a firm must export to be eligible for benefits under a subsidy program and when the amount of the benefit received is tied directly or indirectly to the firm's level of exports, that program is an export subsidy. The fact that the firm as a whole must be profitable to benefit from this program does not detract from the program's basic function as an export subsidy. Therefore, the Department will continue to allocate the benefits under this program over export revenue instead of total revenue.

Comment 3: The Government of Brazil claims that, in calculating the interest differential under the program of preferential financing for exports, the exemption of loans received under Resolution 674 from the tax on financial transactions ("the IOF") should not be considered. The IOF is an indirect tax on the financing used for the purchase of physically incorporated inputs. For the Department to determine the interest rate subsidy on preferential loans by considering the IOF tax an integral part of the commercially-available rate (*i.e.*, considering exemption from the tax a subsidy) is contrary to the GATT and U.S. law, both of which permit non-excessive rebate of indirect taxes.

Department's Position: We have addressed this issue in other countervailing duty cases on Brazilian products. *See, e.g.*, notice of "Final Affirmative Countervailing Duty Determination" for prestressed concrete steel wire strand from Brazil (48 FR 4516, February 1, 1983). In those determinations we stated that although the IOF is an indirect tax paid on financial transactions, including the discounting of accounts receivable, we do not consider this fact relevent. Since we consider the discounting of cruzeiro-denominated accounts receivable as the commercial alternative to Resolution 674 loans, it is appropriate that we include the exemption of Resolution 674 loans from the IOF as part of the measurement of the full benefit provided under this program.

Comment 4: The Government of Brazil argues that benefits from the preferential financing are realized by a borrower at the time loans are repaid. Consequently, the Department should calculate the net subsidy based upon the date of repayment of such loans, similar to the Department's treatment of long-term loans, rather than prorate the benefit over the duration of the loans.

Department's Position: In the notice of final results of review of the countervailing duty order on certain scissors and shears from Brazil, we noted that the Government of Brazil argued for the allocation of benefits from these loans throughout the life of the loans rather than for assignment to the period in which the loan was received. We agreed with their argument and prorated the benefits throughout the life of the loan. We believe this to be a reasonable method for allocating these benefits and do not believe that the Government of Brazil has demonstrated that their current approach is more reasonable than their past approach.

Final Results of the Review

After consideration of the timely comments, we determine that aggregate net subsidy to be 2.22 percent *ad valorem* for the period January 1, 1980 through December 31, 1980. The Department will instruct the Customs Service to assess countervailing duties of 2.22 percent of the f.o.b. invoice price on any shipments of the merchandise exported on or after January 1, 1980 and on or before December 31, 1980.

On February 21, 1983, the Government of Brazil reduced the maximum eligibility for preferential financing under Resolution 674 from 20 percent of the previous year's exports to 15 percent, which is lower than the average usage rate of 16.38 percent. Effective January 3, 1983, the Banco do Brasil increased its discount rate to 72 percent. In addition, the Government of Brazil increased the effective preferential interest rate for export financing from 44 percent to 69 percent and lowered the IOF from 4.50 percent to 1.50 percent on June 10, 1983 (Resolutions 832 and 830, respectively). Adding the 1.50 percent IOF to the 72 percent rate for discounting accounts receivable, the adjusted benchmark commercial interest rate is 73.50 percent. As a result, the differential between the commercial benchmark rate and the preferential interest rate is 4.50 percent. Using the adjusted interest differential and assuming, in the absence of knowledge of current usage levels, that Brazilian producers of certain castor oil products borrow the maximum amount to which they are legally entitled since February 21, 1983, we find the potential benefit under the preferential financing for export program to be 0.69 percent rather than 5.48 percent as presented in our preliminary results.

Therefore, as provided by section 751(a)(1) of the Tariff Act, the Department will instruct the Customs Service to collect a cash deposit of estimated countervailing duties of 0.82 percent of the entered value on any 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 now intends to conduct the next administrative review.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible after the Department's receipt of the requested information.

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: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24511 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-533-060]

Certain Footwear From India; 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 June 28, 1983, the Department of Commerce published the preliminary results of its administrative review and revocation of the countervailing duty order on certain footwear from India. The review covers the period January 1, 1981 through December 31, 1981.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments contesting our results. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: September 8, 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 June 28, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 29724) the preliminary results of its administrative review and revocation of the countervailing duty order on certain footwear from India (44 FR 61588, October 26, 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 Indian leather footwear and leather uppers, other than unlasted leather uppers. Such merchandise, currently classifiable under items 700.0500 through 700.9545 of the Tariff Schedules of the United States Annotated ("TSUSA"), is subject to the order, unless it falls within one of the following categories:

(1) Certain footwear explicity excluded by TSUSA number in the order. Such footwear is currently classifiable under TSUSA items 700.2800, 700.5100 through 700.5400, 700.5700 through 700.7100, and 700.9000.

(2) Hurraches, slippers and chappals. These items are currently classifiable under TSUSA items 700.0500, 700.3200, and 700.4110 through 700.4140.

(3) Sandals, defined as "footwear consisting of a sole held to the foot by uppers composed of thongs or straps without regard to heel height." Such footwear, regardless of TSUSA classification, is not subject to the order. TSUSA item 700.5630 is specifically excluded.

The review covers the period January 1, 1981 through December 31, 1981, and three programs: (1) Short-term preferential financing (2) a deduction from taxable income of up to 133 percent of overseas business expenses; and (3) cash rebates on export under the Cash Compensatory Support Program.

Final Results of Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments contesting the results. Based on our analysis, the final results of the review are the same as the prelimary results. We determine the net subsidy to be 15.08 percent *ad valorem* for leather footwear, and 12.58 percent *ad valorem* for the leather uppers, other than unlasted leather uppers, for the period January 1, 1981 through December 31, 1981.

The Department will instruct the Customs Service to assess countervailing duties of 15.08 percent of the f.o.b. invoice price on leather footwear, and 12.58 percent for leather uppers, other than unlasted leather uppers, on any shipments exported on or after January 1, 1981 and entered, or withdrawn from warehouse, for consumption before October 13, 1981, the effective date of the revocation.

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: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-24510 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-022]

Non-Rubber Footwear From Spain; 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 April 4, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear 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 of the comments received, the final assessment rates are the same as those presented in the preliminary results.

EFFECTIVE DATE: September 8, 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 April 4, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 14426) the preliminary results of its administrative review of the countervailing duty order on non-rubber footwear from Spain (39 FR 32904; September 12, 1974). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

On June 2, 1983, the International Trade Commission ("the ITC") published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Spanish non-rubber footwear if the order were revoked (48 FR 24796). Consequently, the Department published in the **Federal Register** (48 FR 28310; June 21, 1983) a revocation if the order with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after May 3, 1982.

Scope of the Review

Imports covered by the review are shipments of non-rubber footwear from Spain. Such merchandise is currently classifiable under items 700.0500 through 700.4575, 700.5605 through 700.5673, 700.7220 through 700.8360, and 700.9515 through 700.9545 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.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received written comments from the petitioner, the Spanish exporters and certain footwear importers in the United States.

Comment 1: The petitioner, Footwear Industries of America ("FIA"), argues that we should countervail the full rate of rebate under the DFE. FIA states that the Spanish government's "Structure of Cost Analysis" Provides only an approximation of the actual indirect tax incidence borne by the product and thus does not represent a "reasonable calculation" required to establish linkage. Further, FIA states that during verification the Department learned that: (a) The Spanish producers were not able to itemize input costs to match those of the government's study and (b) the proportion of physically incorporated raw material inputs were lower than that claimed in the government's analysis.

Department's Position: The Department has accepted the data base and methodology used by the Spanish goverment in estimating the tax incidence and setting the rebate under the DFE. (See *Certain Stainless Steel Products from Spain*, 47 FR 51453; November 15, 1982.)

It is not correct that all of the sampled producers were unable to disaggregate

input costs. Prior to verification, we instructed each firm to prepare aggregate raw material costs regardless of whether individual inputs were accounted for separately in company records. We chose this verification approach because of the time constraints imposed by the large number of companies to be verified and the necessity to include a representative sampling of small scale firms in our verification. Recognizing that the smaller firms would have less sophisticated accounting techniques, we required only those records most likely kept by all companies. As demostrated by verification documents, disaggregated records were available from a number of firms had the Department required a more detailed analysis.

With respect to the differences in the proportion of raw material inputs when compared with the government's analysis, these differences do not undermine our finding of linkage in this case. We have taken them into account in measuring the magnitude of the overrebate.

Comment 2: FIA asserts that, in setting the deposit rate for future entries under the operating capital loans program, the Department underestimated the benefit by choosing a nationwide benchmark rate based on "average creditworthiness." It claims that the Spanish footwear producers should be considered uncreditworthy, facing higher interest rates when borrowing in the commercial markets.

Department's Position: Because of the Department's revocation of the order these final results do not incorporate a requirement for cash deposit of estimated countervailing duties on future entries. Further, uncreditworthiness would only affect entries after 1981 when the Spanish government established a free market for such rates. Our review only covers 1980. If FIA more full describes its allegation of uncreditworthiness early in the Department's next administrative review, covering the period January 1, 1981 through May 2, 1982, we can look further into the allegation.

Comment 3: FIA states that, for duty deposit purposes, the Department should investigate and include any potential benefits stemming from the Spanish government's plans to restructure the footwear sector, as proposed in Royal Decree 1002 of May 14, 1982.

Department's Position: Again, because of the revocation of the order with respect to shipments of this merchandise entered on or after May 3, 1982, the Department has not set a requirement for deposit of estimated countervailing duties. Further, any potential benefits from the May 14, 1982 decree would not affect entries made before the effective date fo the revocation.

Comment 4: The Spanish exporters' association, the Federacion de Industrias del Calzados Espanol ("FICE"), contends that the revocation of the order should apply to entries made on or after August 20, 1980, the date of a general suspension of liquidation by the U.S. Customs Service at the direction of the Department. FICE claims that the date of notification by the ITC is purposefully deleted from section 104(b)(4)(B) of the Trade Agreements Act of 1979 ("the TAA") and that the revocation should therefore apply to all suspended entries entered on or after August 20, 1980. Similarly, the Volume Footwear Retailers of America ("VFRA"), importers of Spanish non-rubber footwear, claim that section 104(b)(4)(B) refers to *any* countervailing duties collected since the TAA became effective. VFRA argues that the revocation should apply to entries made since January 1, 1980.

Department's Position: We do not agree with these arguments. Congress did not intend for subparagraphs 104(b)(4) (A) and (B) to apply to different periods or it would have made such intention clear. Further, there is no indication in the statute or legislative history that the effective date of a 104(b)(4)(B) revocation should be different than the ITC notification date merely because the Department, for reasons apart from an ITC investigation, suspended liquidation of entries.

Comment 5: Both FICE and VFRA argue that the results of section 751 reviews of countervailing duty orders issued under section 303 of the Tariff Act are intended to be applied prospectively. The law does not permit suspension of liquidation pending the completion of administrative reviews or the retroactive assessment of countervailing duties except in accordance with the transition rules of section 104(b)(3) of the TAA.

Department's Position: Section 751(a)(1) provides for a review of countervailing duty orders to determine the amount of any net subsidy to be "assessed" and estimated duties to be "deposited." There would be no reasons for determining the deposit figure if Congress did not intend to suspend prior entries and later assess countervailing duties on those entries based on subsidy information obtained during a section 751 review.

Comment 6: VFRA alleges that, even if the law permits suspension of liquidation pending completion of reviews, it does not authorize suspension if the Department fails to complete a review by the time limits set forth in section 751 of the Tariff Act. Since the Department did not complete its administrative review by the anniversary date of the order, entries made during calendar year 1980 should automatically be liquidated in accordance with section 504(a) of the Tariff Act.

Department's Position: With certain exceptions, section 504(a) of the Tariff Act requires liquidation within one year of entry. Under paragraph 504(b)(2), liquidation may be extended if "liquidation is suspended as required by statute or court order." Since the statutory scheme of section 751 requires the retroactive assessment of countervailing duties, suspension of liquidation of entries covered by the countervailing duty order is necessary to the implementation of section 751. When the review is completed, the suspended entries that were made during the review period are liquidated at the rate calculated by the Department for that period. Liquidation of all subsequent entries subject to the same order remain suspended and the Department requires deposits of estimated duties at the new rate pending the results of the next section 751 review. If the Department does not finish its review within 12 months, it is necessary for Customs to continue to suspend liquidation until the Department completes its review and informs Customs of the rate at which to liquidate suspended entries.

Where a statute imposes a duty upon a governmental agency to carry out express statutory objectives, the statute carries with it by necessary implication the authority to effect the legislative mandate. Accordingly, the authority to order suspension of liquidation is present by necessary implication in section 751 and suspension of liquidation beyond one year is permissible under section 504(a).

Final Results of the Review

Based on our analysis of the comments received, we determine the aggregate net subsidy to be 4.91 percent *ad valorem* during 1980. The Department will instruct the Customs Service to assess countervailing duties of 4.91 percent of the f.o.b. invoice price on all shipments of non-rubber footwear 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. 74–235 (39 FR 32904), T.D. 78–165 (43 FR 25814), or T.D.

79–23 (44 FR 3477) and section 303(a)(5) of the Tariff Act, prior to the enactment of the TAA, apply to all entries made prior to January 1, 1980. Accordingly, the Customs Service shall assess countervailing duties on unliquidated entries of non-rubber footwear which were entered, or withdrawn from warehouse, for consumption prior to January 1, 1980, at the applicable rates set forth in T.D. 74–235, T.D. 78–165, or T.D. 79–23.

The Department still must review the period of January 1, 1981 through May 2, 1982. 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: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 83-24512 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-469-053]

Oleoresins of Paprika From Spain; 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 16, 1983, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on oleoresins from Spain. The review covered the period July 1, 1980 through June 30, 1981.

We gave interested parties an opportunity to comment on our preliminary results. After review of all comments received, we have determined the net subsidy for the period to be 0.68 percent *ad valorem*.

EFFECTIVE DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Victoria M. Marshall 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 16, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 21984) the preliminary results of its administrative review of the countervailing duty order on oleoresins of paprika from Spain (44 FR 11214, February 28, 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 Spanish oleoresins of paprika. Such imports are currently classifiable under item 450.2010 of the Tariff Schedules of the United States Annotated.

The review covers the period July 1, 1980 through June 30, 1981, and two programs: (1) A rebate upon exportation of indirect taxes under the Desgravacion Fiscal a la Exportacion ("DFE"); and (2) an operating capital loans program.

Analysis of Comments Received

We gave interested parties an opportunity to comment on our preliminary results. We received written comments from oleoresins exporters in Spain.

Comment 1: The exporters assert that the methodology used by the Department to calculate DFE benefits is inherently unfair since it does not incorporate changes in the IGTE tax rate that occur during the review period. They argue that we should weight-average the taxes paid during the period of review by the volume of sales occurring before and after the tax change to determine the net subsidy.

Department's Position: The Department agrees with the principle of weight-averaging benefits received for the review period. The proper weighting factor, however, is the average value of inputs for the review period included in the final product at a given tax rate. Since the Department does not know the variations in the price and volume of input purchases during the review period, we have assumed that they were made uniformly throughout the 12 months. We have now deducted the simple average of allowable taxes for the period from the 10.5 percent DFE rebate. We determine the net subsidy for this program during the review period to be 0.25 percent.

Comment 2: The exporters contend that the methodology for calculating the weighted-average differential for the operating capital loans overstates the benefit during the review period by not taking into account the fact that all loans were taken at the beginning of the period when the differential was 1.5 percent.

Department's Position: The Department uses the date of receipt of loans in computing interest differentials. Because the Spanish government did not respond to our request for actual loan data, we assumed uniform borrowing throughout the period of review. Therefore, the Department used a 1.5 percent differential for borrowing up to March 1, 1981, and 9.48 percent after that date.

Comment 3: The exporters contend that the Department disregarded information about commercial interest rates at which oleoresins companies would have been able to borrow. The exporters assert that the "actual borrowing rates for firms, rather than some 'average national' rate, must be [the] controlling" factor in determining the weighted-average differential. In addition, they question how appropriate it is, first, for the Department to assume that oleoresin manufacturers and exporters could not borrow at prime interest rates, and second, that an arbitrary 2.5 percent should be added to monthly average prime interest rates to arrive at the benchmark rate.

Department's Position: Since the preferential loans are given under a broad, national lending program, we 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, the 2.5 percent addition is based on our estimate of the normal difference between prime and the average commercial interest rate.

Final Results of the Review

After consideration of all comments received, we determine the aggregate net subsidy to be 0.68 percent for the period July 1, 1980 through June 30, 1981. The Department will instruct the Customs Service to assess countervailing duties of 0.68 percent of the f.o.b. invoice price on any shipments exported on or after July 1, 1980 and on or before June 30, 1981.

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 0.94 percent of the f.o.b. invoice price on any 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.

The Department encourages interested parties to review the public record and to submit applications for protective orders, if desired, as early as possible after the Department's receipt of the information in 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: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-24514 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

[C-401-056]

Viscose Rayon Staple Fiber From Sweden; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of preliminary results of administrative review of countervailing duty order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden. The review covers the period October 1, 1981 through September 30, 1982.

As a result of the review, the Department has preliminarily determined the net subsidy to be 10.48 percent *ad valorem* for both modal and regular fiber. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: September 8, 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 August 5, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 35691) the final results of its last administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden (44 FR 28319, May 15, 1979) and announced its intent to conduct the next administrative review. As required by section 751 of the Tariff 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 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, 1981 through September 30, 1982, and two programs: (1) Capital loans/grants and (2) elderly employment compensation. The sole known Swedish producer of the merchandise is Svenska Rayon AB.

Analysis of Programs

The Swedish government and Svenska did not respond to our questionnaire on the status of benefits during the review period. Therefore, we have used the information provided previously as the best information available to calculate the benefits received during the current review period.

(1) Interest-free Government Loans/Grants: For the purpose of national defense, the Swedish government subsidizes the establishment of productive capacity for modal rayon staple fiber. Accordingly, the government lent to Svenska, on an interest-free basis, investment capital needed to establish productive capacity for modal fiber. The loans were to be forgiven if Svenska maintained these production facilities for ten years. The loans provided to Svenska under this first agreement, referred to as Project 77, totaled 14 million kroner.

Government bill 1977/78: 125, adopted on March 16, 1978, approved a second larger investment loan program, referred to as Project 81, under which Svenska has received additional interest-free loans for the development of its modal fiber plant. Under this latter program, the government authorized a 67.3 million kroner loan and, by the end of September 1981, Svenska had received the total budgeted amount. In February 1979 the Swedish government provided separately an additional 1.8 million kroner loan to Svenska for environmental improvements to the plant.

We concluded in previous reviews that the Swedish government forgave 10 percent per year of Svenska's obligation of 14 million kroner under Project 77 in 1978, 1979, 1980 and 1981. As best evidence, we preliminarily conclude that Svenska maintained its modal production facilities in 1982 and that the government forgave in 1982 another 10 percent of the Project 77 loans. We are therefore treating 10 percent of the Project 77 funds as a grant during the review period. We also concluded, in our last review, that the Swedish government began forgiveness of the Project 81 loans in 1982 at the rate of 10 percent per year. Therefore, we are treating 10 percent of the Project 81 funds, together with 10 percent of the environmental loan, as grants during the review period. We allocated the full amount of these grants to the review period.

Additionally, we are considering the unforgiven protions of the Project 77, Project 81, and 1979 environmental funds as interest-free loans during the period of review. We have calculated the subsidy on these funds on the basis of the interest Svenska would have paid if it had borrowed the money commercially at the time that the loans were granted. We have used as the benchmark rates the Swedish prime rates in 1975 (for Project 77 funds), 1978 (for Projrct 81 funds), and 1979 (for the environmental improvement loan) and added to that the difference between prime and the average rate paid by Svenska on other commercial loans during a prior review period. We then calculated the present value of the payment differentials in each year of the loans using as the discount rate the "risk-free" rates for long-term government debt that were available during the relevant periods. This amount was then allocated evenly over the life of each loan using the same discount rates to yield the annual subsidy amounts. For the period of review, we preliminarily determine that the net subsidy under the interest-free government loans/grants program is 7.04 percent *ad valorem*.

(2) Elderly Employment Program: The Swedish government provides a subsidy to certain companies within the textile industry through a special employment contribution by the government for older workers. This program was established by Swedish government bill 1976/77: 105, adopted on March 3, 1977. The program is designed to encourage the retention of redundant employees in certain regions of the country. Compensation is provided to a company based upon the number of hours worked

by employees over 50 years of age. A company participating in the program must agree not to dismiss or release redundant employees of any age for any reason other than normal attrition. The payments can total up to 15 percent to the company's total labor cost. Svenska participated in this program. For this review, we have preliminarily used the same rate determined in our previous review, 3.44 percent *ad valorem*, as the best information available.

Preliminary Results of Review

As a result of the review, we preliminarily determine that the aggregate net subsidy conferred by the Government of Sweden on the production of both modal and regular viscose rayon staple fiber during the period October 1, 1981 through September 30, 1982 is 10.48 percent *ad valorem*. However, 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. The Department announced in the final results of its last administrative review of this order that it would instruct the Customs Service to assess contervailing duties, in the amount of the estimated duties required to be deposited, 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.

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 10.48 percent of the f.o.b. invoice price on all shipments of Swedish regular or modal fiber entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of the current review. This deposit requirement shall remain in effect until publication of the final results of the next administrative review.

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 this administrative review including the results of its analysis of issues raised in any such written comments or at a hearing.

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: August 31, 1983.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 83-24513 Filed 9-7-83; 8:45 am]

BILLING CODE 3510-25-M

National Bureau of Standards

[Docket No. 30718-132]

Local Area Networks; Baseband Carrier Sense Multiple Access With Collision Detection and Physical Layer Specifications and Link Layer Protocol; Proposed Federal Information Processing Standard

Under the provisions of Pub. L. 89-306 (79 Stat. 1127; 40 U.S.C. 759(f)) and Executive Order 11717 (38 FR 12315, dated May 11, 1973), the Secretary of Commerce (Secretary) is authorized to establish uniform Federal automatic data processing standards.

A notice published in the **Federal Register** on December 30, 1980, requested comments on the desirability of issuing a family of local network protocol standards, on the desirability of issuance, as soon as possible, of a specific access method known as carrier sense multiple access with collision detection (CSMA/CD), and on the desirability of protocol standards that meet user needs and can be implemented in a cost effective manner with large scale integrated circuit technologies. A specification of CSMA/CD has been developed by the Institute of Electrical and Electronics Engineers. The purpose of this notice is to announce the Baseband CSMA/CD Access Method and Physical Layer Specification, and Link Layer Protocol as the first member of a family of proposed Federal Information Processing Standards for local area networks.

Prior to submission of this proposed standard to the Secretary for approval as a Federal Information Processing Standard, it is essential to assure that proper consideration is given to the needs and views of the public, State and local governments, and manufacturers. It is appropriate at this time to solicit such views.

The proposed Federal Information Processing Standard contains two basic sections: (1) An announcement section the provides information concerning the applicability and implementation of the standard, and (2) a specification section that defines the technical parameters of the standard. Only the announcement section is provided in this notice.

Interested parties may obtain a copy of the specification section of this proposed standard from the Director, Institute for Computer Sciences and Technology, National Bureau of Standards, ATTN: CSMA/CD, Washington, D.C. 20234.

Written comments on this proposed standard should be submitted to the Director, Institute for Computer Sciences and Technology at the above address. Comments to be considered must be received on or before December 7, 1983.

Written comments received in response to this notice will be made part of the public record and will be made available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6622, Main Commerce Building, 14th Street between Constitution Avenue and E Street, NW., Washington, D.C. 20230. Persons desiring more information about this proposed standard may contact John Heafner, Chief, Systems and Network Architecture Division, Institute for Computer Sciences and Technology, National Bureau of Standards, Washington, D.C. 20234; (301) 921-3537.

Dated: September 1, 1983.

Ernest Ambler,

Director.

Federal Information Processing Standard Publication———

Date———

Announcing the standard for local area networks: baseband carrier sense multiple access with collision detection access method and physical layer specifications and link layer protocol.

Federal Information Processing Standard Publications are issued by the National Bureau of Standards pursuant to section 111(f)(2) of the Federal Property and Administrative Services Act of 1949, as amended, Pub. L. 89-306 79 Stat. 1127), Executive Order 11717 (38 FR 12315, dated May 11, 1973) and Part 6 of Title 15 Code of Federal Regulations (CFR).

Name of Standard. Local Area Networks: Baseband CSMA/CD Access Method and Physical Layer Specifications and Link Layer Protocol (FIPS Pub———).

Category of Standard. Software and Hardware Standard; Subcategory: Computer Network Protocols.

Explanation. This standard provides the mechanical, electrical, functional and procedural specifications and the link protocol required to establish physical connections, to transmit bits and to send data link frames between nodes. The local area network spans a local area with a baseband coaxial cable of up to 2500 meters in length, transmitting at 10 megabits per second. This is one of a family of local area network standards that will make possible computer to computer and terminal to computer communications. This standard is based on national consensus. In particular, it adopts the Institute of Electrical and Electronics Engineers (IEEE) draft standard 802–2 Logical Link Control type 1 class 1 service, and draft standard 802–3, CSMA/CD Access Method and Physical Layer Specifications.

Approving Authority. Secretary of Commerce.

Maintenance Agency. Department of Commerce, National Bureau of Standard, Institute for Computer Science and Technology.

Cross Index. Draft IEEE Standard 802.2, Logical Link Control. Draft IEEE Standard 802.3, CSMA/CD Access Method and Physical Layer Specifications.

Related Documents. None.

Applicability. This standard is made available to Federal departments and agencies which require compatibility with voluntary industry standards, which are evolving nationally and internationally according to the architecture of the ISO Reference Model for Open Systems Interconnection.

Specifications. This standard adopts the Type 1, Class 1, Logical Link Control procedures of Draft IEEE standard 802.2, Logical Link Control, and all of Draft IEEE standard 802.3, CSMA/CD Access Method and Physical Layer Specifications. Note that the specifications adopted by this standard appear in two volumes.

Implementation Schedule. This standard becomes effective upon publication in the **Federal Register** of an announcement by the National Bureau of Standards of approved by the Secretary of Commerce. Use by Federal agencies is encouraged when such use contributes to operational benefits, efficiency, or economy.

Where to Obtain Copies. Copies of the Federal Information Processing Standard, including technical specifications, may be purchased from the National Technical Information Service (NITIS) by ordering Federal Information Processing Standard Publication (FIPS–Pub——). Ordering information, including prices and deliver alternatives, may be obtained by contacting the National Technical Information Services (NITS), U.S. Department of Commerce, Springfield, Virginia 22161.

[FR Doc. 83–24520 Filed 9–7–83; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Joint Strategic Target Planning Staff Scientific Advisory Group; Advisory Committee Meeting

The Joint Strategic Target Planning Staff (JSTPS) Scientific Advisory Group will meet in closed session October 13 and 14, 1983, at Offutt Air Force Base, Nebraska. The purpose of the meeting is to discuss matters which relate to the development of the Single Integrated Operational Plan (SIOP). The entire meetings will be devoted to the discussion of classified matters within the meaning of Section 552b(c)(1), Title 5 of the U.S. Code and designated as TOP SECRET in accordance with Executive Order 12356, April 2, 1982. Therefore, pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92–463 as amended) notice is hereby given that the meeting will be closed to the public.

September 2, 1983.

M. S. Healy,

OSD Federal Register Liaison Officer, Washington Headquarters Services, Department of Defense.

[FR Doc. 83–24546 Filed 9–7–83; 8:45 am]

BILLING CODE 3810–01–M

Department of the Navy

Performance of Commercial Activities: Announcement of Program Cost Studies

Navy intends to conduct OMB Circular A–76 (48 FR 37110, August 16, 1983) cost comparison studies of various functions at listed activities commencing 10 October 1983.

Naval and Marine Corps Reserve Center, Phoenix, AZ
Custodial Services

Naval and Marine Corps Reserve Center, Tucson, AZ
Custodial Services

Naval Air Station, Alameda, CA
Custodial Services
Messenger Service
Air Transportation Services

Naval and Marine Corps Reserve Center, Alameda, CA
Custodial Services

Naval Weapons Center, China Lake, CA
Public Works Support to RDT&E

Naval Amphibious School, Coronado, CA
Administrative Support

Naval and Marine Corps Reserve Center, Encino, CA
Buildings and Structures Maintenance (Other)

Naval and Marine Corps Reserve Center, Los Angeles, CA
Custodial Services

Naval Supply Center, Oakland, CA
Preservation and Packaging

Pacific Missile Test Center, Point Mugu, CA
Office Equipment
Reference Libraries and Recreational Library Services
Automatic Data Processing/Technical Publications

Naval Construction Battalion Center, Port Hueneme, CA
Data Processing Services
System Design, Development and Programming Services

Naval and Marine Corps Reserve Center, San Bernardino, CA
Custodial Services

Naval Training Center, San Diego, CA
Storage and Warehousing
Recreational Library Services

Navy Regional Data Automation Center, San Diego, CA
Motor Vehicle Operations
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
System Design, Development and Programming Services
Technical Support Services

Naval Electronic Systems Engineering Center, San Diego, CA
Custodial Services
Systems Engineering and Installation of Communications and Electronics Equipment
Administrative Support Services
Printing and Reproduction

Naval Supply Center, San Diego, CA
Buildings and Structures
Physical Count/Location Survey

Navy Personnel Research and Development Center, San Diego CA
Printing and Reproduction
Administrative Support Services
Systems Design, Development and Programming Services
Technical Support Services

Naval and Marine Corps Reserve Center, San Jose, CA
Custodial Services

Navy Public Works Center, San Francisco, CA
Other Services or Utilities

Naval and Marine Corps Reserve Center, Treasure Island, San Francisco, CA
Custodial Services
Navy Regional Data Automation Center, San Francisco Bay, CA
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
Technical Support Services
Naval Communication Station, Stockton, CA
Motor Vehicle Operations
Motor Vehicle Maintenance
Water Plants and Systems, Operation and Maintenance
Buildings and Structures
Grounds and Surfaced Areas
Mare Island Naval Shipyard, Vallejo, CA
Motor Vehicle Operations, Motor Vehicle Maintenance, and Drawbridge Operations
Naval Submarine School, Groton, CT
Administrative Support
Naval and Marine Corps Reserve Center, Hartford, CT
Custodial Services
Naval and Marine Corps Reserve Center, New Haven, CT
Custodial Services
Naval and Marine Corps Reserve Center, Wilmington, DE
Custodial Services
Naval Audiovisual Center, Washington, DC
Custodial Services
Data Processing Services
Motion Picture Processing
Naval and Marine Corps Reserve Center, Washington, DC
Custodial Services
Naval Security Station, Washington, DC
Insect and Rodent Control
Administrative Support Services
Naval Air Station, Cecil Field, FL
Heating, Water, Sewage and Waste Plants
Naval and Marine Corps Reserve Center, Jacksonville, FL
Custodial Services
Naval Supply Center, Jacksonville, FL
Personal Property Services
Material Turned into Store
Navy Regional Data Automation Center, Jacksonville, FL
Motor Vehicle Operation
Storage and Warehousing
Administrative Support Services
Technical Support Services
Naval Security Group, Activity Key West, FL
Other Maintenance and/or Repair or Equipment (Intermediate/Direct General)
Naval Air Station, Pensacola, FL
Storage and Warehousing
Navy Regional Data Automation Center, Pensacola, FL
Storage and Warehousing
Administrative Support Services
Technical Support Services
Naval Technical Training Center, Corry Station, Pensacola, FL
Administrative Services, Word Processing, and Printing and Reproduction
Naval Reserve Center, St. Petersburg, FL
Custodial Services
Naval Reserve Center, Tampa, FL
Custodial Services
Naval and Marine Corps Reserve Center, Honolulu, HI
Custodial Services
Naval Supply Center, Pearl Harbor, HI
Motor Vehicle Maintenance
Navy Public Works Center, Pearl Harbor, HI
Operation and Maintenance of Special and Heavy Equipment
Navy Data Automation Facility, Pearl Harbor, HI
Maintenance of ADP Equipment
Naval Administrative Command, Naval Training Center, Great Lakes, IL
Motor Vehicle Operations, Motor Vehicle Maintenance, and Storage and Warehousing
Navy Data Automation Facility, Great Lakes, IL
Storage and Warehousing
Data Processing Services
Maintenance of ADP Equipment
System Design, Development and Programming Services
Naval Reserve Center, Forest Park, IL
Custodial Services
Naval and Marine Corps Reserve Center, Rock Island, IL
Custodial Services
Naval and Marine Corps Reserve Center, Des Moines, IO
Custodial Services
Naval and Marine Corps Reserve Center, Louisville, KY
Custodial Services
Naval and Marine Corps Reserve Center, New Orleans, LA
Custodial Services
Navy Regional Data Automation Center, New Orleans, LA
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
Technical Support Services
Naval Reserve Center, Portland, ME
Custodial Services
Naval Reserve Center, Adelphi, MD
Custodial Services
Naval Reserve Center, Baltimore, MD
Custodial Services
Buildings and Structures Maintenance (Other than Family Housing)
Naval Security Group Activity, Fort Meade, MD
Other Morale, Welfare and Recreation
Naval Surface Weapons Center, White Oak Laboratory, Silver Springs, MD
Support to R&D
Other Test, Measurement and Diagnostic Equipment
Administrative Support Services
Machine Parts
Buildings and Structures (Other than Family Housing)
Insect and Rodent Control
Electrical Plant and Systems
Heating Plant and Systems
Water Plants and Systems
Sewage and Waste Plants and Systems
Air Conditioning and Refrigeration Plants
Other Utilities
Architect/Engineering Service
Communications Centers
Grounds and Surfaced Areas
Naval and Marine Corps Reserve Center, Lawrence, MA
Custodial Services
Naval Reserve Center, Quincy, MA
Custodial Services
Naval and Marine Corps Reserve Center, Worcester, MA
Custodial Services
Naval and Marine Corps Reserve Center, Detroit, MI
Custodial Services
Naval Reserve Center, Southfield, MI
Custodial Services
Naval and Marine Corps Reserve Center, St. Paul, MN
Custodial Services
Naval Air Station Meridian, MS
Storage and Warehousing
Naval Technical Training Center, Meridian, MS
Printing
Naval and Marine Corps Reserve Center, Kansas City, MO
Custodial Services
Naval and Marine Corps Reserve Center, St. Louis, MO
Custodial Services
Naval and Marine Corps Reserve Center, Omaha, NE
Custodial Services
Naval Reserve Center, Perth Amboy, NJ
Custodial Services
Naval and Marine Corps Reserve Center, West Trenton, NJ
Custodial Services
Naval and Marine Corps Reserve Center, Albany, NY
Custodial Services
Naval and Marine Corps Reserve Center, Brooklyn, NY
Custodial Services
Buildings and Structures maintenance (Other than Family Housing)
Naval and Marine Corps Reserve Center, Buffalo, NY
Custodial Services
Naval Reserve Center, Syracuse, Mattydale, NY
Custodial Services

Naval Reserve Center, Whitestone, NY
Custodial Services
Naval and Marine Corps Reserve Center, Raleigh, NC
Custodial Services
Naval and Marine Corps Reserve Center, Cincinnati, OH
Custodial Services
Naval and Marine Corps Reserve Center, Cleveland, OH
Custodial Services
Naval and Marine Corps Reserve Center, Columbus, OH
Custodial Services
Naval and Marine Corps Reserve Center, Toledo, OH
Custodial Services
Naval and Marine Corps Reserve Center, Portland, OR
Custodial Services
Buildings and Structures Maintenance (Other)
Naval Reserve Center, Avoca, PA
Custodial Services
Navy Ships Parts Control Center, Mechanicsburg, PA
Storage and Warehousing
Naval and Marine Corps Reserve Center, Northeast, Philadelphia, PA
Custodial Services
Aviation Supply Office, Philadelphia, PA
Administrative Support Services
Naval Damage Control Training Center, Philadelphia, PA
Buildings and Structures
Naval International Logistics Control Office, Philadelphia PA
Processing Support
Naval and Marine Corps Reserve Center, Pittsburgh, PA
Custodial Services
Navy Data Automation Facility, Newport, RI
Data Processing Services
Maintenance of ADP Equipment
System Design, Development and Programming Services
Technical Support Services
Naval Education and Training Center, Newport, RI
Administrative Support
Naval and Marine Corps Reserve Center, Providence, RI
Custodial Services
Naval Reserve Center, Charleston, SC
Custodial Services
Navy Fleet Ballistic Missile Submarine Training Center, Naval Base, Charleston, SC
Administrative Support
Naval Air Station, Chase Field, TX
Storage and Warehousing
Naval and Marine Corps Reserve Center, Dallas, TX
Custodial Services
Naval and Marine Corps Reserve Center, San Antonio, TX
Custodial Services
Naval Security Group Activity Northwest, Chesapeake, VA
Other Social Services
Naval Surface Weapons Center, Dahlgren, VA
Other Test, Measurement and Diagnostic Equipment
Other Maintenance/Repair of Equipment
Administrative Support Services
Machine Parts Buildings and Structures (Other than Family Housing)
Recreational Library Other Recreational Library Other Recreational, Morale and Welfare Activities
Dispensaries
Electrical Plant and Systems
Heating Plants and Systems
Water Plants and Systems
Sewage and Waste Plants and Systems
Air Conditioning and Refrigeration Plants and Systems
Architect/Engineering Service
Communications Centers
Buildings and Structures (Family Housing)
Navy Regional Data Automation Facility, Norfolk, VA
Railroad Facilities
Insect and Rodent Control
Other Utilities
Storage and Warehousing
Administrative Support Services
Maintenance of ADP Equipment
Technical Support Services
Navy Public Works Center, Norfolk, VA
Air Conditioning and Refrigeration
Other Utilities and Services
Maintenance of Historic Buildings
Naval Supply Center, Norfolk, VA
Motor Vehicle Equipment Maintenance
Maintenance Services
Cargo Documentation
Environmental Control Services
Fleet Combat Training Center, Atlantic, Virginia Beach, VA
Electric Plants/Systems
Heating Plants/Systems
Water Plants/Systems
Other Services or Utilities
Buildings and Structures (Family Housing)
Buildings and Structures (Other Than Family Housing)
Surfaced Areas
Administrative Support
Naval and Marine Corps Reserve Center, Little Creek, Norfolk, VA
Custodial Services
Fleet Anti-Submarine Warfare Training Center, Norfolk, VA
Motor-Vehicle Operations
Administrative Support
Naval and Marine Corps Reserve Center, Richmond, VA
Custodial Services
Naval Air Station, Whidbey Island, WA
Utilities
Maintenance, Repair, Alteration, and Minor Construction of Real Property
Office Equipment
Automatic Data Processing
Naval Reserve Center, Seattle, WA
Custodial Services
Buildings and Structures Maintenance (Other)
Naval and Marine Corps Reserve Center, Spokane, WA
Custodial Services
Naval and Marine Corps Reserve Center, Takoma, WA
Custodial Services
Buildings and Structures Maintenance (Other)
Naval and Marine Corps Reserve Center, Madison, WI
Custodial Services

Dated: August 22, 1983.

J. P. Cornell,

Captain, U.S. Navy, Deputy Director, Shore Activities Planning & Programming Division.

[FR Doc. 83-24217 Filed 9-7-83; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Estate of S. H. Killingsworth; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with the Estate of S. H. Killingsworth (Killingsworth) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by October 11, 1983.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247 214/767-7404. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On June 27, 1983, the ERA executed a proposed Consent Order with the Estate of S. H. Killingsworth. Under 10 CFR 205.199J(b),

a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Killingsworth produced and sold crude oil during the period August 19, 1973 through January 28, 1981 ("the period covered by this Consent Order"), and therefore was subject to the price rules imposed by 6 CFR Part 150 Subpart L, and 10 CFR Part 212, Subpart D. To resolve certain potential civil liability arising in connection with the first sales of crude oil by Killingsworth during the period covered by this Consent Order, the ERA and Killingsworth entered into a Consent Order. The ERA alleged that Killingsworth produced and sold domestic crude oil at prices in excess of the applicable ceiling prices. Killingsworth denied these allegations, but determined that this Consent Order was an equitable resolution of these allegations which avoided the disruption of its orderly business functions and the expense and inconvenience of protracted and complex litigation.

II. Remedial Provisions

A. Under this Consent Order, Killingsworth and DOE will direct the Texas Commerce Bank—Longview, N.A., in Longview, Texas to transfer all monies $2,800,000.00 plus interest) held in escrow by the bank pursuant to an "Escrow Agreement" executed by Texas Commerce Bank, Killingsworth, and OSC on February 14, 1983, to the "Injection Well Litigation Escrow Account," of the Fourth National Bank and Trust Company of Wichita, Kansas. The "Injection Well Litigation Account" is an account established and maintained under supervision of the United States District Court in Wichita, Kansas, by Orders dated June 11 and 25, 1980, issued in *In Re: The Department of Energy Stripper Well Exemption Litigation*, M.D.L. Docket No. 378 (D. Kan.)

B. Within five (5) days following receipt by the Fourth National Bank of Wichita of the monies held in escrow by the Texas Commerce Bank—Longview, N.A. of Longview, Killingsworth shall move the Federal Energy Regulatory Commission to dismiss with prejudice its appeal in *Estate of S. H. Killingsworth*, FERC Docket No. RO81-63-000.

C. Effective with the receipt by the Fourth National Bank of Wichita of the monies held in escrow by Texas Commerce Bank—Longview, N.A. of Longview, DOE and Killingsworth stipulate to move for the dismissal with prejudice of Killingsworth's appeal in *In Re: DOE Stripper Well Litigation*, supra. Within 30 days after the effective date of this Consent Order, Killingsworth will execute and deliver to DOE a stipulation for such purpose.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Estate of S. H. Killingsworth Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time on October 11, 1983. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 15th day of July 1983.

Ben L. Lemos,

Director, Dallas Office, Economic Regulatory Administration.

[FR Doc. 83-24459 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

Sigmor Corporation; Proposed Consent Order

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed Consent Order and opportunity for comment.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) announces a proposed Consent Order with Sigmor Corporation (Sigmor) and provides an opportunity for public comment on the terms and conditions of the proposed Consent Order.

DATE: Comments by October 11, 1983.

ADDRESS: Send comments to: James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247.

FOR FURTHER INFORMATION CONTACT:

James O. Neet, Jr., Chief Counsel, Economic Regulatory Administration, Dallas Office, 1341 West Mockingbird Lane, Suite 200E, Dallas, Texas 75247, 214/767-7404. Copies of the Consent Order may be obtained free of charge by writing or calling this office.

SUPPLEMENTARY INFORMATION: On July 19, 1983, the ERA executed a proposed Consent Order with Sigmor Corporation. Under 10 CFR 205.199J(b), a proposed Consent Order which involves the sum of $500,000 or more, excluding interest and penalties, becomes effective no sooner than thirty days after publication of a notice in the **Federal Register** requesting comments concerning the proposed Consent Order. Although the ERA has signed and tentatively accepted the proposed Consent Order, the ERA may, after consideration of the comments it receives, withdraw its acceptance and, if appropriate, attempt to negotiate a modification of the Consent Order or issue the Consent Order as signed.

I. The Consent Order

Sigmor Corporation, a subsidiary of Diamond Shamrock which is located in San Antonio, Texas, is a firm engaged in the refining of crude oil and the sale of covered petroleum products as well as other petroleum related activities, and was subject to the Mandatory Petroleum Price and Allocation Regulations at 10 CFR Parts 210, 211, and 212 during the period covered by this Consent Order. To resolve certain potential civil liability arising out of the Mandatory Petroleum Allocation and Price Regulations and related regulations, 10 CFR Parts 205, 210, 211, and 212, in connection with Sigmor's transactions involving petroleum products during the period January 1, 1973 through January 28, 1981 ("the period covered by this Consent Order"), the ERA and Sigmor entered into a Consent Order, the significant terms of which are as follows:

A. The Consent Order is intended by the signatories to settle the civil issues between DOE and Sigmor relating to Sigmor's compliance with the Federal Petroleum Price and Allocation regulations during the period from January 1, 1973 through January 28, 1981; provided, however, that the Consent Order does not cover Sigmor's entitlements obligation for January 1981 or pursuant to 10 CFR 211.69.

B. ERA conducted a thorough audit to determine Sigmor's compliance during the period covered by this Consent

Order with the Federal petroleum price and allocation statutes, regulations and requirements. ERA and Sigmor disagree in several respects concerning the proper application of such Federal petroleum price and allocation statutes, regulations and requirements to Sigmor's activities during the settlement period. Sigmor and ERA each believes that its respective positions on the legal issues underlying such disagreement are meritorious. Neither Sigmor nor ERA disavows any position it has taken with respect to such legal issues.

C. Notwithstanding the above, Sigmor maintains that it has calculated all of its costs, determined all of its prices, and operated in all other respects in accordance with all applicable statutes, regulations and other requirements. Execution of the Consent Order constitutes neither an admission by Sigmor nor a finding by ERA of any violation by Sigmor of any statute or regulation.

II. Refunds

Under the Consent Order, Sigmor Corporation, will pay the sum of $800,000 to the Department of Energy (DOE). These funds will be held in an appropriate account pending a determination by the DOE of the disposition of the funds in accordance with applicable statutes and regulations. Payment is to be made on or before thirty (30) days after the effective date of the Consent Order. If payments are not made within the specified time, Sigmor agrees to pay installment interest on the unpaid balance. Upon full satisfaction of the terms and conditions of this Consent Order by Sigmor, the DOE releases Sigmor from any civil claims that the DOE may have arising out of the specified transactions during the period covered by this Consent Order.

The foregoing provisions for payment of the refund amount were agreed to because ERA was unable to readily identify the ultimately injured parties as a result of the nature of the alleged violations, and of the complexities of petroleum marketing.

III. Submission of Written Comments

Interested persons are invited to submit written comments concerning the terms and conditions of this Consent Order to the address given above. Comments should be identified on the outside of the envelope and on the documents submitted with the designation, "Comments on Sigmor Corporation Consent Order." The ERA will consider all comments it receives by 4:30 p.m., local time, on 30 days after the date of publication of this notice. Any information or data considered confidential by the person submitting it must be identified as such in accordance with the procedures in 10 CFR 205.9(f).

Issued in Dallas, Texas on the 24th day of August, 1983.

Ben Lamos,

Director, Dallas Field Office, Economic Regulatory Administration.

[FR Doc. 83-24458 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[ERA Docket No. 83-CERT-274 et al.]

Allied Corp. et al.; Certifications 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 of ten calendar days from the date of publication. No comments were received. More detailed information is contained in each application of 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.	Federal Register notice of application
Allied Corp., Baltimore, Md., Hopewell, Va., Ironton, Ohio	July 22, 1983	83-CERT-274	48 FR 37061, Aug. 16, 1983.
Anchor Glass Container Corp., Winchester, Ind	do	83-CERT-275	48 FR 37061, Aug. 16, 1983.
Ross Laboratories (Div. of Abbott Laboratories, Inc.), Altavista, Va.	do	83-CERT-276	48 FR 37061, Aug. 16, 1983.
American Laundry Machinery Inc., Norwood, Ohio	July 27, 1983	83-CERT-277	48 FR 37061, Aug. 16, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 4920, 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 August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24455 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-179, as amended]

Certainteed Corp.; Amended 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 application to amend an existing certification of the eligible use of natural gas to displace fuel oil pursuant to 10 CFR Part 595 (44 FR 47920, August 16, 1979). Notice of this application, along with pertinent information contained in the amendment request, was published in the **Federal Register** and an opportunity for public comment was provided for a period of ten calendar days from the date of publication. No comments were received. More detailed information is contained in the 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	Existing certification number and date issued	Date amendment filed	FEDERAL REGISTER notice of applicant's amendment
Certainteed Corp., Milan Plant, Milan, Ohio, York Plant, York, Pa.	83-CERT-179, July 5, 1983	July 14, 1983	48 FR 37690, Aug. 19, 1983.

The ERA has carefully reviewed the above application to amend the existing 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 application satisfies the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the amended certification and transmitted that amended certification to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24456 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

[ERA Docket No. 83-CERT-283 et al.]

Ohio Steel Tube Co. et al; Certifications 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 of 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.	FEDERAL REGISTER notice of application
Ohio Steel Tube Co., Shelby, Ohio	July 28, 1983	83-CERT-283	48 FR 37691, Aug. 19, 1983.
Troy Laundry & Dry Cleaning Co., Inc., Carlisle, Pa.	July 29, 1983	83-CERT-284	48 FR 37691, Aug. 19, 1983.
Central Power & Light Co., Barney M. Davis Powerplant, Corpus Christi, Tex.	do	83-CERT-285	48 FR 37691, Aug. 19, 1983.
Carlisle Hospital, Carlisle, Pa.	do	83-CERT-286	48 FR 37691, Aug. 19, 1983.
Quin-T Corp., Erie, Pa.	do	83-CERT-287	48 FR 37691, Aug. 19, 1983.

The ERA has carefully reviewed the above applications for certification in accordance with 10 CFR Part 595 and the policy considerations expressed in the Final Rulemaking Regarding Procedures for Certification of the Use of Natural Gas to Displace Fuel Oil (44 FR 47920, August 16, 1979). The ERA has determined that the applications satisfy the criteria enumerated in 10 CFR Part 595 and, therefore, has granted the certifications and transmitted those certifications to the Federal Energy Regulatory Commission.

Issued in Washington, D.C., on August 31, 1983.

James W. Workman,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 83-24457 Filed 9-7-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. TA84-1-31-000 (PGA84-1, IPR84-1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 2, 1983.

Take notice that on August 31, 1983 Arkansas Louisiana Gas Company (Arkla) tendered for filing 34th Revised Sheet No. 4 and 8th Revised Sheet No. 4A to its FERC Gas Tariff First Revised Volume No. 1, Rate Schedule No. G–2, to become effective October 1, 1983.

Arkla states that the purpose of 34th Revised Sheet No. 4 is to (1) reflect the cost of purchased gas for the six months period commencing October 1, 1983, (2) recover the accumulated deferred gas costs as of June 30, 1983, and (3) set forth the reduced PGA and estimated incremental pricing surchages to be billed during the PGA period as contained on 8th Revised Sheet No. 4A effective October 1, 1983.

Arkla also states that a copy of the revised tariff sheets and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

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 September 19, 1983. Protests will be considered by the Commission 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. 83-24575 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-31-001 (PGA84-1, IPR 84-1)]

Arkansas Louisiana Gas Co.; Filing of Revised Tariff Sheets Reflecting Tariff Adjustment

September 2, 1983.

Take notice that on August 31, 1983 Arkansas Louisiana Gas Company (Arkla) tendered for filing 33rd Revised Sheet No. 185 and 8th Revised Sheet No. 185A to its FERC Gas Tariff Original Volume No. 3, Rate Schedule No. X-26, to become effective October 1, 1983.

Arkla states that the purpose of 33rd Revised Sheet No. 185 is to (1) reflect the cost of purchased gas for the six months period commencing October 1, 1983, (2) recover the accumulated deferred gas costs as of June 30, 1983, and (3) set forth the reduced PGA and estimated incremental pricing surcharges to be billed during the PGA period as contained on 8th Revised Sheet No. 185A effective October 1, 1983.

Arkla also states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties affected by this tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protests with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before September 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24576 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-481-003]

Arizona Public Service Co.; Refund Report

September 2, 1983.

Take notice that on August 4, 1983, Arizona Public Service Company ("APS"), submitted for filing a Refund Report in compliance with a Commission order dated June 27, 1983, in which the Commission accepted the rate settlement agreement between APS and Washington Water Power Company dated February 1, 1983 (APS-FERC Rate Schedule No. 84).

APS states that copies of the Refund Report have been served on the Arizona Corporation Commission, Washington Water Power Company, and the Washington Utilities and Transportation Commisson.

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 September 15, 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. 83-24573 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER82-481-004]

Arizona Public Service Co.; Refund Report

September 2, 1983.

Take notice that on August 12, 1983, Arizona Public Service Company, ("APS"), submitted for filing a Refund Report in compliance with the July 8, 1983 Commission order, which accepted the rate settlement agreement between APS and Plains Electric Generation and Transmission Cooperative, Inc.

APS states that the required refund was forwarded to Plains on July 29, 1983.

APS further states that copies of this Refund Report have been served on the Arizona Corporation Commission and Plains Electric Generation and Transmission Cooperative, Inc.

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 September 15, 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. 83-24574 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC83-32-000]

Eastern Shore Natural Gas Co.; Tariff Filing

September 2, 1983.

Take notice that on August 25, 1983, Eastern Shore Natural Gas Company (Eastern Shore), P.O. Box 615, Dover, Delaware 19903, tendered for filing in Docket No. TC83-32-000, Fifth Revised Sheet No. 424 superseding Substitute Fourth Revised Sheet No. 424, to Eastern Shore's FERC Gas Tariff, Original Volume No. 1, to be effective November 1, 1983.

Such tariff sheet contains Eastern Shore's annual update of its Index of Entitlements to reflect changes in its agricultural requirements in compliance with Section 401 of the Natural Gas Policy Act of 1978 and Part 281 of the Commission's Regulations. Eastern Shore states that the Priority 2 entitlement changes have been approved by a Data Verification Committee and that copies of the tariff filing have been mailed to its customers and State Commissions.

Any person desiring to be heard or to make any protest with reference to said tariff sheet should on or before September 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24577 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-33-000]

El Paso Natural Gas Co.; Proposed Change in Rates

September 2, 1983.

Take notice that on August 31, 1983, El Paso Natural Gas Company ("El Paso") tendered for filing a notice of change in rates for jurisdictional gas service rendered to customers served by its interstate gas transmission system under rate schedules affected by and subject to Section 19, Purchased Gas Cost Adjustment Provision ("PGA"), contained in the General Terms and Conditions of El Paso's FERC Gas Tariff, Original Volume No. 1. Section 19 also applies to certain special rate schedules contained in El Paso's FERC Gas Tariff, Third Revised Volume No. 2 and Original Volume No. 2A.

El Paso states that the rate change reflects implementation, with respect to certain of its pipeline production, of the decision of the Supreme Court of the United States in *Public Service Comm'n. of the State of New York v. Mid-Louisiana Gas Co.*, 51 U.S. L.W. 5030 (June 28, 1983), effective October 1, 1983. Additionally, in recognition of the August 9, 1983 decision of the United States Court of Appeals for the D.C. Circuit in *Interstate Natural Gas Association of America, et al., v. FERC*, No. 81-1690, *et al.*, vacating Order Nos. 93, *et seq.*, issued at Docket No. RM80-33 by the Federal Energy Regulatory Commission ("Commission"), El Paso states that in the instant filing it has determined the Btu content of natural gas for wellhead pricing purposes under standard, saturated or "wet" conditions rather than on an "as delivered" basis, commencing October 1, 1983. The filing reflects a decrease in the base purchased gas cost of $0.0073 per dth and an increase of $0.0073 per dth in the surcharge rate for a net adjustment in El Paso's currently effective rates of zero (0) dollars per dth attributable to the PGA.

The notice of rate change also reflects a reduction of $0.0071 per dth in El Paso's Base Tariff Rates placed in effect April 1, 1983 pursuant to the "Stipulation and Agreement in Settlement of Rate Proceedings" at Docket No. RP82-33, *et al.*, approved by Commission letter order dated May 31, 1983. El Paso states that such reduction is made in accordance with Paragraph 2.5 of Article II of the referenced Stipulation and Agreement to account for a decrease in the amount for transportation of gas by others included in the settlement cost of service upon which the Base Tariff Rates were predicated.

To implement the notice of rate change, El Paso tendered for filing the following revised tariff sheets to its FERC Gas Tariff:

Tariff volume	Tariff sheet
Original Volume No. 1.	Thirty-fourth Revised Sheet No. 3-B.
	Eighth revised Sheet No. 159.
Third Revise Volume No. 2.	Twenty-fifth Revised Sheet No. 1-D.
Original Volume No. 2A.	Twenty-sixth Revised Sheet No. 1-C.

El Paso requests that the Commission grant waiver of its applicable rules, regulations and orders as may be necessary to permit the tendered revised tariff sheets to become effective on October 1, 1983.

El Paso states that copies of the filing, together with all enclosures, have been served upon all interstate pipeline system customers of El Paso and all interested state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C., 20426, in accordance with §§ 385.211 and 385.211 of this Chapter. All such motions or protests should be filed on or before Sept. 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 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. 83-24578 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-34-000]

Florida Gas Transmission Co.; Proposed Changes in Rates and Charges Under Purchased Gas Adjustment and Incremental Pricing Provisions

September 2, 1983.

Take notice that on August 31, 1983, Florida Gas Transmission Company (FGT), P.O. Box 44, Winter Park, Florida 32790, tendered for filing the following tariff sheets to its F.E.R.C. Gas Tariff to be effective October 1, 1983.

Original Volume No. 1

Substitute 31st Revised Sheet No. 3-A
Eighth Revised Sheet No. 3-B

Original Volume No. 2

Substitute 21st Revised Sheet No. 128

The aforementioned tariff sheets contain changes in FGT's resale rates, under Rate Schedules G and I, and in Rate Schedule T-3 resulting from the purchased gas adjustment clause and incremental pricing provision of FGT's Tariff. FGT proposes to make the rate changes effective October 1, 1983.

Southern Natural Gas Company (Southern) supplies natural gas to FGT under Southern's Rate Schedules OCDL-1 and AOL-1 and Southern will file its regular semi-annual purchase gas adjustment filing with a proposed effective date of October 1, 1983. The rate adjustments being filed by FGT reflect Southern's OCDL-1 and AOL-1 rates contained on Southern's Fifty-eighth Revised Sheet No. 4-A proposed to be effective October 1, 1983.

Southern also has pending a general rate increase filing in Docket No. RP83-58-000 to take effect on October 1, 1983. Due to the pendency of settlement discussions in that docket FGT is unable at the time of this filing to determine the impact the rates Southern will file to be effective October 1, 1983 in Docket No. RP83-58-000 on FGT's purchase gas cost.

FGT requests such waiver of the Commission's Regulations that may be necessary in order to permit FGT to adjust the rates being filed should the rate changes to be filed by Southern in Docket No. RP83-58-000 materially affect FGT's rates.

The net effect of the adjustments being filed for Rate Schedules G and I is to decrease the currently effective rate by 1 570¢/therm Based on estimated G and I sales for the next 12 months. This results in an annual revenue decrease of approximately $13,300,000. The net effect on the adjustments being filed for Rate Schedule T-3 is an increase of 1.08/Mcf. The annual effect on revenues from Rate Schedule T-3 is an increase of approximately $538,400.

According to FGT, the changes contained on Substitutes 31st Revised Sheet No. 3-A and Substitute 21st Revised Sheet No. 128 are made in accordance with the purchased gas cost adjustment and incremental pricing provision in its tariff (Section 15 General Terms and Conditions) and Section 154 of the Commission's Regulations (18 CFR 154.38). FGT also states that Eighth Revised Sheet No. 3-B contains the estimated incremental pricing surcharges by customer by month for the adjustment period.

FGT states that a copy of its filing has been served on all customers receiving

gas under its FERC Gas Tariff, Original Volume Nos. 1 and 2 and interested State Commissions and is being posted.

Any person desiring to be heard or to make any protests with reference to said filing should on or before Sept. 19, 1983, file with the Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (385.211, 385.214). All protests filed with the Commission will be considerd by it in determining the appropriate action to be taken but will not serve to make protestants parties in the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24579 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ER83-620-000]

Kansas Power & Light Co., Order Accepting Rates for Filing, Denying Waiver of Notice Requirements, and Terminating Docket

Issued: August 31, 1983.

On July 7, 1983, the Kansas Power & Light Company (KPL) tendered for filing a supplement to its Interconnection Agreement with Sunflower Electric Cooperative, Inc. (Sunflower) dated April 21, 1980.[1] The Interconnection Agreement contains, *inter alia*, Participation Power Service Schedules under which Sunflower purchases from KPL specified annual amounts of capacity and energy from specified units at KPL's Jeffery Energy Center (JEC). For the contract year June 1, 1982 through May 31, 1983, Sunflower purchased a total of 55 MW from JEC Unit Nos. 1 and 2. For the succeeding contract year, Sunflower has agreed to purchase the same 55 MW from Unit No. 2 and a new JEC Unit No. 3. KPL's proposed demand and energy charges would increase revenues by approximately $1,145,600 (43.6%) for the twelve month period ending May 31, 1984.[2] KPL requests waiver of the sixty day notice requirement to permit these rates to become effective as of June 1, 1983, in accordance with the date in the Interconnection Agreement for the annual commitment of capacity and energy entitlements. In support of its request for waiver, KPL states that certain costs were not available to develop the proposed schedules sixty days prior to June 1, 1983.

Notice of the instant filing was published in the **Federal Register**, with comments due on or before August 2, 1983. Sunflower filed a timely letter in opposition to the increase without raising any specific issues or seeking to intervene. Sunflower also opposed the requested waiver of notice stating that it would be in a deficit position if the waiver were granted inasmuch as it has already collected revenues from its members for the month of June based upon service schedules presently in effect.

Discussion

Based on our review of the instant filing, we find that the proposed rates will not produce excessive revenues. Furthermore, Sunflower has not identified any substantive concerns which might lead us to conclude otherwise and has not asked to participate in a hearing. Accordingly, we shall accept KPL's submittal for filing without suspension.

We shall, however, deny KPL's request for waiver of the sixty day notice requirement to permit a June 1, 1983 effective date. KPL's assertion that certain costs were previously unavailable, rendering timely filing impossible, does not constitute good cause for granting waiver of the notice requirements, particularly since the choice of test period was entirely within KPL's discretion and since the affected customer opposes the retroactive effective date. Accordingly, we shall accept KPL's rates for filing to become effective sixty days after filing, on September 6, 1983. For the period between June 1, 1983, and September 5, 1983, the 55 MW of participation power shall be provided at the rates in effect prior to the instant submittal.

The Commission orders:

(A) KPL's request for waiver of the notice requirements is hereby denied.

(B) KPL's proposed rates applicable to Participation Power Service are hereby accepted for filing to become effective, without suspension or hearing, sixty days after filing, on September 6, 1983.

(C) Docket No. ER83-620-000 is hereby terminated.

(D) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24582 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 6673-001]

Mega Hydro, Inc.; Surrender of Preliminary Permit

September 1, 1983.

Take notice that Mega Hydro, Inc., Permittee for the Chinese Dam Power Project, FERC No. 6673, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 6673 was issued January 1, 1983, and would have expired on June 30, 1984. The project would have been located on Clear Creek in Shasta County, California.

Mega Hydro, Inc. filed the request August 9, 1983, and the surrender of the preliminary permit for Project No. 6673 is deemed accepted as of August 9, 1983, and effective as of 30 days after the date of this notice.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24583 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-39-000 (PGA84-1 and IPR84-1]

Pacific Interstate Transmission Co.; Proposed Changes in FERC Gas Tariff Pursuant to Purchased Gas Cost Adjustment Provision

September 2, 1983.

Take notice that Pacific Interstate Transmission Company (Pacific Interstate) on August 31, 1983, tendered for filing as part of its FERC Gas Tariff, original Volume No. 2, the following sheets:

Twenty-third Revised Sheet No. 4
Seventh Revised Sheet No. 4-A
Nineteenth Revised Sheet No. 5

Pacific Interstate states that these tariff sheets are issued pursuant to Pacific Interstate's Purchased Gas Cost Adjustment (PGCA) Provision and Incremental Pricing Provision as set forth in Sections 16 and 17, respectively, of the General Terms and Conditions of its FERC Gas Tariff, Original Volume No. 2. The proposed effective date of these tendered tariff sheets and the rates thereon is October 1, 1983.

Pacific Interstate also states that the above-tendered tariff sheets reflect a

---

[1] Designated as follows: The Kansas Power and Light Company, Supplement No. 22 to Rate Schedule FERC No. 205 (Supersedes Supplement No. 21).

[2] We note that the charge for capacity from JEC Unit No. 2 has not been changed by the instant filing.

proposed October 1, 1983 Pacific Interstate Rate Schedule S–G–1 commodity rate of 223.31¢ per decatherm, a decrease of 45.03¢ per decatherm from the 268.34¢ per decatherm rate effective April 1, 1983, the date of the last S–G–1 commodity rate change, and that such decrease reflects a current Gas Cost Adjustment and a change in the Surcharge Adjustment.

Pacific Interstate states that the Current Gas Cost Adjustment is based on an annualized gas cost increase of $27,144 and that the Surcharge Adjustment is designed to refund, over a six-month period beginning April 1, 1983 an amount of $57,546.04, which is the amount of Pacific Interstate's Unrecovered Purchased Gas Cost account at June 30, 1983. Furthermore, Pacific Interstate states that there is no incremental pricing surcharge adjustment applicable to this filing, since its only customer has no surcharge absorption capability.

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, 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 September 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24580 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA84-1-7-000 and Docket No. TA84-1-7-000]

Southern Natural Gas Co.; Proposed Changes in FERC Gas Tariff

September 2, 1983.

Take notice that Southern Natural Gas Company ("Southern") on August 31, 1983 tendered for filing alternative proposed changes in its FERC Gas Tariff, Sixth Revised Volume No. 1, to become effective October 1, 1983 or November 1, 1983.

Southern has filed proposed tariff sheets to revise Section 17 (Purchased Gas Adjustment) of the General Terms and Conditions of its Tariff to change Southern's semi-annual PGA effective dates from each April 1 and October 1 to each May 1 and November 1. As part of this change in PGA dates, Southern has proposed to maintain its existing PGA rate increase in effect through October 31, 1983 and to place into effect on November 1, 1983 an increase in the Current Adjustment pursuant to Section 17.3 of the General Terms and Conditions of Southern's Tariff of approximately 6.39¢ per Mcf and an increase in the Surcharge Adjustment pursuant to § 17.4 of the General Terms and Conditions of Southern's Tariff of 2.623¢ per Mcf.

In the event that the Commission does not accept Southern's proposal to change its PGA effective dates, Southern has filed alternate revised tariff sheets to implement a PGA increase effective Octobr 1, 1983 in accordance with the current PGA provisions of Southern's Tariff. Southern states that the October 1, 1983 PGA rate change reflects an increase in the Current Adjustment of approximately 6.39¢ per Mcf and an increase in the Surcharge Adjustment of 2.62¢ per Mcf.

Copies of the filing were served upon the company's jurisdictional customers and interested state consumers.

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 the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before September 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 filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-24581 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-M

Southeastern Power Administration

Order Confirming and Approving Power Rates on an Interim Basis; Georgia-Alabama Project

AGENCY: Southeastern Power Administration (SEPA), DOE.

ACTION: Notice of approval on an interim basis of Georgia-Alabama Projects' rates.

SUMMARY: On August 29, 1983, the Assistant Secretary for Conservation and Renewable Energy confirmed and approved, on an interim basis, seven replacement Rate Schedules, GAMF-1-C, GAMF-2-C, ALA-1-C, MISS-1-C, SC-1-C, SC-2-C, CAR-1-D, and established one new Rate Schedule CAR-2-C, for Georgia-Alabama Projects' power. The rates were approved on an interim basis through September 30, 1984, and are subject to confirmation and approval by the Federal Energy Regulatory Commission on a final basis.

DATES: Approval of rates on an interim basis is effective on October 1, 1983.

FOR FURTHER INFORMATION CONTACT:

Leon Jourolmon, Jr., Chief, Division of Fiscal Operations, Southeastern Power Administration, Department of Energy, Samuel Elbert Building, Elberton, Georgia 30635

Fred Sheap, Office of Power Marketing Coordination, CE-91, Department of Energy, James Forrestal Building, 1000 Independence Ave., SW., Washington, D.C. 20585

SUPPLEMENTARY INFORMATION: The Federal Energy Regulatory Commission by Order issued April 3, 1981, in Docket No. EF79-3011 confirmed and approved Wholesale Power Rate Schedules GAMF-1-B, GAMF-2-B, ALA-1-B, MISS-1-B, SC-1-B, and SC-2-B through September 30, 1983. Rate Schedules GAMF-1-C, GAMF-2-C, ALA-1-C, MISS-1-C, SC-1-C, SC-2-C replace respectively the approved wholesale power rate schedules. The Federal Energy Regulatory Commission by Order issued April 9, 1982, in Docket No. EF82-3011 confirmed and approved Rate Schedule CAR-1-C for a period ending September 30, 1983. Rate Schedule CAR-1-D replaces CAR-1-C. Rate Schedule CAR-2-C is a new rate schedule.

Issued in Washington, D.C. August 29, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

In the matter of Southeastern Power Administration Georgia-Alabama Projects' Power Rates; Rate Order No. SEPA-18.

Order Confirming and Approving Power Rates on an Interim Basis

August 29, 1983.

Pursuant to Sections 302(a) and 301(b) of the Department of Energy Organization Act, Pub. L. 95-91, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, relating to the

Southeastern Power Administration (SEPA) were transferred to and vested in the Secretary of Energy. By Delegation Order No. 0204–33, effective January 1, 1979, 43 FR 60636 (December 28, 1978), the Secretary of Energy delegated to the Assistant Secretary for Resource Applications the authority to develop power and transmission rates, acting by and through the Administrator, and to confirm, approve, and place in effect such rates on an interim basis and delegated to the Federal Energy Regulatory Commission (FERC) the authority to confirm and approve on a final basis or to disapprove rates developed by the Assistant Secretary under the delegation. Due to a Department of Energy organizational realignment, Delegation Order No. 0204–33 was amended, effective March 19, 1981, to transfer the authority of the Assistant Secretary for Resource Applications to the Assistant Secretary for Conservation and Renewable Energy. This rate order is issued pursuant to the delegation to the Assistant Secretary for Conservation and Renewable Energy.

Background

Power from the Georgia-Alabama System of Projects is presently sold under Wholesale Power Rate Schedules GAMF–1–B, GAMF–2–B, ALA–1–B, MISS–1–B, SC–1–B, SC–2–B, and CAR–1–C, confirmed and approved through September 30, 1983. All of these rate schedules except CAR–1–C were approved by the Federal Energy Regulatory Commission (FERC) on April 3, 1981, for a period ending September 30, 1983. Rate Schedule CAR–1–C was confirmed and approved by FERC on April 9, 1982, for a period ending September 30, 1983.

Public Notice and Comment

Opportunities for public review and comment on the Rate Schedules proposed for use during the period October 1, 1983, through September 30, 1984, were announced by Notice published in the **Federal Register** on May 31, 1983, and all customers were notified by mail. A Public Information and Commept Forum was held in Atlanta, Georgia, on July 7, 1983, and written comments were invited by the Notice through July 22, 1983. Exhibit A–4 is a transcript of the hearing which includes comments. Exhibit A–5 includes the written comment and the review of all the comments.

Discussion

System Repayment

An examination of SEPA's system power repayment study, prepared in June 1983, for the Georgia-Alabama System of Projects, reveals that with an annual revenue increase of $6,279,000 over the current revenues shown in a June 1983 SEPA repayment study, all system power costs are paid within their repayment life. Additionally, Rate Schedules GAMF–1–C, GAMF–2–C, ALA–1–C, MISS–1–C, SC–1–C, SC–2–C, CAR–1–D, and new Rate Schedule CAR–2–C are designed so as to produce revenue adequate to recover all system power costs on a timely basis.

Rate Design

Because the rates are expected to be in effect for only a one-year period, SEPA attempted to increase rates ratably for those cost increases caused by increased generating costs. The proposed rate schedules were drawn on the basis of increasing all rates by an identical 17.5 percent. However, the increased wheeling costs were passed directly to the effected customers through an "additional wheeling charge."

Environmental Impact

SEPA has reviewed the possible environmental impacts of the rate adjustment under consideration and has concluded with Departmental concurrence that, because the increased rates would not significantly affect the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, the proposed action is not a major Federal action for which preparation of an Environmental Impact Statement is required.

Availability of Information

Information regarding these rates including studies, and other supporting materials is available for public review in the offices of Southeastern Power Administration, Samuel Elbert Building, Elberton, Georgia 30635, and in the Office of the Director of Power Marketing Coordination, James Forrestal Building, 1000 Independence Avenue, SW., Room 6B104, Washington, D.C. 20585.

Submission to the Federal Energy Regulatory Commission

The rates hereinafter confirmed and approved on an interim basis, together with supporting documents, will be submitted promptly to the Federal Energy Regulatory Commission for confirmation and approval on a final basis for a period beginnning October 1, 1983, and ending no later than September 30, 1984.

Order

In view of the foregoing and pursuant to the authority delegated to me by the Secretary of Energy, I hereby confirm and approve on an interim basis, effective October 1, 1983, attached Wholesale Power Rate Schedules GAMF–1–C, GAMF–2–C, ALA–1–C, MISS–1–C, SC–1C, SC–2–C, CAR–1–D, and CAR–2–C. The rate schedules shall remain in effect on an interim basis through September 30, 1984, unless such period is extended or until the FERC confirms and approves them or substitute rate schedules on a final basis.

Issued in Washington, D.C., this 29th day of August 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Wholesale Power Rate Schedule GAMF–1–C

Availability

This rate schedule shall be available to public bodies and cooperative (any one of which is hereinafter called the Customer) in Georgia, Alabama, southeastern Mississippi, and panhandle Florida owning distribution systems, to whom power may be wheeled pursuant to contracts between the Government and, respectively, the Georgia Power Company, Alabama Power Company, Mississippi Power Company, and Gulf Power Company (any one of which is hereinafter called the Company).

Applicability

This rate schedule shall be applicable to the sale at wholesale of power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carters Projects and sold under appropriate contracts between the Government and the Customer and to any deficiency energy purchased by the Governement from the Companies.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz delivered at the delivery points of the Customer of the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour.

Additional Wheeling Charge

$0.06 per kilowatt of total contract demand.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Customer is entitled to receive.

Energy to be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy each billing month equivalent to an annual energy quantity specified by contract and prorated on an equal daily amount throughout the year. The Customer's contract demand and accompanying energy will be allocated proportionately to its individual delivery points served from the Company's system.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment, and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

Service interruption

When energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1983.

Wholesale Power Rate Schedule GAMF-2-C

Availability

This rate schedule shall be available to the Georgia Power Company, The Alabama Power Company, the Mississippi Power Company, and the Gulf Power Company (any one of which is hereinafter called the Company).

Aplicability

This rate schedule shall be applicable to electric capacity available from the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carters Projects (hereinafter called the Projects) and sold under contract between the Government and the Company.

Character of Service

Electric capacity and energy delivered to the Company will be three-phase alternating current at a nominal frequency of 60 Hertz and will be delivered at mutually agreeable points in the vicinity of the Projects' power stations at approximately 115,000 volts, except that delivery from, the Hartwell and Carters Projects will be at approximately 230,000 volts or at points of interconnection between the Companies.

Monthly Rate

The monthly rate for capacity sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt per billing month for monthly dependable capacity made available to the Company for its own use.

Monthly dependable capacity is the monthly capacity, specified by contract, which based on past water records would be available for scheduling by the Companies within the energy limitations also specified by contract, except during the worst water period of record and except for a few minor short-term reductions under flood conditions.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other customers.

Service Interruption

When delivery of capacity to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the demand charge for capacity made available will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.20}{\text{Number of days in billing month}}$$

October 1, 1983.

Wholesale Power Rate Schedule ALA-1-C

Availability

This rate schedule shall be available to the Alabama Electric Cooperative, Incorporated (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carters Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at the Walter F. George Project or other points of interconnection between the Cooperative and Alabama Power Company.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

$0.33 per kilowatt for standby capacity made available, plus $0.041 per kilowatt per calendar day for such capacity as the cooperative actually utilizes.

Energy charge

3.53 mills per kilowatt-hour for scheduled energy.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.20}{\text{Number of days in billing month}}$$

October 1, 1983.

Wholesale Power Rate Schedule MISS–1–C

Availability

This rate schedule shall be available to the South Mississippi Electric Power Association (hereinafter called the Cooperative).

Applicability

This rate schedule shall be applicable to power and accompany energy generated at the Allatoona, Buford, Clarks Hill, Walter F. George, Hartwell, Millers Ferry, West Point, Robert F. Henry, and Carter Projects and sold under contract between the Cooperative and the Government.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 Hertz and shall be delivered at points of interconnection between the Cooperative and Mississippi Power Company.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour for scheduled energy.

Additional Wheeling Charge

$0.06 per kilowatt of total contract demand.

Contract Demand

The contract demand is the amount of capacity in kilowatts stated in the contract which the Government is obligated to supply and the Cooperative is entitled to receive.

Energy To Be Furnished by the Government

The Government will sell to the Cooperative and the Cooperative will purchase from the Government those quantities of energy specified by contract as available to the Cooperative for scheduling on a weekly basis. Energy quantities for a billing month shall be the energy scheduled by the Cooperative for the month.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Cooperative shall take capacity and energy from the Government at such power factor as will best serve the Cooperative's system from time to time; provided, that the Cooperative shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity and energy delivery to the Cooperative's system for the account of the Government is reduced or interrupted and such reduction is not due to conditions on the Cooperative's system or has not been planned and agreed to in advance, the demand charge for the month for capacity made available shall be reduced as to the kilowatts of such capacity which have been interrupted or reduced in accordance with the following formula:

$$\text{Number of kilowatts unavailable for at least 12 hours in any calendar day} \times \frac{\$1.20}{\text{Number of days in billing month}}$$

October 1, 1983.

Wholesale Power Rate Schedule

SC–1–C

Availability

This rate schedule shall be available to the South Carolina Public Service Authority (hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Clarks Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service

Electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second and shall be delivered at a nominal voltage of 115,000 volts at the 115 kv bus of the Project powerplant. The actual operating voltage of the Government shall within the limits of good operating practice be suitable for operation with the Customer's system.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt per billing month for dependable capacity made available to the Customer for its own use.

$0.33 per kilowatt per billing month for standby capacity made available, plus $0.041 per kilowatt per calendar day (or fraction thereof) for such capacity as the Customer actually utilizes.

Energy Charge

3.53 mills per kilowatt-hour for energy declared for the peak period hours and for energy made available to meet stream flow requirements.

2.64 mills per kilowatt-hour for dump energy.

Energy Sold to the Customer

The Customer shall purchase and pay for all dump energy made available by the Government and accepted by the Customer. Additionally, the Customer shall purchase and pay for all energy, exclusive of dump energy, declared and made available from the Project to the Customer's system over and above such energy made available for the transmission to the Government's other preference customers.

Billing Month

All project energy shall be accounted for on a weekly basis and the total quantities of energy billed monthly shall be the sum of the weekly quantities. Energy declared or made available for any week which falls within 2 billing months shall be divided between the months on the basis of weekly schedules for energy delivery furnished by the Customer.

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Power Factor

The Customer shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice or results in overload or impairment of such facilities.

Service Interruption

When capacity made available to the Customer's system is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not agreed to in advance nor due to conditions on the Purchaser's system, the monthly demand charge for dependable capacity shall be reduced for each on-peak hour (the nearest number of whole hours) that such capacity is reduced or interrupted, by an amount equal to $1.20 divided by the number of peak hours in the billing month times the reduction, in kilowatts, of such capacity; and the amount of energy previously scheduled and not taken during the time of interruption shall be placed in storage to the Customer's account. If the Customer advises the Government within 1 working day after a day in which energy is placed in storage that it does not desire to retain ownership of such energy, the ownership of the energy will revert to the Government and the Customer shall not be obligated to pay for such energy.

October 1, 1983.

Wholesale Power Rate Schedule SC-2-C

Availability

This rate schedule shall be available to any of the following whose requirements or a portion thereof the Government shall contract to supply by delivery from the South Carolina Public Service Authority's (hereinafter called the Authority) system: a municipality or county located in part or completely within the Authority's service area, owning its own transmission or distribution system, and desiring to purchase capacity and energy from the Government for resale to the public in its territory; Central Electric Cooperative, Incorporated; or an electric cooperative not a member of Central, operating under the laws of the State of South Carolina, and located in part or completely within the service area of the Authority desiring to purchase capacity and energy from the Government for resale to ultimate consumers under the provisions of said laws (any one of such municipalities, counties, or cooperatives is hereinafter called the Customer).

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Clarks Hill Project (hereinafter called the Project) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Authority's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government will sell to the Customer and the Customer will purchase from the Government energy from the Project each billing month up to a total amount annual of 4,500 hours per kilowatt of contract demand.

For billing purposes, the energy allocated on an annual basis to accompany the Customer's contract demand as assigned to individual delivery points shall be allocated in equal quantities each day throughout the year. Such Customer shall be billed by the Government by delivery points for its contract demand and for its accompany monthly energy allocation in amounts determined by multiplying its respective daily allocation by the number of days in the billing month. The quantity of energy to be billed under this rate schedule in any billing month shall be the quantity considered to have been transmitted for the account of the Government by the Authority.

Billing Month

The billing month for power sold under this rate schedule shall end at 12:00 midnight on the last day of each calendar month.

Conditions of Service

The Customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Authority on its side of the delivery point.

Service Interruption

When the energy delivery to the Customer's system for the account of the Government is reduced or interrupted for 1 hour or longer, and such reduction or interruption is not due to conditions on the Customer's system, the demand charge for the month shall be appropriately reduced.

October 1, 1983.

Wholesale Power Rate Schedule CAR-1-D

Availability

This rate schedule shall be available to public bodies and cooperatives (any one of which is hereinafter called the Customer) in North Carolina and South Carolina to whom power may be wheeled pursuant to contract between the Duke Power Company (hereinafter called the Company) and the Government.

Applicability

This rate schedule shall be applicable to power and accompanying energy generated at the Hartwell and Clarks Hill Projects (hereinafter called the Projects) and sold in wholesale quantities.

Character of Service

The electric capacity and energy supplied hereunder will be three-phase alternating current at a nominal frequency of 60 cycles per second delivered at the delivery points of the Customer on the Company's transmission and distribution system. The voltage of delivery will be maintained within the limits established by the state regulatory commission.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$2.73 per kilowatt of total contract demand.

Energy Charge

4.29 mills per kilowatt-hour.

Energy To Be Furnished by the Government

The Government will sell to the customer and the customer will purchase from the Government a portion of the energy available to the Company area from the Projects in any billing month determined by multiplying the total energy available less six and one-half percent losses by the ratio of the customer's contract demand to the sum of the contract demands of all customers served under this rate schedule.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Conditions of Service

The customer shall at its own expense provide, install, and maintain on its side of each delivery point the equipment necessary to protect and control its own system. In so doing, the installation, adjustment and setting of all such control and protective equipment at or near the point of delivery shall be coordinated with that which is installed by and at the expense of the Company on its side of the delivery point.

October 1, 1983.

Wholesale Power Rate Schedule CAR-2-C

Availability

This rate schedule shall be available to the Duke Power Company (hereinafter called the Company).

Applicability

This rate schedule shall be applicable to electric capacity generated at the Hartwell Project (hereinafter called the Project) and sold under contract between the Government and the Company.

Character of Service

Electric capacity delivered to the Company will be three-phase alternating current at a nominal frequency of 60 cycles per second and will be delivered at approximately 230,000 volts where the Company's transmission line is connected to the bus at Hartwell.

Monthly Rate

The monthly rate for capacity and energy sold under this rate schedule shall be:

Demand Charge

$1.20 per kilowatt per billing month for dependable capacity made available to the Company for its own use.

Billing Month

The billing month for power sold under this schedule shall end at 12:00 midnight on the 20th day of each calendar month.

Power Factor

The Company shall take capacity and energy from the Government at such power factor as will best serve the Company's system from time to time, provided that the Company shall not impose a power factor of less than .85 lagging on the Government's facilities which requires operation contrary to good operating practice of results in overload or impairment of such facilities or unreasonably interferes with the delivery of capacity and energy by the Government to the Company and to its other Customers.

Service Interruption

When delivery to the Company is interrupted or reduced due to conditions on the Government's system which have not been arranged for and agreed to in advance, the charge for dependable capacity will be reduced as to the kilowatts of such capacity which have been interrupted or reduced in the proportion that the number of declaration hours during such period of interruption or reduction bears to the total number of declaration hours during the period covered by such charge.

October 1, 1983.

[FR Doc. 83-24454 Filed 9-7-83; 8:45 am]
BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-59132C; TSH-FRL 2429-5]

Alkoxy Alkanol; Denial of Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's denial of TM-83-75, an application for a test marketing exemption (TME) under section 5(h)(6) of the Toxic Substances Control Act (TSCA).

EFFECTIVE DATE: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Margaret J. Stasikowski, Acting Chief, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-204, 401 M Street S.W., Washington, D.C. 20460 (202-382-3725).

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorized EPA to exempt persons from premanufacture notification (PMN) requirements and to permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present any unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities.

EPA has not been able to determine that test marketing of the new chemical substance described below, under the conditions set out in the application, will not present any unreasonable risk of injury to health or the environment. Therefore, the application is denied.

TM-83-75

Date of Receipt: July 19, 1983.

Notice of Receipt: July 29, 1983.

Applicant: Claimed as Confidential Business Information.

Generic Chemical Name: Alkoxy alkanol.

Use: Claimed as Confidential Business Information.

Production Volume: Claimed as Confidential Business Information.

Number of Customers: Claimed as Confidential Business Information.

Worker Exposure: The potential for eye, inhalation, and dermal exposure during manufacturing and use operations appears to exist. During manufacturing and use operations the following worker exposures are expected: Manufacturing—20 persons, for less than 8 hours/day, for less than 30 days.

Use. (Customer evaluation)—250 persons, for less than 8 hours/day, for less than 250 days.

Test Marketing Period: 6 months.

Risk Assessment: Based on test data on a close analog, EPA believes that the TMEA substance has the potential to cause teratogenic effects, liver and kidney and spleen toxicity, blood effects, and effects to thymus and testes. EPA is unable to determine, in the absence of chronic and subchronic test data on the test market substance, whether expected worker exposure levels are low enough to ensure that there will be no unreasonable risks to workers during manufacture and processing operations during the test marketing of this substance.

Public Comments: None.

Dated: August 29, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-24530 Filed 9-7-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

On August 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: Application for New or Modified Common Carrier Microwave Radio Station Construction Permit Under Part 21
Form No.: FCC 435
Action: Extension
Respondents: Communications Common Carriers applying for construction permits in the Point-to-Point Microwave Radio Service, Multipoint Distribution Service, Digital Electronic Message Service, and Local Television Transmission Service
Estimated Annual Burden: 6,000 Responses; 12,000 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24487 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

Cellular Application Filing Procedures, Changes in Markets Below the 90 Largest; Correction

August 30, 1983.

The Public Notice dated August 19, 1983 (48 FR 38897; August 26, 1983), Mimeo 6031, is corrected as follows:

(1) On LIST A, "Florence, SC" should include only Florence County. Colbert and Lauderdale Counties are in the Florence, AL SMSA.

(2) The following two SMSAs were inadvertently omitted from LIST D and should be included:

Newport News-Hampton, VA (merged into Norfolk-Virginia Beach-Newport News, VA)
Gloucester, James City and York Counties, and Hampton, Newport News, Poquoson and Williamsburg Cities
Petersburg-Colonial Heights-Hopewell, VA (merged into Richmond-Petersburg, VA)
Dinwiddie and Prince George Counties, and Colonial Heights, Hopewell and Petersburg Cities

(3) Add to LIST A, the following SMSA: Victoria, TX (Victoria County).

William J. Tricarico,

Secretary.

[FR Doc. 83-24489 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

Closed Circuit Test of the Emergency Broadcast System During the Week of September 19, 1983

September 2, 1983.

A test of the Emergency Broadcast System (EBS) has been scheduled during the week of September 19, 1983. Only ABC, MBS, NPR, AP Radio, CBS, IMN, NBC and UPI Audio Radio Network affiliates will receive the Test Program for the Closed Circuit Test. AP and UPI wire service clients will receive activation and termination messages of the Closed Circuit Test. The ABC, CBS, NBC and PBS television networks are not participating in the Test.

Network and press wire service affiliates will be notified of the test procedures via their network approximately 30 to 45 minutes prior to the test.

Final evaluation of the test is scheduled to be made about one month after the Test.

This is a closed circuit test and will not be broadcast over the air.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24490 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

[File No. BPH-811019AG; MM Docket No. 83-818 et al.]

Applications for Consolidated Hearing; Rebel Broadcasting Co. of Mississippi et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Donald B. Brady, d.b.a. Rebel Broadcasting Company of Mississippi	Tillatoba, Mississippi	BPH-811019AG	83-818
B. Arnold Lane Tucker, d.b.a. L and I Broadcasting Co	Tillatoba, Mississippi	BPH-820426AB	83-819
C. Tallahatchie Broadcasting Systems	Charleston, Mississippi	BPH-820524BI	83-820

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. Main Studio	A
2. (See Appendix)	A
3. Air Hazard	A
4. (See Appendix)	A
5. (See Appendix)	B

Issue heading	Applicant(s)
6. 307(b)	A, B, and C.
7. Contingent Comparative	A, B, and C.
8. Ultimate	A, B, and C.

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

2. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Rebel)

3. If a final environmental impact statement is issued with respect to A (Rebel), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, (a) to determine whether the proposal is consistent with the National Environmental Policy Act, as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

4. If a final environmental impact statement is issued with respect to B (L and I), which concludes that the proposed facilities are likely to have an adverse effect on the quality of the environment, (a) to determine whether the proposal is consistent with the National Environmental Policy Act as implemented by §§ 1.1301–1.1319 of the Commission's Rules; and (b) whether, in light of the evidence adduced pursuant to (a) above, the applicant is qualified to construct and operate as proposed.

[FR Doc. 83-24486 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (Rebel)	Undated balance sheet. Applicant proposes to use existing funds to build and operate station for 3 months. However, current liabilities ($16,350) exceed net liquid assets ($11,200). Therefore, no funds are available.

[File No. BPH-820115AE; MM Docket No. 83-801 et al.]

Applications for Consolidated Hearing; LouGena J. Wikstrom et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. LouGena J. Wikstrom	Yakima, Washington	BPH-820115AE	83-801
B. Andrew Vallejo	Yakima, Washington	BPH-820308AG	83-802

2. Pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings show below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue heading	Applicant(s)
1. City Coverage	A.
2. (See Appendix	A.
3. Comparative	A and B.
4. Ultimate	A and B.

3. If there is any non-standard issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street NW., Washington, D.C. 20554. Telephone (202) 632-6334.

Larry D. Eads,

Chief, Audio Services Division, Mass Media Bureau.

Appendix—Issue(s)

* * * * *

2. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8,[1] the applicant(s) is financially qualified: A (Wikstrom).

[FR Doc. 83-24485 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

[1] Paragraph 8 reads as follows:

The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

Applicant(s)	Deficiency
A (Wikstrom)	Applicant's balance sheet shows liabilities ($67,746) exceeding net liquid assets ($10,500). Therefore, no funds are available.

Telecommunications Industry Advisory Group, Separations and Costing Subcommittee; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Telecommunications Industry Advisory Group (TIAG) Separations and Costing Subcommittee scheduled for Monday, September 26, 1983 and Tuesday, September 27, 1983. The meeting will begin at 10:00 a.m. in the Offices of MCI, First Floor Conference Room, located at 1133 19th Street, NW., Washington, D.C. and will be open to the public. The agenda is as follows:

I. Minutes
II. Discussion of Assignments for Last Meeting
III. Discussion of Proposed New Assignments
IV. General Administrative Matters
V. Other Business
VI. Presentation of Oral Statements
VII. Adjournment

With prior approval of Subcommittee Chairman Eric Leighton, oral statements, while not favored or encouraged, may be allowed if time permits and if the Chairman determines that an oral presentation is conducive to the effective attainment of Subcommittee objectives. Anyone not a member of the Subcommittee and wishing to make an oral presentation should contact Mr.

Leighton (518/462–2030) at least five days prior to the meeting date.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-24468 Filed 9-7-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Form Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35)

Type: New.

Title: Federal Regional Reconstitution Area (FRRA) Survey.

Abstract: Data collectors will perform on-site surveys of potential reconstitution sites in order to confirm, upgrade, or expand information now stored in FEMA's data base on Federal Regional Reconstitution Areas.

Type of Respondents: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions.

Number of Respondents: 2,500.

Burden Hours: 2,500.

OMB Desk Officer: Ken Allen, (202) 395–3786.

Copies of the above information collection clearance package can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 287–9906, Federal Plaza Center, 500 C. Street SW., Washington, D.C. 20472.

Written comments and recommendations for the proposed information collection package should be sent to Linda Shiley, FEMA Reports Clearance Officer, Federal Plaza Center, 500 C. Streets SW., Washington, D.C. 20472 and to Ken Allen, Desk Officer, OMB Reports Management Branch, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: August 25, 1983.

Wesley Moore,

Acting Assistant Associate Director, Administrative Support.

[FR Doc. 83-24509 Filed 9-7-83; 8:45 am]

BILLING CODE 6718-01-M

[FEMA-689-DR]

Texas; Amendment to Notice of Major Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the Notice of a major disaster for the State of Texas (FEMA–689–DR), dated August 19, 1983, and related determinations.

DATED: August 29, 1983.

FOR FURTHER INFORMATION CONTACT: Sewall H. E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472; (202) 287–0501.

Notice: The notice of a major disaster for the State of Texas dated August 19, 1983, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of August 19, 1983.

Liberty, Montgomery and San Jacinto Counties for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 83-24508 Filed 9-7-83; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-37]

Rates Applicable to Charitable Shipments by U.S. Atlantic and Gulf/Jamaica and Hispaniola Steamship Freight Association; Filing of Petition for Declaratory Order

Notice is given that a petition for declaratory order has been filed by U.S. Atlantic and Gulf/Jamaica and Hispaniola Steamship Freight Association to permit waiver or refund of port charges on shipments of Public Law 480 aid cargo to Haiti. The alleged circumstance giving rise to the petition is that, for a period of time in May, 1983, the Association was unaware that the Government of Haiti had exempted certain charitable organizations from payment of the charges.

Interested persons may inspect and obtain a copy of the petition at the Washington Office of the Federal Maritime Commission, 1100 L St., NW., Room 11101. Participation in this proceeding by persons not named in the petition will be permitted only upon grant of intervention pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

Petitions to intervene shall be accompanied by intervenors complete reply in the matter. Such petitions and any replies to the petition for declaratory order shall be filed with the Secretary on or before September 30, 1983. An original and fifteen copies shall be submitted and a copy served on Petitioner, Nathan J. Bayer, Esquire, Freehill, Hogan and Mahar, 80 Pine Street, New York, New York 10005. Replies shall contain the complete factual and legal presentation of the replying party as to the desired resolution of the petition for declaratory order.

Francis C. Hurney,

Secretary.

[FR Doc. 83-24473 Filed 9-7-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Fee Schedules for Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Interim fee schedule for automated clearing house night cycle deposits.

SUMMARY: The Board has approved an interim fee schedule for automated clearing house (ACH) night cycle transactions.

EFFECTIVE DATE: October 6, 1983.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (202/452–2231) or Florence M. Young, Program Manager (202/452–3955), Division of Federal Reserve Bank Operations; Gilbert T. Schwartz, Associate General Counsel (202/452–3625), or Elaine M. Boutilier, Attorney (202/452–2418) Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION: In 1979, the Federal Reserve enhanced its ACH services by adding a second, later deposit deadline restricted to cash concentration debits.[1]

Before this change was implemented, only one deposit deadline was available to depository institutions. The addition of a later deposit deadline improved the ACH service because it provided originators of ACH cash concentration debits additional processing time as well as better availability than they were able to achieve with a single deposit deadline. The primary reason for imposing this restriction was due to concern about potential volume shifts from morning deposit deadlines to the nighttime deposit deadlines, which might have caused capacity constraints at some offices. During the last four years, however, the Reserve Banks have

[1] Cash concentration debits are used by businesses to draw down balances held at a number of depository institutions in order to accumulate funds at a primary institution for investments or other purposes.

gained considerable experience with the ACH nighttime operation and sufficient capacity currently exists to handle anticipated volume levels.

The Federal Reserve has received requests to accept deposits of all types of ACH transactions at the nighttime deposit deadline because depository institutions believe the nighttime deposit deadline increases the flexibility of the ACH. For example, hourly payrolls, unlike salary payments, may require last minute calculations to reflect an individual's actual work experience. The early morning deposit deadline for ACH credit transactions does not provide corporations sufficient time to determine hourly employees' pay. This modification of the night cycle will enable credit transactions to be deposited at the nighttime deposit deadline, allowing additional time for calculating hourly payrolls. Additionally, the night cycle can be used to accommodate payments that would normally be processed during the daytime but are delayed due to operating problems at originating depository institutions.

In opening the night cycle to all ACH transactions and in offering next-day availability for both debit and credit transactions, there may be an increase in the number of ACH payments delivered to country institutions after the actual settlement date due to the short processing time and long distances for delivery. However, institutions faced with this late delivery situation currently only receive about four percent of total ACH payments; it is unlikely that a large proportion of these payments will be converted to next-day settlement payments. Nevertheless, these institutions may face some problems in continuing to provide high quality service to their customers. Therefore, the Reserve Banks will expand their current ACH telephone advice services to country banks to include all debit and credit transactions processed during nighttime operations so that country institutions will be able to receive the transaction information that they need.

The current ACH fees where implemented on December 29, 1982, and were set to recover 40 percent of the total costs of providing commercial ACH services. A new ACH fee schedule based on a 60 percent recovery rate, as required under the Board's ACH incentive pricing policy, is currently being developed. Since expansion of the night cycle is desired by users of the ACH service as soon as possible, the new service will be made available on October 6 1983, with an interim fee schedule based on the current 40 percent recovery rate. These interim fees will be in effect until the new ACH fees, based on a 60 percent recovery rate, are implemented.

Presently, originators of cash concentration debits are assessed a surcharge of five cents per transaction for each debit deposited at the nighttime deposit deadline. This fee is based on the benefits realized by originators of cash concentration debits, including improved funds availability obtained by using the night cycle. Since opening the night cycle to all types of debit transactions will afford all originators of debit transactions benefits similar to those realized by originators of cash concentration debits, the current five cents surcharge will apply to all debit transactions deposited at the nighttime deposit deadline.

The current ACH fee schedule assesses no fees to depository institutions that originate credit transactions because most of the benefits of the ACH service are realized by receivers of credit transactions. Originators of credit transactions for two-day settlement will not realize significant benefits from the additional processing time. Further, by initiating credits for two-day settlements, originators are taking steps to ensure that payments reach receiving institutions by the settlement date. In view of these factors a surcharge for two-day credit transactions would not be appropriate. Originators of credits deposited for next-day availability, however, clearly benefit from the increased processing time this option offers them. Because originating institutions will be able to realize benefits that previously were unavailable to them, it is appropriate that a fee be charged for this new service. Since originators of credits are not able to realize benefits comparable to those realized by originators of debits, the Board has determined that a surcharge of two cents rather than five cents will be assessed to originators of credit transactions deposited for next-day settlement.

Depository institutions located in the Cleveland and Richmond Federal Reserve Districts are now able to deposit all ACH transactions at the nighttime deposit deadline. Further, the Federal Reserve Bank of Richmond currently does not offer a daytime ACH deposit deadline. Because of the difference, depository institutions located in these two Districts will need some time to adjust their operating schedule in order to use the daytime deposit deadline and to avoid nighttime surcharges where they are not cost effective. To avoid the inequity of requiring originators in the Cleveland and Richmond Districts to pay increased fees for a deposit deadline that is optional in other districts, all Reserve Districts will establish daytime deposit deadlines. Further, the Board has determined to grant a temporary waiver of the five cents debit surcharge for non-cash concentration debits in those two Districts to permit originators and depository institutions to make the necessary operational adjustments. The two cents surcharge on next-day settlement credits, however, is a new service for all Districts and no inequities will result from universal application. Consequently, this surcharge will not be waived for originators located in the Cleveland and Richmond Federal Reserve Districts.

Accordingly, the Board has determined that the interim fee schedule for the ACH night cycle, effective October 6, 1983, will be as follows:

Per item surcharge to originators

	Cents
Debits[1]	5
Next-day settlement credits	2
Two-day settlement credits	0

[1] This surcharge will not be assessed for debits, other than cash concentration debits, originated by depository institutions located in the Cleveland and Richmond Federal Reserve District.

Any comments regarding the interim fee schedule should be forwarded to your local Federal Reserve office.

This interim fee schedule will remain in effect until the repricing of the ACH service.

By order of the Board of Governors of the Federal Reserve System, September 1, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-24468 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Peoples Bancorp, Inc., and Bay Rock Bancshares, Inc.

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 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. *Peoples Bancorp, Inc.*, Prairie du Chien, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples State Bank, Prairie du Chien, Wisconsin. Comments on this application must be received not later than October 1, 1983.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bay Rock Bancshares, Inc.*, Maiden Rock, Wisconsin; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Maiden Rock, Maiden Rock, Wisconsin. Comments on this application must be received not later than October 1, 1983.

Board of Governors of the Federal Reserve System, September 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24467 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Barnett Banks of Florida, Inc., and Harris Bancorp, Inc.

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 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 summarzing the evidence that would be presented at a hearing.

A. **Board of Governors of the Federal Reserve System** (William W. Wiles, Secretary) Washington, D.C. 20551:

1. *Barnett Banks of Florida, Inc.*, Jacksonville, Florida; to acquire at least 99 percent of the voting shares of Flagship Bank of Kissimmee, Kissimmee, Florida, at least 85 percent of the voting shares of Flagship Bank of Okeechobee, Okeechobee, Florida, and at least 99.5 percent of the voting shares of Flagship Bank of Putnam County, Crescent City, Florida. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta. Comments on this application must be received not later than September 30, 1983.

2. *Harris Bankcorp, Inc.*, Chicago, Illinois; to acquire 100 percent of the voting shares of the successor by merger to Bank of Naperville, Naperville, Illinois. This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, September 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24464 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Commercial Holding Co., 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 St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Commercial Holding Company*, Paris, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Commercial Bank & Trust Company, Paris, Tennessee. Comments on this application must be received not later than September 30, 1983.

2. *Tell City National Bancorp*, Tell City, Indiana; to become a bank holding company be acquiring 100 percent of the voting shares of the successor by merger to Tell City National Bank, Tell City, Indiana. Comments on this application must be received not later than September 30, 1983.

B. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Marin, San Fafael, California. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, August 31, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24465 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Shawmut 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 section 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 writting and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *Shawmut Corporation*, Boston, Massachusetts (insurance activities; Massachusetts): To engage through its direct subsidiary, Wornat Insurance Agency, Inc., Worcester, Massachusetts (Wornat; to be renamed Shawmut Insurance Agency, Inc., and to be relocated to One Federal Street, Boston, Massachusetts) in insurance agency activities for the sale of credit life and credit accident and health insurance sold in connection with extensions of credit. These activities would be conducted from additional existing banking offices of Shawmut in Massachusetts and from Wornat's main office, which would be relocated from Worcester, Massachusetts to Boston, Massachusetts, a distance of approximately 40 miles, serving the commonwealth of Massachusetts. Comments on this application must be received not later than September 28, 1983.

B. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Idaho, Montana, Washington): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Portland, Oregon, to include the states of Idaho, Montana and Washington, in addition to the previously approved service area of Oregon, for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than September 30, 1983.

2. *Citicorp*, New York, New York (finance company and credit-related insurance activities; Oklahoma): To expand the service area of an existing office of its subsidiary, Citicorp Acceptance Company, Inc., located in Irving, Texas. The proposed expanded service area will include the entire state of Oklahoma for the following previously approved activities: the making or acquiring of loans and other extensions of credit, secured or unsecured, for consumer and other purposes; the extension of loans to dealers for the financing of inventory (floor planning) and working capital purposes; the purchasing and servicing for its own account of sales finance contracts; the sale of credit related life and accident and health insurance by licensed agents or brokers, as required; the making of loans to individuals and businesses secured by a lien on mobile homes, modular units or related manufactured housing, together with the real property to which such housing is or will be permanently affixed, such property being used as security for the loans; and the servicing, for any person, of loans and other extensions of credit. Comments on this application must be received not later than September 30, 1983.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *IntraWest Financial Corporation*, ("IntraWest"), Denver, Colorado, (credit related insurance activities; Colorado): To engage through its subsidiary, IntraWest Insurance Agency, Inc., ("IntraWest Insurance"), in acting as agent for the sale of credit life and credit accident and health insurance to borrowers from member banks of the IntraWest System. This application is to expand the geographic scope of such agency activities to include the offices of IntraWest Bank of Aurora, N.A., Aurora, Colorado, IntraWest Bank of Southwest Plaza, N.A., Littleton, Colorado, and IntraWest Bank of Highlands Ranch, N.A., Highlands Ranch, Colorado. IntraWest earlier gained approval to engage in such activities by Board Order of October 20, 1972. These activities would be conducted by IntraWest Insurance at said offices, serving the counties of Denver, Adams, Arapahoe, Douglas and Jefferson, all in Colorado. Comments on this application must be received not later than September 30, 1983.

Board of Governors of the Federal Reserve System, September 1, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-24466 Filed 9-7-83; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

Extension of Period for Filing an Objection to the Opening of Nixon White House Special Files

Notice is hereby given that this agency has extended the time limit for the receipt of objections to public access to the Nixon White House Special Files. The period for filing an objection has been extended to November 10, 1983. Any person who wishes to claim a right, privilege or defense concerning these materials should follow the procedures outlined in 48 FR 36655 (August 12, 1983). Any claims must be received by November 10, 1983.

Dated: September 7, 1983.

Robert M. Warner,

Archivist of the United States.

[FR Doc. 83-24774 Filed 9-7-83; 11:40 am]

BILLING CODE 6820-26-M

[Docket No. 82P-0073]

Automation Systems, Inc.; Availability of Approved Variance for Verification Laser Gauge

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a variance from the performance standard for laser products has been approved by FDA's National Center for Devices and Radiological health

(NCDRH) for verification laser gauges manufactured by Automation Systems, Inc. The electronic product is designed to inspect various threaded parts for quality of threads; for length gauging and sorting mixed parts based on length; and for making qualitative judgments concerning the characteristics of inspected surfaces.

DATES: The variance became effective on March 2, 1983, and will terminate on March 2, 1988.

ADDRESS: The application and all correspondence on the application have been placed on display in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Norbert P. Heib, Jr., National Center for Devices and Radiological Health (HFX-460), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3426.

SUPPLEMENTARY INFORMATION: Under § 1010.4 (21 CFR 1010.4) of the regulations governing establishment of performance standards under section 358 of the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263f), Automation Systems, Inc., 1106 Federal Rd., Brookfield, CT 06804, has been granted a variance from § 1040.10(f)(6) (21 CFR 1040.10(f)(6)) of the performance standard for laser products for its verification laser gauges nominal 2 milliwatts (mW) power. The specific provision of § 1040.10(f)(6) for which a variance has been granted would otherwise require that the verification laser gauges be provided with one or more permanently attached beam attenuators (other than laser energy source switches, electrical supply main connectors, or the key-actuated master control) capable of preventing access by any part of the human body to all laser and collateral radiation in excess of the accessible emission limits of Class I laser radiation and collateral radiation specified in Table III of § 1040.10. All other provisions of the standard remain applicable to the laser product.

The Applicant has shown that the beam attenuator tends to destroy the seal integrity protecting optical components of its verification laser gauges. Thus, gauges equipped with beam attenuators require excessive downtime for repair, which can be accompanied by the accumulation of oil, dust, and dirt contamination, whereas new equipment built without permanently attached beam attenuators can be effectively sealed against environment contamination of optical components. Access to any laser radiation during its operation is limited. These instruments are installed in areas of moving machinery, and access to such area is limited to certain employees familiar with the operation and hazards of the machinery. The beams are emitted from an enclosed housing, travel only a few inches and terminate on receivers. Each beam is typically less than 1.5 mW in power, and the configuration of a semi-enclosed housing is such that it is not possible to place an employee's eye in the direct beam path.

The NCDRH has determined that the beam attenuator requirement is inappropriate for the product and that alternate means of radiation protection can be provided by the location and the physical design of the product and its labeling. Limiting personnel entry into the area of use also provides protection. Under terms of the variance the laser system shall have a separate control (power switch) to terminate the energy supplied to the laser and serve as a means of attenuating the level of accessible laser radiation to less than the accessible emission limit of Class I while the main power to the gauge is on. The verification laser gauges can be sold only for use in an industrial environment with limited access by authorized personnel. In addition, labels and instructions that are provided to users of the verification laser gauges shall include information and instructions adequate to assure that individuals who are untrained in the safe use of lasers can use the product safely. Therefore, on March 2, 1983, FDA approved the requested variance by letter to the manufacturer from the Acting Director, Office of Radiological Health.

To associate the product with the variance the product shall bear on the certification label required by § 1010.2(a) (21 CFR 1010.2(a)), the identifying number (the docket number appearing in the heading of this notice) and the effective date of the variance.

In accordance with § 1010.4, the application and all correspondence on the application have been placed on public display under the designated docket number in the Dockets Management Branch (address above), and may be seen in that office between 9 a.m. to 4 p.m., Monday through Friday.

Dated: August 31, 1983.

William R. Clark,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-24447 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 83F-0262]

G.D. Searle and Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that G.D. Searle and Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aspartame as a sweetener available to the consumer in bulk package form.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3A3744) has been filed by the Searle Research and Development Division of G.D. Searle and Co., 4901 Searle Parkway, Skokie, IL 60077, proposing that § 172.804 *Aspartame* (21 CFR 172.804) be amended to provide for the safe use of aspartame (1-methyl *N*-*L*-α-aspartyl-*L*-phenylalanine) as a sweetener available to the consumer in bulk package form.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated August 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-24445 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83F-0258]

Lonza, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is announcing

that Lonza, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of di-n-alkyl (C_8–C_{10}) dimethylammonium chloride, *n*-alkyl (C_{12}–C_{16}) benzyldimethylammonium chloride, tetrasodium ethylenediamine tetraacetate, and either *alpha*-alkyl-*omega*-hydroxypoly(oxy-ethylene)9-13 moles of ethylene oxide, or *alpha*-(*p*-nonyl-phenyl)-*omega*-hydroxypoly(oxyethylene)9-13 moles of ethylene oxide, as components of a sanitizing solution to be used on food-contact surfaces.

FOR FURTHER INFORMATION CONTACT: Anthony P. Brunetti, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 3H3735) has been filed by Lonza, Inc., Fair Lawn NJ 07410, proposing that the food additive regulations be amended to provide for the safe use of di-*n*-alkyl (C_8–C_{10}) dimethylammonium chloride, *n*-alkyl (C_{12}–C_{16}) benzyldimethylammonium chloride, tetrasodium ethylenediamine tetraacetate, and either *alpha*-alkyl-*omega*-hydroxypoly(oxy-ethylene)9-13 moles of ethylene oxide, or *alpha*-(p-nonyl-phenyl)-*omega*-hydroxypoly(oxyethylene)9-13 moles of ethylene oxide, as components of a sanitizing solution to be used on food-contact surfaces.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: August 30, 1983.

Richard J. Ronk,

Acting Director, Bureau of Foods.

[FR Doc. 83-24444 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83D-0001]

Raw Breaded Shrimp; Microbiological Defect Action Levels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the availability of the Compliance Policy Guide 7108.25, which establishes defect action levels for microbiological contamination occurring during processing of raw breaded shrimp. These action levels are based on the results of a survey that FDA conducted in 1978–1979 of 31 raw breaded shrimp processors, all of which were operating according to current good manufacturing practice regulations. Compliance with the new action levels will be determined on the basis of samples of raw shrimp, prior to processing, and of finished, unfrozen shrimp product collected from the manufacturer.

DATE: Comments, data, and information may be submitted by September 10, 1984.

ADDRESS: Requests for single copies of Compliance Policy Guide 7108.25, which sets forth the microbiological defect action levels for raw breaded shrimp, the background document for the guide, and written comments, data, and information on the action levels may be submitted to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Raymond W. Gill, Bureau of Foods (HFF–312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–245–3092.

SUPPLEMENTARY INFORMATION: Current good manufacturing practice regulations (21 CFR Part 110) were developed as general guides for determining whether foods for human consumption are safe and are prepared, packed, and held under sanitary conditions. Because some filth such as microbial contaimination may occur naturally in foods or may be unavoidable even when current good manufacturing practice is used, FDA, in instances where the contamination does not pose a health hazard to consumers, may establish defect action levels as a basis for regulatory action.

To meausre objectively the extent to which microbial contamination of raw breaded shrimp can be attributed to the manufacturing process, FDA, in 1978–1979, conducted a survey of shrimp breading processors that were following current good manufacturing practice in their operations. During the survey, the agency carried out 59 in-plant inspections of 31 breaded shrimp processors. During the inspections, subsamples from various points along the processing line were collected and then analyzed for aerobic plate counts, coliforms, *Escherichia coli*, and *Staphylococcus aureus*. FDA evaluated the survey data and used them to develop regulatory criteria that could be used as an objective measure of compliance with current good manufacturing practice regulations. These regulatory criteria are the microbiological defect action levels for raw breaded shrimp set forth in compliance Policy Guide 7108.25. The full text of that guide is as follows:

Subject: Raw Breaded Shrimp—Microbiological Defect Action Levels

Background: Insanitary practices and processing conditions in food plants usually result in an increase in the number of microorganisms in the food being processed. To determine the extent to which an increase in the level of microorganisms could be attributed to the manufacturing process for breaded shrimp, a survey was conducted in FY 1978 of 31 shrimp breader plants that were determined to be utilizing current good manufacturing practices in their operations. The results of that survey were used as a basis for establishing microbiological criteria that could be used to objectively evaluate compliance with current good manufacturing practice regulations.

Regulatory Action Guidance: Microbiological criteria specified in this Guide are based on a statistically designed plan involving the collection of subsamples at the beginning and end of the breaded shrimp manufacturing process. The raw shrimp collected from the first location on the processing line are considered "stock" shrimp. When frozen, raw shrimp are used for processing, samples of stock shrimp should be collected after thawing.

The criteria in this Guide do not apply to breaded shrimp that are precooked by the processor.

To determine compliance with these criteria, in-plant sampling during inspection of the shrimp breading operation should include the following:

A. Duplicate subsamples of stock shrimp collected four times a day for each of two days at intervals appropriately spaced to cover the plant's production day (16 subs).

B. Duplicate subsamples of finished product collected prior to freezing four times a day for each of two days at intervals appropriately spaced to cover the plant's production day (16 subs).

C. Representative subsamples of raw materials other than shrimp used in processing the breaded shrimp.

Each subsample shall be analyzed for aerobic plate count (35° C), *Escherichia coli* (MPN) and *Staphylococcus aureus* (direct plating according to AOAC, 13th Edition (1980), Chapter 46. The results of analysis of the stock shrimp and the finished product shrimp will be used to

determine whether the actionable criteria in this Guide have been met. The results of analysis of the representative subsamples of raw materials other than shrimp should be reviewed to determine whether any of them are a potential source of contamination found in the finished product raw breaded shrimp.

The following represent criteria for recommending legal action to the Division of Regulatory Guidance (HFF–310).

Actionable if one or more of the following conditions are met:

1. *Aerobic Plate Counts (35° C)*—The mean log of 16 units of finished product breaded shrimp collected prior to freezing is greater than 5.00 (i.e., geometric mean greater than 100,000/g) and exceeds the mean log of 16 units of stock shrimp by more than twice the standard error of their difference (2 SED).

2. *Escherichia coli*—The mean log of 16 units of finished product breaded shrimp collected prior to freezing is greater than 0.56 (i.e., geometric mean greater than 3.6/g) and exceeds the mean log of 16 units of stock shrimp by more than twice the standard error of their difference (2 SED).

3. *Staphylococcus aureus*—The mean log of 16 units of finished product breaded shrimp collected prior to freezing is greater than 2.00 (i.e., geometric mean greater than 100/g) and exceeds the mean log of 16 units of stock shrimp by more than twice the standard error of their difference (2 SED).

Compliance with the microbiological defect action levels above was achieved by 100 percent of the 31 plants from which samples were collected during the 1978 survey. All of those plants were using current good manufacturing practice in their operations. Thus, FDA expects that all shrimp manufacturers following current good manufacturing practice can readily comply with the action level criteria above.

In accordance with the revised procedure for establishing and evaluating all new defect action levels (published in the **Federal Register** of September 21, 1982 (47 FR 41637)), FDA invites interested persons to submit any relevant data and information showing why the levels should be revised. These defect action levels will remain in effect until FDA has evaluated all the available data and has published its decision in the **Federal Register**.

A copy of Compliance Policy Guide 7108.25, as set forth above, and a copy of the background document for the guide have been filed with the Dockets Management Branch under the bracketed docket number above. Requests for single copies of these documents and written comments on the microbiological defect action levels for raw breaded shrimp should be sent to the Dockets Management Branch (address above).

FDA, the U.S. Department of Agriculture, and the National Marine Fisheries Service are currently funding a study by the National Academy of Sciences (NAS) of microbiological criteria for foodstuffs. On the basis of this study, NAS will make recommendations to the Federal agencies on the development of such criteria.

FDA intends to review the defect action levels announced in this notice after receiving the results of the NAS study to determine whether any changes in these levels are appropriate based on those recommendations.

Dated: August 30, 1983.

Sanford A. Miller,

Director, Bureau of Foods.

[FR Doc. 83-24449 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Application Announcement for Grants for Faculty Development in Family Medicine

The Bureau of Health Professions, Health Resources and Services Administration, announces that applications for Fiscal Year 1984 Grants for Faculty Development in Family Medicine are being accepted under the authority of Section 786(a) of the Public Health Service Act, as amended by Pub. L. 97–35.

Section 786(a) of the Public Health Service Act authorizes the award of grants to public or nonprofit private hospitals, schools of medicine or osteopathy, or other public or private nonprofit entities to assist in meeting the cost of planning, developing and operating programs for the training of physicians who plan to teach in family medicine training programs. In addition, Section 786(a) authorizes assistance in meeting the cost of supporting physicians who are trainees in such programs and who plan to teach in a family medicine training program.

To receive support, programs must meet the requirements of regulations, published in the **Federal Register** on October 16, 1980, Vol. 45, No. 202.

A funding preference may be accorded approved applications with emphasis on increasing he number of new faculty who will be teaching on a full-time basis in family medicine.

Approximately $1.0 million is expected to be available in Fiscal Year 1984 for competitive grants. Application materials are being made available without final action on the related Fiscal Year 1984 budget; therefore, adjustments and other changes may be necessary at a later date.

The deadline date for receipt of applications is November 7. Applications sent by mail will be considered on time if postmarked on or before November 7 and received on or before November 14. The term "postmark" means a printed, stamped, or otherwise placed impression, exclusive of a postage meter impression, that is readily identifiable as having been affixed on the date of mailing by an employee of the U.S. Postal Service. All hand delivered applications must be received on or before November 7.

Requests for application materials and questions regarding grants policy should be directed to: Grants Management Officer (D15), Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8C–22, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6960.

Should additional programmatic information be required, please contact: Multidisciplinary Resources Development Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 4C–16, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–3614.

This program is listed at 13.895 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, or 45 CFR, Part 100.

Dated: September 1, 1983.

John H. Kelso,

Acting Administrator.

[FR Doc. 83-24451 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-16-M

Application Announcement and Final Funding Preferences for the Health Careers Opportunity Program (HCOP)

Correction

In FR Doc. 83–24065 beginning on page 39700 in the issue of Thursday, September 1, 1983, make the following correction.

On page 39703, first column, add the following date, name, and title of the signing official to the end of the document:

Dated: August 29, 1983.

John H. Kelso,

Acting Administrator.

BILLING CODE 1505-01-M

National Institutes of Health

National Advisory Eye Council; Amended Meeting

Notice is hereby given of an amendment to the announcement of the meeting of ther National Advisory Eye Council, National Eye Institute, September 19 and 20, 1983, Building 31, Conference Room 8, National Institutes of Health, Bethesda, Maryland. The notice announcing the meeting was published in the **Federal Register** on August 15, 1983 (48 FR 36895).

This notice should be amended to announce the meeting of the Council's standing subcommittee, the Vision Research Program Planning Subcommittee, at 7:00 p.m. on Sunday, September 18, 1983, in the Bethesda Mariott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland, for the purpose of discussing various implementation aspects of *Vision Research—A National Plan: 1983–1987.* Attendance by the public will be limited to space available.

As previously published in the **Federal Register**, the meeting of the full Council will be closed to the public from mid-afternoon for the remainder of the day on Monday, September 19, and until adjournment on Tuesday, September 20.

(Catalog of Federal Domestic Assistance Programs Nos. 13.867, Retinal and Choroidal Disease Research; 13.868, Corneal Disease Research; 13.869, Cataract Research; 13.870, Glaucoma Research; and 13.871, Sensory and Motor Disorders of Visual Research; National Institutes of Health)

Dated: August 29, 1983.

Betty J. Beveridge,

National Institute of Health Committee Management Officer.

Recombinant DNA Advisory Committee; Amended Notice of Meeting

Notice is hereby given for an amendment to the Notice of Meeting of the Recombinant DNA Advisory Committee, National Institutes of Health, September 19, 1983, which was published in the **Federal Register** on August 16 (48 FR 37198).

The meeting was to be open to the public from 9:00 a.m. to 4:00 p.m., and closed to the public from 4:00 to adjournment. The closed session will now occur from approximately 10:30 a.m. to 11:30 a.m. The open portions of the meeting will be from 9:00 a.m. to 10:30 a.m. and again at 11:30 a.m. to adjournment.

For further information please contact Dr. William J. Gartland, Executive Secretary, Building 31, Room 3B10, 9000 Rockville Pike, Bethesda, Maryland 20205.

Dated: August 29, 1983.

Betty J. Beveridge,

Committee Management Officer, National Institute of Health.

[FR Doc. 83-24452 Filed 9-7-83; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Center for Health Services Research; Assessment of Medical Technology

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, appropriateness, and use of Transillumination Light Scanning (diaphanography). Specifically, we are interested in the medical indications for the: (1) Use of diaphanography in the diagnosis of breast cancer; (2) whether this technology has significant advantages over other diagnostic technologies; (3) what are the specific indications for its use.

For the purposes of this announcement, transillumination light scanning (diaphanography) is defined as a non-x-ray, non-invasive modality which uses ordinary low intensity light to visualize the tissues of the breast. Unusual variations in breast tissue are distinguishable from the surrounding tissue by changes in the amount and spectrum of the transmitted light. The breast is illuminated with low intensity white light and the transmission pattern of relatively narrow band of red and infra red light is detected, amplified and displayed in visual wavelengths. It has been suggested that when appropriate wavelengths are used, carcinoma will preferentially absorb light and will appear as a dark area on the lightscan.

The PHS assessment consists of a synthesis of information obtained from appropriate organizations in the private sector and from PHS agencies and others in the Federal Government. PHS assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on this assessment, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than September 30, 1983, or within 30 days from the date of publication of this notice.

The information being sought is a review and assessment of past, current and planned research related to this technology, a bibliography of published, controlled clinical trials and other well-designed clinical studies since 1970 and other information related to the characterization of the patient population most likely to benefit, the clinical acceptability, and the effectiveness of this technology. Proprietary information is not being sought, but published commercial information may be submitted.

Written material should be submitted to: Dr. Bruce Waxman, National Center for Health Services Research, Office of Health Technology Assessment, Park Building, Room 3-10, Stop #2, 5600 Fishers Lane, Rockville, Maryland 20857.

Further information is available from Dr. Bruce Waxman, Health Science Analyst, at the above address or by telephone (301) 443-5660.

Dated: August 30, 1983.

Harold Margulies,

Director, Office of Health Technology Assessment, National Center for Health Services Research.

[FR Doc. 83-24571 Filed 9-7-83; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-83-1283]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refere to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) The office of the agency to collect the information; (3) The agency form number, if applicable; (4) How frequently information submissions will be required; (5) What members of the public will be affected by the proposal; (6) An estimate of the total number of hours needed to prepare the information submission; (7) Whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Title I Lender Approval Handbook
Office: Housing
Form Number: HUD–92001B, HUD–92001L, HUD–92001LC, HUD–92001LK, HUD–92001V
Frequency of Submission: Annually and On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, Federal Agencies or Employees, Non-Profit Institutions, and Small Businesses or Organizations
Estimated Burden Hours: 10,350
Status: Revision
Contact: Robert Harrigan, HUD, (202) 426–3976; Robert Neal, OMB (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: July 22, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-24471 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-01-M

[Docket No. N–83–1284]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Neal, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Acting Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, SW., Washington, D.C. 20410, telephone (202) 755–5310. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) The office of the agency to collect the information; (3) The agency form number, if applicable; (4) How frequently information submissions will be required; (5) What members of the public wil be affected by the proposal; (6) An estimate of the total number of hours needed to prepare the information submission; (7) Whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) The names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Acting Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Submission of Proposed Information Collection to OMB

Proposal: Survey of Mortgage Lending Policies by Commercial Banks, Mortgage Bankers, and Realtors
Office: Policy Development and Research
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 1,353
Status: New
Contact: Michael F. Molesky, HUD, (202) 755–5421; Rober Neal, OMB, (202) 395–7316

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; Sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: August 23, 1983.

Lea Hamilton,

Director, Office of Information Policies and Systems.

[FR Doc. 83-24472 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-01-M

Office of Environment and Energy

[Docket No. N–114]

Terminate Two Environmental Impact Statements

The Department of Housing and Urban Development gives notice to terminate the Environmental Impact Statement process for the Grogan's Crossing Subdivision located in Montgomery County, Texas and the Greenwood Valley Subdivision located in the City of Allen, Collin County, Texas. The Department's Dallas Area Office prepared, circulated and filed with the Environmental Protection Agency Draft Environmental Impact Statements on September 24, 1980 and December 23, 1982 respectively. Since the filings, both developers have disposed of their proposed subdivision sites and have withdrawn their applications for mortgage insurance. Therefore, HUD gives notice that the Environmental Impact Statement process will not be completed for both subdivisions.

Issued at Washington, D.C., August 29, 1983.

Francis G. Haas,

Deputy Director, Office of Environment and Energy.

[FR Doc. 83-24470 Filed 9-7-83; 8:45 am]

BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Potawatomi Nation of Indians; Plan for the Use and Distribution of the Potawatomi Nation Judgment funds in Dockets 15-C, 29-A and 71; 29-E; 15-P, 29-N and 306; 29-D, 15-D, 29-B and 311; 15-I, 29-G and 308; 216, 15-L and 29-I; 128, 309, 310, 15-N, O, Q and R, and 29-L, M, O and P and 15-E, 29-C and 338 Before the United States Court of Claims

August 24, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on March 10, 1978, September 13, 1978, October 31, 1978, February 22, 1979, March 2, 1979, May 21, 1979, July 24, 1979 and March 17, 1981 in satisfaction of the awards granted to the Potawatomi Nation of Indians in Indian Claims Commission and United States Court of Claims Dockets 15-C, 29-A and 71; 15-P, 29-N and 306; 29-D, 15-D, 29-B and 311; 15-I, 29-G and 308; 216, 15-L and 29-I; 128, 309, 310, 15-N, O, Q and R, and 29-L, M, O and P and 15-E, 29-C and 338. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 22, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on April 25, 1983, and by the Senate on April 27, 1983. The plan became effective on July 17, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated in satisfaction of awards granted to the Potawatomi Nation of Indians in Dockets 15-C, 29-A and 71, appropriated March 10, 1978; Docket 29-E, appropriated September 13, 1978; Dockets 15-P, 29-N and 306, appropriated October 31, 1978; Docket 29-D, appropriated October 31, 1978; Docket 15-D, 29-B and 311, appropriated February 22, 1979; Dockets 15-I, 29-G and 308, appropriated March 2, 1979; Dockets 216, 15-L and 29-I, appropriated May 21, 1979; Dockets 128, 309, 310, 15-N, O, Q and R, and 29-L, M, O and P, appropriated July 24, 1979, and Dockets 15-E, 29-C and 338, appropriated March 17, 1981, before the Indian Claims Commission and the U.S. Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses, shall be used and distributed as herein provided:

Section 2. The Secretary of the Interior (hereinafter "Secretary") shall divide such funds on the basis of the population of the four Potawatomi tribal entities and the Potawatomi descendant entity as reflected in allotment, annuity and census rolls for the period 1892-1906 in relation to the total population of 3,523. The participating entities and their respective shares are as follows: Citizen Band of Potawatomi Indians, Oklahoma 1,718/3,523 (or 48.7652%); Prairie Band of Potawatomi Nation of Indians, Kansas, 809/3,523 (or 22.9634%); Hannahville Indian Community, Michigan, and Forest County Potawatomi Community, Wisconsin, 457/3,523 (or 12.9719%), which whall be further divided as provided in subsection (b) herein, and lineal descendants who are United States citizens of Potawatomi Indians of Michigan and Indiana, including Pokagon, Huron and other bands, 539/3,523 (or 15.2995%).

(b) The apportioned share of the Hannahville Indian Community and the Forest County Potawatomi Community shall be further divided between the two groups on the basis of their respective numbers in separate census rolls of January 1, 1940, with 141/451 share (or 31.2639%) to the Hannahville Indian Community and 310/451 share (or 68.7361%) to the Forest County Potawatomi Community.

(c) The apportioned share of the funds of each tribal group, including the interest and investment income accrued, shall be further divided between the per capita and program aspects of this plan. The apportioned share of the funds of the descendant group shall be handled in the manner set forth in Section 4 of this plan, under the heading Per Capita Aspect.

Per Capita Aspect

Section 3. The Secretary shall make a per capita distribution, in sums as equal as possible, on the basis of percentages established by the respective tribal groups of their apportioned shares, including the interest and investment income accrued thereon, to all members of the respective tribes, whose names appear on the membership rolls brought current under tribal enrollment procedures to include the names of all person born on or prior to and living on the effective date of the plan: Citizen Band, seventy (70) percent; Prairie Band, eighty (80) percent; Hannahville Indian Community, sixty (60) percent; Forest County Potawatomi Community, to all enrollees age sixty years and older, a full share of the total funds apportioned under Section 2(b) of this plan, including the interest and investment income accrued, based on the total enrollment, and an eighty (80) percent share of such funds to enrollees who are under age sixty.

(b) The Secretary, to expedite per capita payments to the enrollees of a tribal group, shall hold at interest in an escrow account sufficient funds from the per capita portion of the funds to cover the shares of the appellants pending determination of enrollment appeals. The respective tribes shall by tribal resolution establish appropriate deadlines for filing applications for enrollment. The amount of any shares not used to pay successful appellants shall be used by the tribe in the program portion of the tribal plan.

Section 4. For the purposes of distributing the apportioned share of the funds of the lineal descendants of Potawatomi Indians of Michigan and Indiana, including the Pokagon and Huron Bands and other bands, the Secretary shall bring current to the effective date of this plan, the descendant payment roll prepared pursuant to the Potawatomi judgment use plan of March 6, 1978, as published in the **Federal Register** of April 14, 1978, Vol. 43, No. 73: (i) By adding the names of persons living on the effective date of this plan who would have been eligible for enrollment under the 1978 plan, but who were not enrolled; (ii) by adding the names of children born and living on the effective date of this plan to persons who were eligible for enrollment, regardless of whether such parents are living or deceased on the effective date of this plan; (iii) by adding the names of children born to enrollees on or prior to and who are living on the effective date of this plan; and (iv) by deleting the names of enrollees who are deceased as of the effective date of this plan. Entitlement to share in the judgment funds under this section shall be limited to lineal descendants who are United States citizens, and who are not enrolled or entitled to be enrolled with any of the four federally recognized tribal organizations named in this plan, whose

names appear on or as lineal descendants who can trace their Potawatomi ancestry to persons on the Cadman Payment Roll of 1896, the Taggart Census Roll of 1904, or on official payment or annuity rolls of persons designated as "Potawatomi Indians of Michigan and Indiana," Huron Band, Pokagon Band, or "Notawasepi and other bands," or other records which are acceptable to the Secretary.

(b) An application by a person who meets the requirements of (i), (ii) or (iii) under subsection (a) for addition of his or her name on the updated roll for the purposes of a per capita share distribution of the funds apportioned to the descendant group under this plan, must be filed with the Superintendent of the Michigan Agency, Bureau of Indian Affairs, within one year from the effective date of this plan. The Secretary shall publish the deadline as a notice in the **Federal Register**. Appeals shall be handled in accordance with the procedures established under 25 CFR 42, Enrollment Appeals.

(c) The Secretary shall make a per capita distribution of the totality of the apportioned share of the lineal descendant group in a sum as equal as possible to each person enrolled for purposes of effecting this plan.

Programing Aspects

Section 5. *Prairie Band Potawatami of Kansas.* The funds for the programing aspects of the plan (20%), shall be held and invested by the Secretary pursuant to 25 U.S.C. 162a, until such time as social, economic, tribal governmental, or other developmental program or programs benefiting the Prairie Band are established. Such plans as proposed by the tribal council shall be brought before the General Council in a meeting or by a mail survey for concurrence or modification according to the wishes of the tribe. All program plans and tribal budgets are subject to the approval of the Secretary. Interest earnings on the principal program amount shall be utilized first in the administration of any of the approved programs.

(b) *Forest County Potawatomi, Wisconsin.* The funds for the programing aspect shall be utilized in tribal developmental programs, in accordance with Tribal Council Resolution No. 190, adopted March 21, 1981. The funds shall be held and invested by the Secretary under 25 U.S.C. 162a until advanced to the tribe under tribal budgets approved by the General Council and the Secretary.

(c) *Hannahville Indian Community, Michigan.* The funds for the programing aspect (40%) shall be utilized by the tribe for a new multi-purpose tribal center, as provided in the unnumbered Tribal Council Resolution adopted on April 5, 1982. The funds shall be held and invested by the Secretary under 25 U.S.C. 162a until advanced to the tribe under tribal budgets approved by the Secretary.

(d) *Citizen Band Potawatoni Indians of Oklahoma.* The funds for the programing aspect (30%) shall be utilized in a Ten-Year Tribal Acquisition, Development, and Maintenance Plan. The 10-year plan shall include the acquisition of additional lands to build upon the tribal land base, the development of the tribe's assets and to provide for the maintenance and care of the tribal property, as set forth in Tribal Business Committee Resolution No. Pott 81–32, adopted June 8, 1981, and confirmed by the June 27, 1981, General Council, and as clarified and defined in Tribal Business Committee Resolution No. Pott 82–6, adopted September 23, 1981. Such funds shall be held and invested by the Secretary pursuant to the provisions of 25 U.S.C. 162a until advanced under procedures set forth in this subsection:

(i) All expenditures of funds, including the initial $500,000 from the interest account to commence the implementation and administration of the ten-year plan, shall be subject to the preparation by the Tribal Business Committee of an annual tribal budget, with specific line item budgets covering the proposed uses of such funds for the year, which shall be subject to approval by the General Council and the Secretary. Program accountability reports shall be provided to the General Council and the Secretary with the annual tribal budget presented for approval. In preparing tribal budgets, the tribe shall plan the use of the interest and investment earnings on the principal funds first.

(ii) The Tribal Business Committee shall be required to prepare, separate from annual line item tribal budgets, appropriate administrative guidelines and plans of operation covering the 10-year plan, which also shall be subject to approval by the General Council and the Secretary. All tribal actions taken prior to the effective date of this plan, in approving the administrative guidelines, plans of operation, and tribal budgets of the programing aspects of the Citizen Band plan, are subject to such actions being reconfirmed or revised under the provisions of the effective plan, and approved by the General Council and the Secretary.

(iii) At the end of the 10-year program period, the General Council shall evaluate tribal needs as concerns the remaining balances in the program principal and interest accounts, and any changes proposed by the General Council shall be subject to approval by the Secretary.

(iv) In view of the scattered nature of the population, the Tribal Business Committee should establish a line of communication with the general membership of the tribe for the purpose of keeping them informed on the status and progress of the Ten-Year Acquisition, Development and Maintenance Plan.

General Provisions

Section 6. No person shall be entitled to more than one per capita share of the funds in his/her own right. The per capita shares of competent adults shall be paid directly to them. Per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Pub. L. 97-458.

(b) None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

(c) To insure the proper performance of the approved plans, the Area Director shall provide an accounting of the expenditure of all programing funds and shall report deficient performance of any aspect of a plan to the Secretary, together with the corrective measure the Area Director has taken or intends to take, as provided in subpart 87.12, 25 CFR Part 87, of the rules and regulations implementing the Indian Judgement Funds Act of 1973, 25 USC 1401; 87 Stat. 466."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-24477 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-02-M

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

August 23, 1983.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Waccamaw Siouan Development Association, Inc., c/o Ervin Jacobs, P.O. Box 221, Bolton, North Carolina 28423, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on June 27, 1983. The petition was forwarded and signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs files.

The petition may be examined by appointment in the Division of Tribal Government Services, Bureau of Indian Affairs, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20242.

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-24478 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-02-M

Southern Ute Tribe; Plan for the Use and Distribution of the Southern Ute Tribe Judgment Funds in Dockets 342-70, 343-70, 523-71 and 524-71 Before the United States Court of Claims

August 23, 1983.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on April 14, 1981, in satisfaction of the award granted to the Southern Ute Tribe in United States Court of Claims Dockets 342-70, 343-70, 523-71 and 524-71. The plan for the use and distribution of the funds was submitted to the Congress with a letter dated April 20, 1983, and was received (as recorded in the Congressional Record) by the House of Representatives on April 26, 1983, and by the Senate on April 27, 1983. The plan became effective on July 17, 1983, as provided by Section 5 of the amended 1973 Act, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

"The funds appropriated on April 7, 1981, in satisfaction of awards granted to the Southern Ute Tribe in Dockets 342-70, 343-70, 523-71 and 524-71 before the United States Court of Claims, including all interest and investment income accrued, less attorney fees and litigation expenses shall be distributed as herein provided.

Per Capita Aspect

The Southern Ute Tribe's latest approved membership roll shall be brought current to include all eligible members born on or prior to and living on the effective date of this plan. Subsequent to the preparation and approval of this roll, the Secretary of the Interior (hereinafter 'Secretary') shall make a per capita distribution of eighty (80) percent of the funds, in a sum as equal as possible to each enrollee. Any amount remaining after the per capita payment to the enrollees shall revert to the Southern Ute Tribal Council for use in their program portion of this plan.

The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR, Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, by Pub. L. 97-458.

Programing Aspect

Twenty (20) percent of the funds shall be invested as seed money in a tribal life insurance program. The invested funds, including all interest and investment income accrued, shall provide for burial expenses on a case by case basis, subject to the approval of the Secretary.

General Provision

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be consideed as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs."

John W. Fritz,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 83-24475 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

Availability of and Public Hearing on the Draft Big Lost/Pahsimeroi Wilderness Environmental Impact Statement

AGENCY: Bureau of Land Management.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 and section 603(a) of the Federal Land Policy and Management Act of 1976, the Department of the Interior has prepared a Draft Wilderness Environmental Impact Statement for three Wilderness Study Areas (WSAs) in east-central Idaho. Two of the WSAs are located in the Big Lost Planning Unit, Idaho Falls District, and one in the Pahsimeroi Planning Unit, Salmon District, Idaho. The three WSAs contain 56,830 acres of public land. The proposed action recommends 48,530 acres as nonsuitable for wilderness and 8,300 acres as suitable for wilderness.

Copies of the Draft Big Lost/Pahsimeroi Wilderness Environmental Impact Statement are available for review at the following locations:

Bureau of Land Management, Salmon District Office, Highway 93 South, Box 430, Salmon, Idaho 83467. Telephone (208) 756-2201.

Bureau of Land Management, Idaho Falls District Office, 940 Lincoln Road, Idaho Falls, Idaho 83401. Telephone (208) 529-1020.

Bureau of Land Management, Idaho State Office, 3380 Americana Terrace, Boise, Idaho 83706. Telephone (208) 334-1406.

Director (130), Bureau of Land Management, Department of the Interior, 18th & C Streets, N.W., Washington, D.C. 20240. Telephone (202) 343-5717.

DATES: Written comments on the Draft Statement are invited and should be submitted by October 27, 1983. A public hearing as required by section 3(d) of the Wilderness Act, will be held on September 26, 1983, at 7:00 p.m. at the

Arco Memorial Building in Arco, Idaho. A public hearing will also be held on September 27, 1983, at 7:00 p.m. at the American Legion Hall in Challis, Idaho.

ADDRESS: Written comments should be submitted to: District Manager, Bureau of Land Management, Box 430, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT:

David Wolf, Bureau of Land Management, Box 430, Salmon, Idaho 83467. Telephone (208) 756–2201, or
John Butz, Bureau of Land Management, 940 Lincoln Road, Idaho Falls, Idaho 83401. Telephone (208) 529–1020, or
George Weiskircher, Bureau of Land Management, 3380 Americana Terrace, Boise, Idaho 83706.

SUPPLEMENTARY INFORMATION: Persons wishing to give testimony may be limited to 10 minutes with written submission invited. Prior to giving testimony at the public hearing, individuals or spokespersons are requested to contact the Salmon District Manager at the above address.

Dated: August 26, 1983.

Clair M. Whitlock,

State Director.

[FR Doc 83-24531 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

[ES 32195]

Competitive Sale of Public Land in Seneca County, Ohio; Realty Action

This will amend the Notice of Realty Action for public land sale ES–32195, published in the May 27, 1983, **Federal Register**, which announced the proposed sale of two Federally owned parcels under Bureau of Land Management jurisdiction in Seneca County, Ohio. The date of the proposed sale will be postponed 45 days, from September 9, 1983 to 1:00 p.m., Eastern Time, October 24, 1983.

Further details concerning the proposed sale are available from Robert Gausman, Eastern States Office, Bureau of Land Management, 350 South Pickett Street, Alexandria, Virginia 22304.

G. Curtis Jones, Jr.,

Eastern States Director.

[FR Doc. 83-24484 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

[C-28560, C-28562, C-28564, C-28565]

Colorado; Proposed Continuation of Withdrawals of Lands

Correction

In FR Doc. 83–23228 beginning on page 38540 in the issue of Wednesday, August 24, 1983, make the following corrections:

1. On page 38540, third column, in the land description, T. 46 N., R. 17 W., Sec. 1, in the second line, "including" should have read "excluding".

2. Same column, T 47 N., R. 17 W., Sec. 6, in the second line, "excluding" should have read "including".

BILLING CODE 1505-01-M

[Serial No. I-18531]

Idaho; Conveyance of Public Lands Bear Lake County

August 30, 1983.

Notice is hereby given that pursuant to the Act of October 21, 1976 (90 Stat. 2750; 43 U.S.C. 1713), a patent was issued to John A. Matis, Nadine T. Matis, Peggy P. Nielsen, and F. Stanley Nielsen, Ogden, Utah, for the following-described public land:

Boise Meridian, Idaho

T. 11 S., R. 44 E., sec 8, NW¼SE¼.
Containing 40.00 acres.

The purpose of this notice is to inform the public and interested State and local governmental officials of the conveyance.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 83-24461 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-50379-6]

Alaska Native Claims Selection

In accordance with Departmental Regulations 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Chugach Natives, Inc., for approximately 997 acres. The lands involved are within the Seward Meridian, Alaska:

T. 2 S., R. 9 E.

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, 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 October 11, 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 obained from the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 995130.

If an appeal is taken, the party to be served with a copy of the notice of appeal is: 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. 83-24523 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

[AA-50379-7]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyence under the provisions of Sec. 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (43 U.S.C. 1601, 1611 (1976) (ANCSA)), will be issued to Chugach Natives, Inc., for

approximately 1,498 acres. The lands involved are within the Seward Meridian, Alaska:

T. 3 S., R. 10 E.,
Sec. 15, S½Se¼;
Sec. 21 (fractional), S½NE¼, S½;
Sec. 22;
Sec. 28 (fractional), NW¼NW¼;
Secs. 29 and 30 (fractional).

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 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 October 11, 1983 to file an appeal.

Any party known to 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 the 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 party to be served with a copy of the notice of appeal is: Chugach Natives, Inc., 903 West Northern Lights Blvd., Suite 201, Anchorage, Alaska 99503.

Steven L. Willis,

Acting Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 83-24524 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

Realty Action; Noncompetitive Sale of Public Lands in Hidalgo County, New Mexico (NM 52980)

August 22, 1983.

The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750; 43 U.S.C. 1713) at no less than the appraised fair market value.

New Mexico Principal Meridan

T. 19 S., R. 21 W.,
Sec. 2, Lots 7, 8, 9, 10, 11, 12.

The land described aggregates 10.06 acres in Hidalgo County.

This land is being offered by noncompetitive direct sale at the appraised fair market value:

Lot 7 containing 3.74 acres to Alan Day, P.O. Box 188, Duncan, Arizona 85534
Lot 8 containing 1.71 acres to Raymond and Margie Bejarano, Rt. 1, Box 275, Duncan, Arizona 85534
Lot 9 containing 1.25 acres to Antonio and Paula Burrola, Rt. 1, Box 274, Duncan, Arizona 85534
Lot 10 containing .98 acres to Marcedes Garcia, 171 Avenida del Sol, Lordsburg, New Mexico 88045
Lot 11 containing 1.19 acres to Cruz Garcia, Rt. 1, Box 269, Duncan, Arizona 85534
Lot 12 containing 1.19 acres to Jesus and Lala Bejarano, Rt. 1, Box 275, Duncan, Arizona 85534

The above described lands will be offered for direct sale 60 days after the appraised price has been made known to the persons listed. In no event will the lands be offered sooner than 60 days from the date of this notice.

The environmental document, land report and decision record which support this Notice are available for review at the Las Cruces/Lordsburg Resource Area Office, 1705 N. Valley Drive, Las Cruces, New Mexico 88004.

The terms and conditions applicable to the sale are:

1. Sale of these lands will be subject to all valid existing rights.

2. Right-of-way LC 056238 is reserved to the New Mexico State Highway Department for State Highway 92. The width is 100' on each side of the centerline. The north boundary of lots 7, 8, 9, 10 is the centerline.

3. A right-of-way is reserved to Hidalgo County for a county road (A031). The reservation is for 40 feet east of and adjacent to and parallel with the west boundary line of lots 10 and 11.

4. A 25 foot wide access road is reserved south of and adjacent to and parallel with the north boundary line of lot 11.

5. A right-of-way is reserved for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. 945).

6. All minerals are to be reserved to the United States. Federal Land Policy and Management Act of 1976 (90 Stat. 2757; 43 U.S.C. 1719).

7. The total purchase price for the land will be due 30 days from the offer date.

8. Any land described in this Notice which is not purchased by direct sale will be reoffered for sale by competitive bidding. In no case will the land be sold for less than fair market value.

9. If it is determined that any of the lots lie within a floodplain the patents will be issued subject to the provisions of Section 3(d) of Executive Order 11988 of May 24, 1977 which prevents the patentees or their successors from seeding compensation from the United States or its agencies in the event existing on future facilities on the patents are damaged by floods.

For a period of 45 days from the date of this Notice, interested parties may submit comments to the Area Manager, Las Cruces/Lordsburg Resource Area, P.O. Box 1420, Las Cruces, New Mexico 88004. Any adverse comments will be evaluated by the State Director who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become the final determination of the Department of the Interior. The payment when due, is in accordance with 43 CFR 1822.1-2.

William J. Harkenrider, Jr.,

Area Manager, Las Cruces/Lordsburg Resource Area.

[FR Doc. 83-24479 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

San Juan River Basin Coal Production Region; Meeting Amendment

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Amendment to meeting announcement.

SUMMARY: The **Federal Register** dated Wednesday, August 17, 1983, Vol. 48, No. 160, page 37308, announced that the Ah-shi-sle-pah Preference Right Lease Application (PRLA) Exchange Subgroup would discuss comments on the draft report on September 30, 1983. Because the Ah-shi-sle-pah report is scheduled for completion on September 30, 1983, the meeting at which the subgroup will discuss comments on the draft report will occur on September 15, 1983. The public is invited to attend this meeting.

DATE: The meeting is scheduled for September 15, 1983, at 1 p.m.

ADDRESS: The Ah-shi-sle-pah subgroup meeting will take place in the conference room at the New Mexico Energy and Minerals Department, 525 Camino de los Marquez, Santa Fe, New Mexico.

FOR FURTHER INFORMATION CONTACT: Joseph Sovcik, Subgroup Chairman, BLM, Santa Fe, New Mexico 87501, telephone number (505) 988-6565.

Persons planning to attend this meeting should verify the time and location by calling Mr. Sovcik on the day before the scheduled meeting.

Charles W. Luscher,

State Director.

[FR Doc. 83-24460 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-84-M

[A-18453]

Public Lands Exchange; Mohave County, Arizona

Correction

On page 35176 in the issue of Wednesday, August 3, 1983 make the following corrections:

1. On page 35176, column one, line fourteen from the bottom, "Sec. 19: NW¼." should read "Sec. 19: NW½.".

2. On page 35176, column one, line two from the bottom, "Sec. 25, NW¼;" should read "Sec. 25, NW½;".

3. On page 35176, column two, line one, "Sec. 35, NW¼." should read "Sec. 35, NW½.".

4. On page 35176, column two, line six, NW¼" should read "NW½".

5. On page 35176, column three, seven lines from the bottom, the document number should read.

"FR Doc. 83-20979".

BILLING CODE 1505-01-M

Fish and Wildlife Service

Endangered Species Permit; Receipt of Applications

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 2-10916
Applicant: Smithsonian Institution, Washington, D.C.

The applicant requests a permit to import skull parts of one leopard (*Panthera pardus*), two seledang (*Bos gaurus*), and two Indian rhinoceros (*Rhinoceros uniceros*), from the Department of National Parks and Wildlife Conservation, Nepal, for scientific research.

PRT 2-11024
Applicant: Florida State Museum, Gainesville, FL

The applicant requests a permit to import skulls of broad snouted caiman (*Caiman latirostris*) for scientific research.

PRT 2-10746
Applicant: University of Hawaii Laboratory Animal Service, Honolulu, HI

The applicant requests a permit to export on captive-born male white-handed gibbon (*Hylobates lar*) to the Calgary Zoo, Alberta, Canada, for enhancement of propagation.

PRT 2-9392
Applicant: Jonathan R. Reed, Madison, WI

The applicant requests an amendment to his permit to take (harass) five additional fledging Hawaiian dark-rumped petrels (*Pterodroma phaeopygia*) turned in to Shearwater aid stations for scientific research; he presently has a permit to take five.

PRT 2-10994
Applicant: New York Zoological Society, Bronx, NY

The applicant requests a permit to import two captive-born white-naped cranes (*Grus vipio*) from Hong Kong Zoological Gardens, Hong Kong, for enhancement of propagation and survival.

PRT 2-10995
Applicant: New York Zoological Society, Bronx, NY.

The applicant requests a permit to import one captive-born male pudu (*Pudu pudu*) from Royal Rotterdam Zoo, The Netherlands, for enhancement of propagation and survival.

Documents and other information submitted with these applications are available to the public during normal business hours in Room 601, 1000 N. Glebe Rd., Arlington, Virginia, or by writing to the U.S. Fish & Wildlife Service, WPO, P.O. Box 3654, Arlington, VA 22203.

Interested persons may comment on these applications within 30 days of the date of this publication by submitting written data, views, or arguments to the above address. Please refer to the file number when submitting comments.

Dated: September 2, 1983.

R. K. Robinson,

Chief, Permit Branch, Federal Wildlife Permit Office, Fish and Wildlife Service.

[FR Doc. 83-24540 Filed 9-7-83; 8:45 am]

BILLING CODE 4310-55-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

[Redelegation of Authority No. 99.1.208]

Director, East Africa, Regional Economic Development Services Office; Redelegation of Authority Regarding Contraction Functions

Pursuant to the authority delegated to me as Director, Office of Contract Management, under the Redelegation of Authority No. 99.1, from the Assistant to the Administrator for Management, dated May, 1, 1973 (38 FR 12836), I hereby redelegate to the Director, East Africa Regional Economic Development Services Office, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies thereof), inter-agency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To make findings and determinations with respect to advance payments to nonprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Regional Director as follows:

(1) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Regional Director's discretion; and

(2) Basic contracting authority over $100,000 and the authority over $300,000 for personal services contracts may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Regional Director's principal deputy).

The authority delegated in (3) above is only redelegable with prior concurrence from the Office of Contract Management. Such redelegations shall remain in effect until revoked by the Regional Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Regional Director may be exercised by duly authorized persons who are performing the functions of the Regional Director in an acting capacity.

Redelegation of Authority No. 99.1.81 (41 FR 48171 and 48172) dated October 18, 1976, as amended, is hereby revoked.

Any official actions taken prior to the effective date hereto by officers duly authorized pursuant to the redelegation revoked hereunder are hereby continued in effect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this redelegation.

This redelegation of authority is effective on the date of signature.

Dated: August 26, 1983.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 83-24481 Filed 9-7-83; 8:45 am]

BILLING CODE 6116-01-M

[Redelegation of Authority No. 99.1.207]

Director, West Africa, Regional Economic Development Services Office; Redelegation of Authority Regarding Contracting Function

Pursuant to the authority delegated to me as Director, Office of Contract Management, under the Redelegation of Authority No. 99.1, from the Assistanct to the Administrator for Management, dated May 1, 1973 (38 FR 12836), I hereby redelegate to the Director, West Africa Regional Economic Development Services Office, the authority to sign the following documents up to an amount of Five Million Dollars ($5,000,000) (or local currency equivalent) per transaction:

(1) U.S. Government contracts, grants (other than grants to foreign governments or agencies therof), interagency service agreements (IASAs) between A.I.D. and other U.S. Government agencies, cooperative agreements, and amendments thereto.

(2) To made findings and determinations with respect to advance payments to monprofit organizations that collect no fee for services including those financed by Federal Reserve letters of credit, and to approve the contract, cooperative agreement, and grant provisions relating to such advance payments.

(3) To approve advances under nonpersonal services contracts with individuals.

The authorities herein delegated in (1) and (2) above may be redelegated in writing, in whole or in part, by said Regional Director as follows:

(1) Basic contracting authority up to $100,000 and authority up to $300,000 for personal services contracts may be redelegated at the Regional Director's discretion; and

(2) Basic contracting authority over $100,000 and the authority over $300,000 for personal services contracts may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Regional Director's principal deputy).

The authority delegated in (3) above is only redelegable with prior concurrence from the Office of Contract Management. Such redelegations shall remain in effect until revoked by the Regional Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur.

The authorities delegated herein are to be exercised in accordance with regulations, procedures, and policies promulgated within A.I.D. and in effect at the time this authority is exercised and is not in derogation of the authority of the Director, Office of Contract Management, to exercise any of the functions herein redelegated.

The authorities herein delegated to the Regional Director may be exercised by duly authorized persons who are performing the functions of the Regional Director in an acting capacity.

Redelegation of Authority No. 99.1.5 (38 FR 2194) dated July 30, 1973, as ameneded, is hereby revoked.

Any official actions taken prior to the effective date hereto by officers duly authorized pursuant to the redelegation revoked hereunder are hereby continued ineffect, according to their terms, until modified, revoked, or superseded by action of the officer to whom I have delegated relevant authority in this redelegation.

This redelegation of authority is effective on the date of signature.

Dated: August 26, 1983.

Francis J. Moncada,

Acting Director, Office of Contract Management.

[FR Doc. 83-24482 Filed 9-7-83; 8:45 am]

BILLING CODE 6116-01-M

INTERNATIONAL TRADE COMMISSION

Appointment of Individuals To Serve as Members of Performance Review Boards

AGENCY: International Trade Commission.

ACTION: Appointment of individuals to serve as members of Performance Review Boards.

SUPPLEMENTARY INFORMATION: The Chairman of the U.S. International Trade Commission has appointed the following individuals to serve on the Commission's Performance Review Board (PRB).

Acting Chairman of PRB—Commissioner Paula Stern
Member—Commissioner Veronica A. Haggart
Member—Commissioner Seeley G. Lodwick
Member—Charles W. Ervin
Member—E. William Fry
Member—Lorin L. Goodrich
Member—Norris A. Lynch
Member—Eugene A. Rosengarden
Member—Michael H. Stein
Member—John W. Suomela

Notice of these appointments is being published in the **Federal Register** pursuant to the requirement of 5 U.S.C. 4314(c)(4).

FOR FURTHER INFORMATION CONTACT: Terry P. McGowan, Director of Personnel, U.S. International Trade Commission, (202) 523-0182.

Issued: August 29, 1983.

Kenneth R. Mason,

Secretary.

By order of the Chairman.

Alfred E. Eckes.

[FR Doc. 83-24560 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-111 (Final)]

Bicycles From Taiwan, Determination

Determination

On the basis of the record [1] developed in investigation No. 731-TA-111 (Final), the Commission determines, [2] pursuant to sections 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673(b)), that an industry in the United States is not materially injured, is not threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports of bicycles from Taiwan, provided for in items 732.02 through 732.26, inclusive, of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this final investigation, effective April 29, 1983, following a preliminary determination by the Department of Commerce that imports of bicycles from Taiwan are likely being sold at LTFV. Commerce's preliminary affirmative LTFV determination was published in the **Federal Register** of April 29, 1983 (48 FR 19439).

Notice of the institution of the Commission's investigation and of the public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** of May 25, 1983 (48 FR 23488). The hearing was held in Washington, D.C. on July 26, 1983, and all persons who requested the opportunity were permitted to appear in person or through counsel. The Commission's determination in this investigation was made in an open "Government in the Sunshine" meeting, held on August 17, 1983.

On September 24, 1982, petitions were filed with the Commission and with the U.S. Department of Commerce by counsel for AMF, Wheel Goods Division (now Roadmaster Corp.), Columbia Manufacturing Co., [1] Huffy Corp., and Murray Ohio Manufacturing Co., individually, and as members of the Bicycle Manufacturers Association of America, Inc., alleging that bicycles from the Republic of Korea (Korea) and Taiwan were being, or were likely to be, sold in the United States at LTFV. Accordingly, on September 27, 1982, the Commission instituted investigations Nos. 731-TA-110 and 731-TA-111 (Preliminary) under section 733(a) of the Tariff Act of 1930 to determine whether there was a reasonable indication that an industry in the United States was materially injured, or was threatened with material injury, or the establishment of an industry in the United States was materially retarded, by reason of imports from Korea or Taiwan of bicycles provided for in TSUS items 732.02 through 732.26.

On November 8, 1982, the Commission notified the Commerce Department of its negative determination with respect to its preliminary investigation on imports of bicycles from Korea and of its affirmative determination with respect to its preliminary investigation of imports from Taiwan. Notice of the Commission's preliminary determination was published in the **Federal Register** on November 17, 1982 (47 FR 51818). As a result, Commerce terminated its investigation into alleged LTFV sales of bicycles from Korea and continued its investigation into alleged LTFV sales of bicycles from Taiwan. Commerce's final determination with respect to LTFV imports from Taiwan was published in the **Federal Register** of July 11, 1983 (48 FR 31688).

The Commission transmitted its report on this investigation to the Secretary of Commerce on August 29, 1983. A public version of the Commission's report, Bicycles from Taiwan (investigation No. 731-TA-111 (Final)), USITC Publication 1417, contains the views of the Commission and information developed during the investigation.

Issued: August 29, 1983.

By order of the Commission:

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24564 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[1] The "record" is defined in section 207.2(i) of the Commission's *Rules of Practice and Procedure* (19 U.S.C. § 207.2(i)).

[2] Commissioner Seely Lodwick, who received his oath of office on August 12, 1983, did not participate.

[1] Columbia Manufacturing Co. has since withdrawn its support for the petition.

[Investigation No. 337-TA-139]

Certain Caulking Guns; Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The commission has determined not to review an initial determination (I.D.) (Order No. 30) to terminate this investigation as to respondent Macklanburg-Duncan Co. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 8 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 11, 1983, 48 FR 36534. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: William D. Perry, Esq., Office of the General Counsel, telephone 202-523-0350.

By order of the Commission.

Issued: September 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24561 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-01-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 55) to terminate this investigation as to respondent Fingerhut Corp. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 11, 1983, 48 FR 36535. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies. A modification to the settlement agreement was filed on August 17, 1983.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

By order of the Commission.

Issued: September 1, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24560 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-142]

Certain Electronic Chromatogram Analyzers and Components Thereof; Initial Determination Terminating Respondents 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 respondents on the basis of a settlement agreement: Laboratorium Prof. Dr. Berthold and Berthold Instruments, 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 September 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 respondents. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

By order of the Commission.

Issued: September 2, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24562 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-138 (Preliminary)]

Certain Rectangular Welded Carbon Steel Pipes and Tubes From the Republic of Korea; Determinations

Determinations

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from the Republic of Korea (Korea) of welded carbon steel pipes and tubes, of rectangular (including square) cross section, having a wall thickness not less than 0.156 inch, provided for in item 610.3955 of the Tariff Schedules of the United States Annotated (1983) (TSUSA), which are alleged to be sold in the United States at less than fair value (LTFV).

The Commission further determines that there is a reaonsable indication that an industry in the United States is materially injured, or is threatened with material injury,[3] [4] by reason of imports from Korea of welded carbon steel pipes and tubes, of rectangular (including square) cross section, having a wall thickness less than 0.156 inch, provided for in item 610.4975 of the TSUSA, which are alleged to be sold at LTFV.

Background

On July 14, 1983, counsel for the Committee on Pipe and Tube Imports (CPTI) filed a petition with the U.S. International Trade Commission and the U.S. Department of Commerce alleging that an industry in the United States is materially injured or is threatened with material injury, by reason of imports from Korea of certain rectangular welded carbon steel pipes and tubes which are allegedly being sold at LTFV. Accordingly, effective July 14, 1983, the Commission instituted a preliminary antidumping investigation under section 733(a) of the Act (19 U.S.C. 1673b(a)).

Notice of the institution of the Commission's investigation and of a conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, D.C., and by publishing the notice in the **Federal Register** on July 20, 1983 (48 FR 33063). The conference was held in Washington, D.C. on August 4, 1983, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its report on the investigation to the Secretary of Commerce on August 29, 1983. A public version of the Commission's report, *Certain Rectangular Welded Carbon Steel Pipes and Tubes from the Republic of Korea* (investigation No. 731–TA–138 (Preliminary), USITC Publication 1418, 1983), contains the views of the Commission and information developed during the investigation.

Issued: August 29, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24565 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-143 (Preliminary)]

Certain Spindle Belting From the Netherlands; Termination of Preliminary Antidumping Investigation

AGENCY: United States International Trade Commission.

ACTION: Termination of preliminary antidumping investigation.

EFFECTIVE DATE: August 29, 1983.

SUMMARY: On August 4, 1983, the Commission instituted preliminary antidumping investigations under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the Federal Republic of

---

[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR § 207.2(i)).

[2] Chairman Eckes and Commissioner Stern dissenting.

[3] Commissioners Haggart and Lodwick determine only that there is a reasonable indication of material injury, and therefore do not reach the issue of reasonable indication of threat of material injury.

[4] Chairman Eckes determines that there is a reasonable indication of threat of material injury.

Germany, Italy, Japan, the Netherlands, and Switzerland of certain spindle belting (specifically, belting, of man-made fibers, or of such fibers and rubber or plastics, all the foregoing designed for use on spindles and coated, filled, or laminated with rubber or plastics, provided for in items 358.14 and 358.16 of the Tariff Schedules of the United States), which are alleged to be sold in the United States at less than fair value (see 48 FR 36677, August 12, 1983). These investigations were instituted in response to a petition filed by Barber Manufacturing Co., a domestic producer of spindle belting. On August 18, 1983, however, Barber Manufacturing amended its petition so as to omit the allegation concerning imports from the Netherlands. Accordingly, on August 24, 1983, the Department of Commerce instituted antidumping investigations only with respect to imports of certain spindle belting from the Federal Republic of German, Italy, Japan, and Switzerland. Therefore, pursuant to § 207.14 of its Rules of Practice and Procedure (19 CFR 207.14), the Commission hereby gives notice of the termination of preliminary antidumping investigations No. 731–TA–143 (Preliminary), concerning certain spindle belting from the Netherlands.

FOR FURTHER INFORMATION CONTRACT: Mr. Lawrence Rausch, Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0286.

Issued: August 30, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24566 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 56) to terminate this investigation as to respondent Zayre Corporation. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 12, 1983, 48 FR 36676. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24554 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 54) to terminate this investigation as to respondent Ken Carter Industries, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 11, 1983, 48 FR 36535. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24555 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 52) to terminate this investigation as to respondent Dajere, Inc. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 10, 1983, 48 FR 36347. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24556 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337 TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 51) to terminate this investigation as to respondent Davidcraft Corp. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 8, 1983, 48 FR 36010. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24557 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-141]

Certain Copper-Clad Stainless Steel Cookware; Commission Determination Not To Review Initial Determination Terminating Respondents

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 50) to terminate this investigation as to respondents Hanover House Industries and Horn & Hardart Co. Accordingly, the I.D. has become the Commission's determination as to this matter.

Authority: 19 U.S.C. 1337, 47 FR 25134, June 10, 1982, and 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53 (c) and (h)).

SUPPLEMENTARY INFORMATION: Notice of the I.D. was published in the **Federal Register** of August 8, 1983, 48 FR 36010. The Commission has received neither a petition for review of the I.D. nor comments from the public or other Government agencies.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0493.

Issued: August 30, 1983.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-24558 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-144]

Certain Direct Current Brushless Axial Flow Fans; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on October 3, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to hear argument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-24559 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-157]

Certain Office Desk Accessories and Related Products; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on October 24, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, NW., Washington, D.C., and the hearing on temporary relief will commence immediately thereafter.

The purpose of the prehearing conference is to hear argument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-24560 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 377-TA-147]

Certain Papermaking Machines Forming Sections for the Continuous Production of Paper and Components Thereof; Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on November 28, 1983, in Room 201, the Waterfront Center, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to hear agrument on objections to exhibits, to get as many exhibits as possible into the record before the hearing starts, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the **Federal Register.**

Issued: August 30, 1983.

Janet D. Saxon,

Administrative Law Judge.

[FR Doc. 83-24552 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-147]

Certain Papermaking Machine Forming Sections for the Continuous Production of Paper and Components Thereof; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Denise DiPersio, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Arthur Wineburg, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 31, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83-24553 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-145]

Certain Rotary Wheel Printers; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Denise DiPersio, Esq., of the Unfair Import Investigations Division will be the Commission investigative attorney in the above-cited investigation instead of Arthur Wineburg, Esq.

The Secretary is requested to publish this Notice in the **Federal Register.**

Dated: August 31, 1983.

David I. Wilson,

Chief, Unfair Import Investigations Division.

[FR Doc. 83-24551 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-161]

Certain Trolley Wheel Assemblies; Order No. 1

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Donald K. Duvall as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the **Federal Register.**

Issued: August 26, 1983.

Donald K. Duvall,

Chief Administrative Law Judge.

[FR Doc. 83-24549 Filed 9-7-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Agricultural Cooperative Notice to the Commission of Intent To Perform Interstate Transportation for Certain Nonmembers

September 2, 1983.

The following Notices were filed in accordance with section 10526 (a)(5) of the Interstate Commerce Act. These rules provide that agricultural cooperatives intending to perform

nonmember, nonexempt, interstate transportation must file the Notice, Form BOP 102, with the Commission within 30 days of its annual meetings each year. Any subsequent change concerning officers, directors, and location of transportation records shall require the filing of a supplemental Notice within 30 days of such change.

The name and address of the agricultural cooperative (1) and (2), the location of the records (3), and the name and address of the person to whom inquiries and correspondence should be addressed (4), are published here for interested persons. Submission of information which could have bearing upon the propriety of a filing should be directed to the Commission's Office of Compliance and Consumer Assistance, Washington, D.C. 20423. The Notices are in a central file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C.

(1) Mid-America Farm Lines, Inc.

(2) 420 North Nettleton, Springfield, MO 65802.

(3) 420 North Nettleton, Springfield, MO 65802.

(4) Gary Hanman, 800 West Tampa, Springfield, MO 65805.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24492 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44) U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave. NW., Washington, D.C. 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, D.C. 20503, (202) 395-7313.

Type of Clearance: Extension
Bureau/Office: Office of Transportation Analysis
Title of Form: Minority Carrier Survey
OMB Form No.: 3120-0050
Agency Form No.: OPA 81-1
Frequency: Annually
Respondents: Minority & Female Owned Firms
No. of Respondents: 36
Total Burden Hrs.: 3

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24536 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

[Ex Parte No. MC-43]

Lease and Interchange of Vehicles by Motor Carriers

Decided: August 30, 1983.

Bestway Expediting, Inc., MC-157459, and Lewis C. Howard, Inc., petition for waiver of Section 1057.4(a)(3) of the *Lease and Interchange of Vehicle* regulations (49 CFR Part 1057).

We Find:

In Docket No. MC-FC-81375, certificate MC-157459, formerly held by Lewis C. Howard, Inc. (Howard), was transferred to Bestway Expediting, Inc. (Bestway). Howard currently holds only intrastate authority.

Bestway and Howard are commonly owned by the same family of shareholders. Further, petitioners maintain a commonly administered safety program. They also share a common terminal facility in Kalamazoo, Michigan.

Although the petition refers to a desire to interchange equipment, it was determined that the petitioners need is to trip-lease equipment between the two companies enabling a more economical operation with substantial savings in deadhead mileage and fuel. The petition requests waiver of Section 1057.4(a)(3) which identifies the former regulation requiring that equipment leases have a minimum duration of 30 days. The corresponding current regulation is designated as Section 1057.12(c).

Since petitioners are not both carriers authorized to conduct interstate transportation, the leasing regulations of Sections 1057.11 and 1057.12 are applicable. However, since common ownership exists between the two carriers, the need to retain the protective provisions of those regulations is minimized.

The practice of the Commission has been to grant waivers of leasing regulations found burdensome where common ownership does exist. Thus in keeping with the Commission's responsibility to eliminate unnecessary regulations which prove burdensome, we will waive the normally applicable 30-day minimum lease requirement as it relates to the exchange of equipment between the petitioners only. Any other leasing will be subject to the applicable leasing regulations without exception.

It is Ordered:

The petition of Bestway Expediting, Inc., MC-157459, and Lewis C. Howard, Inc., for waiver of the regulation requiring that leases have a minimum duration of 30 days, is granted by the waiver of Section 1057.12(c) of the *Lease and Interchange of Vehicles* regulations (49 CFR Part 1057) when equipment is exchanged between Bestway Expediting, Inc., and Lewis C. Howard, Inc.

By the Motor Carrier Leasing Board, Board Members, J. Warren McFarland, Bernard Gaillard, and John H. O'Brien.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 83-24537 Filed 9-7-83; 8:45 am]

BILLING CODE 7035-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Theater Advisory Panel (Overview); Change of Location

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Theater Advisory Panel (Overview) to the National Council on the Arts Document #83-22953 published August 22, 1983 (48 FR 38118) will be held on September 13, 1983, from 9:00 a.m.-5:30 p.m. in room 106 of the River Inn, 924 25th Street, NW., Washington, D.C.

This meeting will be open to the public on a space available basis. The topic for discussion will be Guidelines and Multi-Year Plan.

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.

September 2, 1983.

[FR Doc. 83-24528 Filed 9-7-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards Subcommittee on Waste Management; Change

The ACRS Subcommittee on Waste Management scheduled for September 9, 1983 has been extended to September 8 and 9, 1983, at the Hanford House Thunderbird, 802 George Washington Way, Richland, WA.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, September 8, 1983—5:00 p.m. until 10:00 p.m.

Friday, September 9, 1983—8:00 a.m. until 12:00 noon.

The Subcommittee will continue its review of the basalt waste isolation project at the Hanford site and possibly review the DOE's site characterization plan for the proposed site if it is available by then.

All other items regarding this meeting remain the same as announced in the Federal Register published Monday, August 22, 1983 (48 FR 38123).

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant Designated Federal Employee, Ms. R. C. Tang (telephone 202/634–1414) between 8:15 a.m. and 5:00 p.m., e.d.t.

Dated: September 2, 1983.

Samuel J. Chilk,

Acting Advisory Committee Management Officer.

[FR Doc. 83-24580 Filed 9-7-83; 8:45 am]

BILLING CODE 7590-01-M

Applications for Licenses To Export Nuclear Facilities or Materials

Pursuant to 10 CFR 110.70(b) "Public notice of receipt of an application", please take notice that the Nuclear Regulatory Commission has received the following applications for export licenses. A copy of each application is on file in the Nuclear Regulatory Commission's Public Document Room located at 1717 H Street, NW., Washington, D.C.

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register**. Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, The Secretary, U.S. Nuclear Regulatory Commission and the Executive Secretary, Department of State, Washington, D.C. 20520.

In its review of applications for licenses to export production or utilization facilities, special nuclear material or source material, noticed herein, the Commission does not evaluate the health, safety or environmental effects in the recipient nation of the facility or material to be exported. The table below lists all new major applications.

Dated this 31 day of August at Bethesda, Maryland.

For the Nuclear Regulatory Commission.

James V. Zimmerman,

Assistant Director Export/Import and International Safeguards Office of International Programs.

Applicant, date of application, date received, application No.	Material in kilograms or reactor type and power	Enrichment (percent)	End-use	Country of destination
Westinghouse Electric Co., Aug. 11, 1983, Aug. 15, 1983, XR-144.	950 MWe, PWR reactor, El Dabaa Unit I			Egypt.
Westinghouse Electric Co., July 28, 1983, Aug. 15, 1983, XSNM02066.	286,500 11,460	4	Initial core and 10 reloads for El Dabaa Unit I	Egypt.

[FR Doc. 83-24583 Filed 9-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50–329 and 50–330; Construction Permit Nos. CPPR–81 and CPPR–82, EA 83–03]

Consumers Power Co. (Midland Energy Center); Order Imposing Civil Monetary Penalties

I

Consumers Power Company (the "licensee") is the holder of Construction Permits No. CPPR–81 and No. CPPR–82 (the "permit") issued by the Nuclear Regulatory Commission (the "Commission"). These Construction Permits authorize the construction of the Midland Energy Center near Midland, MI. These Construction Permits were issued on December 15, 1972.

II

As a result of a special inspection of the licensee's facilities by the Nuclear Regulatory Commission's Region III office during the period October 12–November 25, 1982, and on January 19–21, 1983, the NRC Staff determined that a breakdown had occurred in the implementation of the Midland quality assurance program as evidenced by numerous examples of noncompliance with nine of the eighteen criteria as set forth in 10 CFR Part 50, Appendix B.

The breakdown was caused by personnel who failed to follow procedures, drawings, and specifications; by first line supervisors and field engineers who failed to identify and correct unacceptable work; by construction management who failed to call for quality control inspections in a timely manner, and by quality assurance personnel who failed to identify the problems and ensure that corrective actions were taken. The NRC served the licensee a written Notice of Violation and Proposed Imposition of Civil Penalties by letter dated February 8, 1983. The Notice stated the nature of the violations, the Nuclear Regulatory Commission's requirements that were violated, and the amount of civil penalty proposed for each violation. The licensee responded to the Notice of Violation and Proposed Imposition of Civil Penalties with letters dated March 10, June 24, and July 12, 1983.

III

Upon consideration of Consumers Power Company's responses (March 10, June 24, and July 12, 1983) and the statements of fact, explanation, and argument in denial or mitigation contained therein, as set forth in the Appendix to the Order, the Director of the Office of Inspection and Enforcement has determined that the penalties proposed for the violations designated in the Notice of Violation and Proposed Imposition of Civil Penalties should be imposed. However, in view of the $3,500 overpayment made by Consumers Power Company in response to the January 7, 1981 Notice of Violation and Notice of Proposed Imposition of Civil Penalties, the cumulative amount of civil penalties due is reduced from $120,000 to $116,500.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay civil penalties in the total amount of One Hundred Sixteen Thousand Five Hundred Dollars within thirty days of the date of this Order, by check, draft, or money order payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC, Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. Should the licensee fail to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings and, if payment has not been made by that time, the matter may be referred to the Attorney General for collection.

In the event the licensee requests a hearing as provided above, the issues to be considered at such a hearing shall be:

(a) whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalties referenced in Section II above, and

(b) whether on the basis of such violations this Order should be sustained.

Dated at Bethesda, Maryland, this 29th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluations and Conclusions

The licensee admits violation A occurrred as stated. The licensee also admits violation B occurred, but takes exception with portions of examples B.1.a and B.1.f. Although the licensee admits the two violations, the licensee requests that certain mitigating factors be considered.

The particular portions of Item B of the Notice of Violation (dated February 8, 1983), which were denied by the licensee, are restated below. The Office of Inspection and Enforcement's evaluation of the licensee's response is presented, followed by conclusions regarding the occurrence of the noncompliance and the proposed civil penalty. In addition, the licensee's request for reduction of civil penalty is summarized below. The Office of Inspection and Enforcement's evaluation of the licensee's request is presented followed by conclusions regarding the proposed civil penalty.

Item B—Statement of Noncompliance

10 CFR 50, Appendix B, Criterion II requires holders of construction permits for nuclear power plants to document, by written policies, procedures, or instructions, a quality assurance program which complies with the requirements of Appendix B for all activities affecting the quality of safety-related structures, systems, and components and to implement that program in accordance with those documents.

Contrary to the above, Consumers Power Company and its contractor did not adequately implement a quality assurance program to comply with the requirements of Appendix B as evidenced by the following examples:

1. 10 CFR 50, Apendix B, Criterion V requires, in part, "Activities affecting quality shall be prescribed by documented instructions, procedures, or drawings of a type appropriate to the circumstances and shall be accomplished in accordance with these instructions, procedures, or drawings."

Consumers Power Quality Assurance Program Policy No. 5, Revision 12, Paragraph 1.0 states, in part, "Instructions for controlling and performing activities affecting quality of equipment or activities such as . . . construction, installation . . . are documented in instructions, procedures . . . and other forms of documents."

Contrary to the above, the following instances of failure to accomplish activities affecting quality in accordance with instructions, procedures, specifications, or drawing requirements were identified:

a. Installation of diesel generator engine control panels 1C111, 1C112, 2C111, and 2C112 was not in accordance with the requirements delineated on foundation Drawing 7220–M18–250 in that the foundation bolt washers required by the subject drawing were not installed.

[Items B.1.b through B.1.e are not restated here.]

f. The inspectors identified various stock steel shapes in the "Q" area with yellow-colored paint on the ends (indicating the material was non "Q") and various steel stock shapes in the non "Q" area without painted ends (indicating "Q" material), contrary to the requirements of Field Instruction FIG–9.600, Revision 1.

[Items B.1.g through B.8 are not restated here.]

Contrary to the above:

a. Measures were not established or implemented to determine if materials ultimately restricted (per Nonconformance Report No. 3266) from installation or use in ASME Class I systems were actually installed or used in Class I systems.

b. As of November 10, 1982, two nonconforming conditions identified by the NRC on October 12, 1982, and confirmed by the licensee on October 19 and 25, respectively, had not been documented on a nonconformance report, a quality assurance report, or other appropriate report. The two nonconforming conditions were:

(1) The diesel generator exhaust hangers were not classified, designed, or built as "Q" as committed to in the FSAR. (See item 2.c.)

(2) The design of diesel generator monorail was not analyzed to seismic Category I design requirements as committed to in the FSAR. (See item 2.d.)

This is a Severity Level III violation (Supplement II) (Civil Penalty)—$60,000)

Licensee's Response to the Violation

The licensee admits that with the exception of portions of examples B.1.a and B.1.f, the violation occurred as stated in the NOV.

NRC Evaluation

Concerning example B.1.a., the licensee contends that since the inspection records for panels 1C–111, 1C–112, 2C–111, and 2C–112 were open with attributes such as washers and torquing not yet inspected, the portion of the noncompliance pertaining to flat washers was not a violation. The licensee's position that open inspection records can negate the failure to install the required flat washers is unacceptable. The philosophy of inspection quality into the job cannot be accepted as a substitute for the philosophy of building quality into the job. The licensee admits the remaining portion of the violation which deals with the omission of bevel washers.

Concerning example B.1.f., the licensee contends that, contrary to the Notice of Violation, all steel in the "Q" area was identified in accordance with procedures. The licensee contends that some manufacturer's marking of this steel led to confusion. At the time of the NRC inspection, the inspectors observed yellow-colored paint on steel in the "Q" area. This condition, as stated in the Notice of Violation, is contrary to the requirements of Field Instruction FIG–9.600, Revision 1. The licensee's contention that this paint was applied by some manufacturers does not mitigate the finding. Site quality control inspections should have detected the nonconforming paint and initiated proper corrective actions. The licensee admits the remaining portion of this violation which deals with the marking of steel in "non-Q" areas.

Conclusion

These violations did occur as originally stated. The information in the licensee's response does not provide a basis for modification of the enforcement action.

Licensee's Request for Reduction of Civil Penalty

The licensee states that it does not contest the validity of the violations and agrees that a civil penalty is warranted, but believes that certain mitigating factors should be considered. Specifically, the licensee believes mitigation is warranted on the basis of its corrective actions.

Evaluation of Licensee's Response

The licensee's corrective actions are recognized as being both comprehensive and far reaching. However, given the nature and severity of the noncompliance identified during the diesel generator building inspection and the history of the quality assurance program implemented at the Midland facility, the actions are not unusually extensive and, under the circumstances, do not warrant mitigation. In addition, we perceive the issuance of nonconformance reports in March 1983 (items

B.1.b., B.1. C., B.1.d., B.1.e., B.1.f., and B.5) for nonconforming conditions identified by the NRC during the period of October 12–November 25, 1982, and January 19–21, 1983, to be indicative of less than prompt corrective action.

Conclusion

The infomation in the licensee's request does not provide a basis for reduction of the proposed civil penalty.

[FR Doc. 83-24586 Filed 9-7-83; 8:45 am]
BILLING CODE 7590-01-M

International Atomic Energy Agency Draft Safety Guide; Availability of Draft for Public Comment

The International Atomic Energy Agency (IAEA) is completing development of a number of internationally acceptable codes of practice and safety guides for nuclear power plants. These codes and guides are in the following five areas: Government Organization, Design, Siting, Operation, and Quality Assurance. All of the codes and most of the proposed safety guides have been completed. The purpose of these codes and guides is to provide guidance to countries beginning nuclear power programs.

The IAEA codes of practice and safety guides are developed in the following way. The IAEA receives and collates relevant existing information used by member countries in a specified safety area. Using this collation as a starting point, an IAEA working group of a few experts develops a preliminary draft of a code or safety guide which is then reviewed and modified by an IAEA Technical Review Committee corresponding to the specified area. The draft code of practice or safety guide is then sent to the IAEA Senior Advisory Group which reviews and modifies as necessary the drafts of all codes and guides prior to their being forwarded to the IAEA Secretariat and thence to the IAEA Member States for comments. Taking into account the comments received from the Member States, the Senior Advisory Group then modifies the draft as necessary to reach agreement before forwarding it to the IAEA Director General with a recommendation that it be accepted.

As part of this program, Safety Guide SG–D13, "Reactor Cooling Systems in Nuclear Power Plants," has been developed. The working group consisting of Mr. G. Ellia from France; Mr. C. N. Bapat from India; Mr. P. C. Dannatt from the United Kingdom; and Mr. W. H. D'Ardenne (General Electric Company) from the U.S.A., developed the initial draft of this guide from an IAEA collation. This draft was subsequently modified by the IAEA Technical Review Committee for Design and the Senior Advisory Group, and we are now soliciting public comment on a modified draft (Rev. 2, dated May 16, 1983). Comments received by the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, by October 21, 1983, will be particularly useful to the U.S. representatives to the Technical Review Committee and the Senior Advisory Group in developing their positions on its adequacy prior to their next IAEA meetings.

Single copies of this draft Safety Guide may be obtained by a written request to the Director, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

(5 U.S.C. 522(a))

Dated at Washington, D.C. this 1st day of September 1983.

For the Nuclear Regulatory Commission.

Robert B. Minogue,

Director, Office of Nuclear Regulatory Research.

[FR Doc. 83-24588 Filed 9-7-83; 8:45 am]
BILLING CODE 7590-01-M

[Docket No. 50–410, Construction Permit No. CPPR–112 and EA 83–16]

Niagara Mohawk Power Corp. (Nine Mile Point, Unit 2); Order Imposing a Civil Monetary Penalty

I

Niagara Mohawk Power Corporation (the "licensee") is the holder of Construction Permit CPPR–112 issued by the Atomic Energy Commission, now the Nuclear Regulatory Commission ("NRC" or "Commission"), which authorizes the licensee to construct Nine Mile Point, Unit 2 in Oswego County, New York. The Construction Permit was issued on June 24, 1974.

II

An inspection of the licensee's activities under the permit was conducted between August 30 and September 30, 1982 at the Nine Mile Point Nuclear Station, Unit 2 in Oswego County, New York. An investigation was also conducted at Nine Mile Point Nuclear Station, Unit 2, on November 1–4, 1982. As a result of the inspection and investigation it appears that the licensee did not conduct its activities in full compliance with NRC requirements. A written Notice of Violation and Proposed Imposition of Civil Penalty was served upon the licensee by letter dated April 26, 1983.

The Notice states the nature of the violation, the provision of the Nuclear Regulatory Commission requirements which the the licensee had violated, and the amount of civil penalty proposed for the violation. An answer dated June 30, 1983 to the Notice of Violation and Proposed Imposition of Civil Penalty was received from the licensee.

III

Upon consideration of the answer received and the statements of fact, explanation, and argument for mitigation of the proposed civil penalty contained therein, and for the reasons set forth in the Appendix to this Order, the Director of the Office of Inspection and Enforcement has determined that the penalty proposed for the violation designated in the Notice of Violation and Proposed Imposition of Civil Penalty should be imposed.

IV

In view of the foregoing and pursuant to Section 234 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2282, Pub. L. 96–295), and 10 CFR 2.205, it is hereby ordered that:

The licensee pay a civil penalty in the amount of One Hundred Thousand Dollars ($100,000) within thirty days of the date of this Order, by check, draft or money order, payable to the Treasurer of the United States and mailed to the Director of the Office of Inspection and Enforcement, USNRC Washington, D.C. 20555.

V

The licensee may within thirty days of the date of this Order request a hearing. A request for a hearing shall be addressed to the Director, Office of Inspection and Enforcement. A copy of the hearing request shall also be sent to the Executive Legal Director, USNRC, Washington, D.C. 20555. If a hearing is requested, the Commission will issue an Order designating the time and place of hearing. If the licensee fails to request a hearing within thirty days of the date of this Order, the provisions of this Order shall be effective without further proceedings; if payment has not been made by that time, the matter may be referred to the Attorney General for collection. In the event the licensee requests a hearing as provided above, the issues to be considered at such hearing shall be:

(a) whether the licensee was in violation of the Commission's requirements as set forth in the Notice of Violation and Proposed Imposition of Civil Penalty referenced in Section II above, and

(b) whether, on the basis of such violations, this Order should be sustained.

Dated at Bethesda, Maryland this 24th day of August 1983.

For the Nuclear Regulatory Commission.

Richard C. DeYoung,

Director, Office of Inspection and Enforcement.

Appendix—Evaluation and Conclusion

The violation and associated civil penalty identified in the NRC's April 28, 1983 Notice of Violation and Proposed Imposition of Civil Penalty is restated, the licensee's response is summarized, and the NRC's evaluation and conclusion regarding the licensee's response are presented in this appendix. The licensee's response was provided in a letter dated June 30, 1983, from Gerald K. Rhode, Senior Vice President, Niagara Mohawk Power Corporation (NMPC), to the Director, Office of Inspection and Enforcement. The NRC staff evaluation and conclusion are based on the June 30, 1983 letter.

Statement of Violation

10 CFR 50, Appendix B requires that each licensee implement a quality assurance program to be applied to the design, fabrication, construction and testing of the structures, systems and components of the facility.

Contrary to the above, the licensee did not comply with the provisions of Appendix B for the period June 1 through September 17, 1982 as evidenced below:

A. Criterion I of Appendix B requires the establishment and execution of a quality assurance program which assures that activities affecting safety-related functions have been correctly performed. Niagara Mohawk Power Corporation's application for a Construction Permit for Unit 2 commits to adherence to ANSI N 45.2.6–1978. This standard requires that each person who verifies the conformance of work activities to quality requirements shall be certified by his employer as being qualified to perform his assigned work, and the period of certification shall be established. ANSI N 45.2.6–1978 also requires a Level I rating classification as a prerequisite for inspecting and accepting safety-related installations. Stone & Webster Engineering Corporation (SWEC) Quality Assurance Directive (QAD) 2.5, Revision F, allows trainees possessing Associate Degrees to be certified as Level I inspectors after a three month training period provided the trainees work under the direct supervision of higher level personnel capable of performing assigned tasks.

However, numerous safety-related electrical installations (involving stud-welding, embedments, supplemental steel, cable, raceways, welding, and raceway supports) were inspected by Stone & Webster personnel classified as trainees with Associate Degrees. Installations inspected by these trainees were accepted by Stone & Webster even though the trainees were not certified because they did not possess the required three months inspection experience.

B. Criterion XVII of Appendix B requires, in part, that sufficient records be maintained to furnish evidence of activities affecting quality.

However, Stone & Webster Level II quality assurance inspectors signed several inspection reports indicating they had performed the inspection when, in fact, the inspections were performed by a trainee. Stone & Webster's first and second line supervision was aware of this practice, but did not take action to discontinue it.

This is a Severity Level III violation (Supplement II) Civil Penalty—$100,000

Summary of Licensee Response

By letter dated June 30, 1983, the licensee admits that inspections were performed at Nine Mile Point, Unit 2, by uncertified trainees who were not accompanied by Level II inspectors and that the Level II inspectors who were supervising such trainees indicated acceptance of the inspection results by co-signing and initialing inspection reports. The licensee states that the Level II inspectors believed that the trainees were qualified to perform the inspection tasks.

The licensee states that its own investigation, and an investigation by SWEC, revealed that the inspectors were adequately qualified and trained individuals, but were not certified because they had not completed the three month period of working experience. The licensee also indicates that such qualification is evidenced by the fact that all the trainees were subsequently successfully certified upon completion of experience requirements. However, the licensee acknowledges that it was improper to use these trainees to perform inspections.

The licensee claims the false records were the result of misunderstandings in connection with SWEC's FQC procedures rather than intentional falsification of documents, but the licensee acknowledges the seriousness of false records under any circumstances.

The licensee requests reduction of the proposed civil penalty from $100,000 to $40,000, claiming that amount is commensurate with the findings of the investigation as a Severity Level III violation. The licensee provides the following bases for mitigation: (1) The deficiencies noted did not involve inspections which were not performed, attempts to conceal unacceptable work, or misrepresentation of the quality of construction at Nine Mile Point, Unit 2; (2) the reinspection work which was performed demonstrated the problem did not result in construction deficiencies; (3) neither NMPC nor SWEC management, with the exception of the first line supervisor and possibly the second line supervisor, were aware of the existence of these practices prior to NRC investigation, and demonstrates that both NMPC and SWEC management attempted to provide proper direction regarding the manner in which inspections were to be conducted and documented; and (4) the licensee's investigation indicated that the problem was limited to the electrical Field Quality Control group and did not reflect an across-the-board deficiency in NMPC's quality assurance program.

NRC Evaluation of Licensee Response

The NRC staff acknowledges that the trainees who performed the inspections, although not properly certified inspectors, may have been qualified individuals. The staff also recognizes that the practices involving use of trainees and falsifying records were not directed by NMPC or SWEC upper management, but that supervisory involvement was limited to the first and second line supervisors within SWEC. The staff agrees that there was no indication that the violation occurred in any other area except the electrical FQC group. The NRC staff further acknowledges that its inspection and investigation did not indicate that these practices resulted in construction deficiencies.

Nonetheless, the staff maintains that the significant concerns in this case are the facts that: (1) Contractor trainees performed inspections that they were not certified to perform; (2) Level II inspectors signed inspection reports indicating they performed an inspection when in fact the inspection was performed by an uncertified trainee; and (3) the first line (immediate) supervisor was aware of this practice and the evidence indicates that the second line supervisor was also aware of this practice, yet neither supervisor took action to discontinue the practice. Licensees are responsible for assuring that inspections are properly performed by certified individuals, that records of inspections accurately reflect the work inspected and the individual performing that inspection, and that such inspection activities are properly supervised.

Although a $40,000 civil penalty is the base amount for a Severity Level III violation, the staff has determined to impose a civil penalty of $100,000 to emphasize both the seriousness of falsifications, and the seriousness of supervision's awareness of a practice involving falsification and their failure to take action to discontinue this practice.

NRC Conclusion

This violation did occur as originally stated. The violation is appropriately classified at Severity Level III and assessment of a $100,000 civil penalty is appropriate in this case because it involves falsification of records under circumstances where supervision was aware of this practice, and failed to take appropriate action to discontinue it. The information in the licensee's response does not provide a basis for modifying the proposed enforcement action.

[FR Doc. 83-24587 Filed 9-7-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF MANAGEMENT AND BUDGET

Amendment to OMB Circular A-125, "Prompt Payment" Opportunity for Comment

AGENCY: Office of Management and Budget.

ACTION: Comment on proposed OMB circular amendment.

SUMMARY: This notice offers interested parties an opportunity to comment on a proposed amendment to OMB Circular A-125, "Prompt Payment." The proposed amendment would provide additional policy guidance to Federal agencies on the proper timing of payments to contractors.

One of the priority issues in the President's Management Improvement Initiative: Reform '88 is cash management. As part of this program, we are reviewing agency practices with regard to payments to vendors and contractors.

Last year, as a Result of enactment of the Prompt Payment Act (Pub. L. 97-177), OMB issued Circular A-125. The Circular provides that generally payment will be made 30 days after receipt of goods and services. Questions have been raised, however, regarding the proper timing of payments made before recepit of goods and services. These payments involve contract financing by the Federal Government and are made by the Government without interest.

The proposed attachment to OMB Circular A-125 will assure recognition of the time value of money in the Government's acquisition/contracting process. It is also intended to assure that the benefits provided to suppliers through early payments result in like benefits to the Government in the form of better prices, improved delivery schedules, or in other considerations. In this regard, it provides a policy bais for the Government to offer contract financing on an optional basis and to consider the time value of money as an award factor. Organizational and procedural changes affecting procuring agencies are proposed to achieve these objectives.

OMB proposes to increase the lower limit thresholds at which contractors are eligible for progress payments. This proposed change would update thresholds that have been in place for nearly 20 years.

The Office of Management and Budget has, as yet, made no final decisions on this proposed Circular. Interested parties are invited to make their concerns known.

Comments should be submitted in duplicate to the Finance and Accounting Division, Office of Management and Budget, Washington, D.C. 20503. All comments should be received within 45 days after publication in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT:
Mr. William M. Henderson, Finance and Accounting Division, Office of Management and Budget, Washington, D.C. 20503, (202) 395-5193.

Candice C. Bryant,
Deputy Associate Director for Administration.

Circular A-125—to the Heads of Executive Departments and Establishments

Subject: Payment Terms

1. This Attachment establishes standards for assuring that appropriate payment terms are included in all Government contracts. It supplements the guidance provided in paragraph 6, "Payment Standards," of the basic Circular.

2. Generally, payment for goods and services acquired by the Federal Government is made after receipt, inspection, and acceptance of the goods or services. In such cases, payment due dates are determined in accordance with paragraph 7, "Determining Due Dates," of the basic Circular.

3. In other cases, payment may be made before receipt of goods or services. These payments are referred to as progress payments, contract financing, advances, or prepayments. It is important to recognize in these cases that the Government is, in effect, advancing funds to a contractor without interest. While these arrangements may in the best interest of the Government, it is necessary to assure that the benefit to the contractor is reflected in the price of the goods or services acquired, improved contract delivery schedules, or in other consideration.

a. *Time Value of Money in the Acquisition/Contracting Process.*

(1) The time value of money to the Government will be considered in the acquisition/contracting process whenever the contract involves payment terms other than those described in paragraph 2 of this Attachment.

(2) When it is in the Government's interest, contract financing will be offered on an optional basis in invitation for bids and, except for offers from small businesses, the time value of money will be used as a contract award factor. The final comparison of proposed prices will include the appropriate adjustment for the time value of money for those offerors requesting contract financing.

(3) Agencies shall require specific consideration whenever:

—Government contract financing is to be provided.
—Contract financing is added to a contract after award.
—Progress payments are authorized at intervals more frequently than monthly.
—Provision is made in a contract for payment of invoices or bills in less than 30 days, except as required by law or industry practices.

(4) Agencies shall include in the price negotiation memorandum or contract file a statement of the specific consideration received from the contractor and the analysis of how the contracting officer determined that the value of the consideration was at least equal to the increased cost to the Government of the earlier disbursement of funds.

(5) Time value of money calculations shall be based on the interest rate established pursuant to paragraph 4.b. of this Circular.

b. *Change in Progess Payment Liquidation Rates.*

Agencies shall also require specific consideration before authorizing progress payment liquidation rates other than those specified in the contract.

c. *Thresholds for Progress Payments.*

Unless the contractor is a small business concern, agencies generally should not provide for progress payments on contracts of less than $10,000,000, unless the contractor will perform a group of contracts equal in impact to a $10,000,000 contract.

d. *Contract Financing Oversight.*

Each Federal department and agency with major procurement activities shall assign responsibility at the headquarters level for oversight of contract policy and practices. The responsibility shall be shared by the acquistion policy function and financial management policy function. These officials shall review and approve all contract financing arrangements for contracts of $10,000,000 or more and shall be responsible for formulation, revision, and promulgation of uniform contract financing policies. A Contract Finance Office shall be designated to support each operational contracting office.

e. *Payment Methods.*

Agencies shall encourage the use of partial payments in lieu of providing contract financing wherever possible. In resolving any questions concerning the comparative cost to the Government of providing different types of payment methods or contract financing, the contracting officer should consult the appropriate contract finance office.

f. *Collection of Contract Debts*

Contractors should be required to remit debts in excess of $25,000 via electonic funds transfer in accordance with Treasury Department regulations.

4. Where payments are made before receipt of goods or services, and title does not pass, the date of the payment request shall be construed as the invoice

date for purposes of determining due dates, in accordance with paragraph 7, "Determining Due Dates" of the basic Circular.

5. *Implementing Instructions.* Guidelines and instructions for implementing provisions of this Attachment will be set forth in application acquisition regulations within 90 days from date of issuance of this Attachment.

[FR Doc. 83-24567 Filed 9-7-83; 8:45 am]
BILLING CODE 3110-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Investment Policy Advisory Committee; Meeting and Determination of Closing

The meeting of the Investment Policy Advisory Committee (the Advisory Committee) to be held Wednesday, September 14, 1983, from 10:00 a.m. to 12:30 p.m. at the Federal Deposit Insurance Corporation—Executive Dining Room, will involve a review and discussion of current issues involving the investment and trade policies of the United States. The review and discussion will deal with information submitted in confidence by the private sector members of the Committee under Section 135(g)(1)(A) of the Trade Act of 1974, as amended, (the Act); information submitted by government officials under Section 135(g)(2) of the Act the disclosure of which could be reasonably expected to prejudice United States negotiating objectives; information the disclosure of which would be likely to significantly frustrate implementation of proposed government action; and information properly classified pursuant to Executive Order 12356 and specifically required by such Order to be kept secret in the interests of national security (i.e., the conduct of foreign relations) of the United States. All members of the Advisory Committee have all necessary security clearances. Consistent with previous determinations concerning other advisory committees, established under Section 135(c) of the Act, I hereby determine that the meeting of the Advisory Committee will be concerned with matters listed above and with matters listed in Section 552b(c) of Title 5 of the United States Code. Therefore, the meeting of the Investment Policy Advisory Committee will be closed to the public.

More detailed information can be obtained by contacting Phyllis O. Bonanno, Director, Office of Private Sector Liaison, Office of the United States Trade Representative, Executive Office of the President, Washington, D.C. 20506.

William E. Brock,
United States Trade Representative.

[FR Doc. 83-24519 Filed 9-7-83; 8:45 am]
BILLING CODE 3190-01-M

SECURITIES AND EXCHANGE COMMISSION

Boston Stock Exchange, Inc.; Applications for Unlisted Trading Privileges and of Opportunity for Hearing

September 1, 1983.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Charter Medical Corp.
Class A Common Stock, $.25 Par Value (File No. 7-7078)
Corroon & Black Corp.
Common Stock, $.25 Par Value (File No. 7-7079)
Media General, Inc.
Class A Common Stock, $5 Par Value (File No. 7-7080)
MSI Data Corp.
Common Stock, $1 Par Value (File No. 7-7081)
Materials Research Corp.
Common Stock, $1 Par Value (File No. 7-7082)
Matrix Corp.
Common Stock, $1 Par Value (File No. 7-7083)
Mountain Medical Equipment, Inc.
Common Stock, $.10 Par Value (File No. 7-7084)
Orange & Rockland Utilities, Inc.
Common Stock, $5 Par Value (File No. 7-7085)
Orion Capital Corp.
Common Stock, $1 Par Value (File No. 7-7086)
Overhead Door Corp.
Common Stock, $1 Par Value (File No. 7-7087)
Paradyne Corp.
Common Stock, $.10 Par Value (File No. 7-7088)
Parker-Hannifin Corp.
Common Stock, No Par Value (File No. 7-7089)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before September 23, 1983 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,
Assistant Secretary.

[FR Doc. 83-24493 Filed 9-7-83; 8:45 am]
BILLING CODE 8010-01-M

[Rel. No. 13481; 812-5630]

First Midwest Capital Corp.; Application

Notice is hereby given that First Midwest Capital Corporation ("Applicant"), 1010 Plymouth Building, 12 South Sixth Street, Minneapolis, Minnesota 55402, a closed-end, non-diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), and a federal licensee under the Small Business Investment Act of 1958, filed an application on August 11, 1983, pursuant to Section 17(d) of the Act and Rule 17d-1 thereunder, for an order of the Commission permitting the participation of Applicant in additional financing of Datatext Systems Incorporated ("Datatext"). Applicant is a wholly-owned subsidiary of First Midwest Corporation, also a closed-end, non-diversified, management investment company registered under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of provisions relevant to this application.

Applicant states that it is engaged in the business of providing long-term equity funding to eligible small businesses to assist them in their growth and development. According to the application, under an agreement dated October 23, 1981 and an amendment thereto dated February 23, 1983, the Applicant and four other investors ("Investors"), provided debt and equity financing to Datatext in the sum of $1,000,000. The Applicant's participation therein consisted of purchasing $125,000 of notes bearing interest at the rate of 15% per annum, and 5,000 shares of common stock for $125,000. The common

stock purchased by Applicant represented the power to vote 15.8% of the voting shares of Datatext. As a result of such ownership, Applicant became an affiliated person, as defined by Section 2(a)(3) of the Act, of Datatext and Datatext became an affiliated person of Applicant. In addition, the other investors became affiliated persons of Datatext and Datatext became an affiliated person of the Investors. Moreover, Alan K. Ruvelson, an officer, director, and greater than five percent owner of First Midwest Corporation, was elected to the board of Directors of Datatext.

It is stated in the application that, pursuant to an amendment to the above agreement, additional financing totaling $250,000 was provided by the Investors to Datatext. The financing took the form of a purchase of 500 shares of convertible preferred stock for $500 per share. Applicant's participation consisted of purchasing $62,500 of the preferred stock. As a result of the second financing, Applicant's fully diluted voting stock ownership of Datatext increased to 16.1%.

Subsequently, Applicant and two other Investors purchased 12% demand notes of $12,500 each. Applicant proposes now to provide an additional investment of $76,000 which would bring its total investment in Datatext to $401,000, or $76,000 greater than 20% of its paid-in capital and surplus. The investment by Applicant will involve a purchase of shares of common stock along with a conversion of the demand note to common stock and will be a part of a total new package of financing of approximately $602,000 to be provided by the three Investors who purchased demand notes, other new outside investors and the officers or management of Datatext.

Applicant describes the proposed transaction as a joint enterprise involving a registered investment company (Applicant), an affiliate of that investment company (Datatext) and other affiliates of Datatext. The application further states that Rule 17d-1(d)(5) would exempt the proposed transaction from the prohibitions of Section 17(d) of the Act and Rule 17d-1 except for the fact that Applicant proposes to commit in excess of 20% of its paid-in capital and surplus to investments in Datatext. Applicant states that the Small Business Administration ("SBA") has given Applicant oral permission (with written confirmation to follow) to exceed its SBA investment limit. In addition, Applicant states that the proposed transaction is exempted from Section 17(a) of the Act by Rule 17a-6 thereunder.

The Applicant states that it will be participating in the proposed transaction on a basis which is no less advantageous than that of any other Investor participant, and that the proposed transaction is consistent with the general purposes and policies of the Act. Applicant further states that while the officers of Datatext may be purchasing shares of common stock at a lower per share purchase price, the lower priced securities will be an incentive for the officers to remain in the employ of Datatext which is important to the operations of the company. Applicant represents that none of the officers which will be purchasing common stock are affiliated persons of the Investors, including the Applicant, or of the outside investors, and that no affiliate of Applicant has any financial interest in Datatext or in the subject transaction. The Applicant further asserts that the proposed transaction is fair to all parties and that it believes the investment has a potential for substantial return. According to the application, without the additional financing by the Investors and the new outside investors, Datatext will cease operations and Applicant will lose its entire investment.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 21, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24495 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13478; 812-5489]

Hartford Mutual Investment Fund, Inc.; Filing of Application

September 1, 1983.

Notice is hereby given that Hartford Mutual Investment Fund, Inc. ("Applicant") c/o The New Haven Savings Bank, 195 Church Street, New Haven, Connecticut 06510, a registered, open-end management investment company, filed an application on March 9, 1983 and an amendment thereto on May 23, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order of the Commission exempting Applicant from the provisions of Section 30(a) of the Act and Rule 8b-16 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof pursuant to and from which an exemption is being sought.

According to the application, Applicant was organized on September 30, 1968 under the stock corporation laws of the State of Connecticut to provide a mutual fund investment medium to Connecticut savings banks. It is represented that each shareholder is thoroughly familiar with the Applicant's operations and investments and regularly receives detailed information concerning the nature and performance of the Applicant's investments. It is also represented that almost all of the Applicant's directors and officers have been and all will continue to be officers of savings bank shareholders of the Applicant.

Applicant represents that, if the requested exemptions are granted, certain information not currently provided to shareholders in documents other than Applicant's annual reports (Form N-1R and the Form N-1 amendment) will be provided to shareholders. The annual report by the investment adviser, for example, shall include a statement of business and other connections of its directors and officers during the last two fiscal years, ownership interests of affiliated persons of the investment adviser in the investment adviser or broker-dealers, personnel of the investment adviser, considerations that affected participation of broker-dealers in commissions or other compensation paid on portfolio transactions of the Applicant, a statement whether its code of ethics has been maintained and enforced, and a statement of any cross-

ownership or circular ownership between the Applicant and any other company. The custodian's quarterly financial report for the quarter ending March 31 shall state the amount of commissions and any other amounts paid to broker-dealers, and wether any suspension of the right of redemption or delay in payment upon repurchase has occurred during the fiscal year. The minutes of Applicant's annual meeting of shareholders shall contain the results of a survey which shall be undertaken each year to determine the relationships and transactions, if any, between directors, officers, and affiliated persons of the Applicant and the Applicant, its investment adviser or directors, officers, controlling persons or affiliated persons of the investment adviser, and its broker-dealers. Applicant represents that it will submit the various documents to be sent to shareholders to the Commission in lieu of the annual reports should such submission be desired.

Applicant states that it believes that an exemption from the annual reporting requirements of Section 30(a) of the Act and Rule 8B–16 thereunder will be in the public interest and consistent with the protection of investors and the purposes and policies of the Act. Applicant submits that its shareholders, all of which are alleged to be financially sophisticated institutional investors, receive and will continue to receive all the relevant financial and investment information necessary to make an informed investment decision from sources other than the Form N–1R and the annual amendment to Form N–1. Applicant states that the Commission will continue to receive the information required under Sections 30(b) (1) and (2) of the Act, which is alleged to supply the Commission with an ongoing summary of the Applicant's activities and performance, and maintains that due to its peculiar ownership and management characteristics and state regulation, submission of annual reports to the Commission serves no purpose not already accomplished. Finally, Applicant submits that compliance with the annual reporting requirements of the Act imposes an unnecessary and substantial economic burden upon it.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24498 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13477; 812-5638]

Hutton Utility Trust (A Unit Investment Trust) and E.F. Hutton & Company Inc.; Filing of an Application

September 1, 1983.

Notice is hereby given that Hutton Utility Trust ("Trust") One Battery Park Plaza, New York, New York 10004, registered under the Investment Company Act of 1940 ("Act") as a unit investment trust, and its sponsor, E.F. Hutton & Company Inc., ("Sponsor," collectively "Applicants") filed an application on August 23, 1983, for an order of the Commission, pursuant to Section 6(c) of the Act, exempting Applicants from the provisions of Rule 22c–1 under the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below. Such persons are also referred to the Act and the rules thereunder for the complete text of the provisions thereof pursuant to which and from which an exemption is being sought.

According to the application, on the morning of the business day following completion of the contracting for the underlying securities of each new series (the "Date of Deposit"), the indenture is signed and the Sponsor deposits with the Trustee the securities (and/or contracts to purchase the securities) in exchange for a certificate for units representing the entire ownership of that series. On the Date of Deposit, after the effectiveness of the registration statement, the initial public offering period for a series commences and continues until all units for that series have been sold, but does not normally extend for more than 30 days. The Sponsor proposes to offer units of each future series of the Trust to the public on the first day of the initial public offering period for each such series at a public offering price determined as of the close of trading on the New York Stock Exchange (currently 4 p.m., New York time) on the preceding business day ("backward pricing"). Applicants state that, since the public offering price so determined will be effective for all purchase orders received until the close of trading on such first day, the "forward pricing" requirement of Rule 22c–1 under the Act will not be met.

Applicants assert that the "forward pricing" requirement has two purposes: (1) To eliminate or reduce any dilution of the value of outstanding redeemable securities of registered investment companies which might occur through the practice of selling securities at a price based upon a previously established value which permits a potential investor to take advantage of an upswing in the market and an accompanying increase in the value of investment company shares by purchasing such shares at a price which does not reflect such increase; (2) to minimize speculative trading practices. Applicants submit that concern with dilution of the value of outstanding units is inapplicable to the Trust because the Sponsor, having paid for and deposited all of the securities (or contracts for the purchase thereof), owns all of the units, and the price at which the Sponsor sells those units can affect only the Sponsor and not the value of the securities or the fractional undivided interest in the securities represented by each outstanding unit. With respect to speculative trading practices, Applicants state that the relative lack of volatility in the prices of the public utility common stocks comprising the portfolio significantly reduces the opportunity for profitable speculative trading. Applicants represent that the Sponsor has studied daily price change data with respect to the first five business days of each of the twelve series of the Trust previously offered and that in light of the sales charge of 4 percent of the public offering price which is deducted before the net amount is invested, profitable speculation was possible on only one out of the total of sixty days (assuming a market for the units at a current price could be found at all). Applicants assert that this price stability is also sufficient to effectively foreclose speculation by the Sponsor or dealers. To eliminate, however, even the theoretical possibility of such speculation, the Sponsor agrees, as a condition to the exemptive order requested, not to tender or allow its registered representatives (or any dealer

through which it might in the future distribute units) to tender any units of a series for redemption during the period in which backward pricing is in effect for such series.

According to the Applicants, the proposed method of pricing units offers the advantage of providing a uniform, specified public offering price (that would be stated in the prospectus) for purchasers submitting orders during the one-day period in which backward pricing would be in effect. Applicants assert that, in contrast, forward pricing is often confusing to investors who do not appreciate the intricacies of that method. Applicants state that another factor favoring the known purchase price per unit is that sales of units will be made in connection with tax deferred retirement plans that are subject to contribution limitations. According to Applicants, offering units at a fixed, predetermined price ensures that a plan participant's total annual contribution may be invested in units if he so elects whereas, with forward pricing, purchasers cannot use their total contribution since they must provide some "cushion" for increases in the net asset value of the portfolio during the day on which they effect their purchases. It is asserted that the resulting indefiniteness makes the units less available for these investments.

Applicants contend that the sole risk to investors in the Trust which could result from the adoption of the proposed backward pricing system is that if the current evaluation of units declines, a purchaser would pay more under the proposed system than if the price were determined pursuant to forward pricing. Applicants believe that any unfairness to potential investors is avoided by full disclosure of the backward pricing system in the prospectus relating to each series. However, in order to reduce this risk of loss to a level Applicants consider minimal, Applicants agree, as a condition to the exemptive order requested, that if the net asset evaluation of the securities determined by the proposed backward pricing system on any day would exceed the evaluation determined in accordance with the requirements of Rule 22c-1 under the Act by more than 2.5 percent, investors will be charged the lower public offering price based on the forward pricing evaluation of the securities in accordance with Rule 22c-1. Applicants submit that potential investors may benefit significantly from the proposed system in that while their risk of a negative market shift is limited to a minimal level which is unlikely to be reached, their potential to profit from positive market shifts in the value of the securities is unlimited.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 23, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24499 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13479; 813-55]

PB-SB 1983 Investment Partnership III; Application

Setpember 1, 1983.

Notice is hereby given that on September 3, 1982, a notice (Investment Company Act Release No. 12633) (the "Prior Notice") PB-SB Ventures Inc; One New York Plaza, New York, New York 10004 was issued on an application filed on April 3, 1982, and amended on July 20, 1982 ("Application I") by PB-SB 1982 Investment Partnership I, a New York limited partnership registered under the Investment Company Act of 1940 (the "Act") as a closed-end, non-diversified management investment company, and its general partner, PB-SB Investments ("Partnership I"), for an order of the Commission, pursuant to Section 6(b) of the Act, exempting Partnership I from all provisions of the Act or, alternatively, from Sections 10(a), 10(b), 10(f), 14(a), 15(a), 16(a), 17(a), 17(d), 17(g), 45(a) of the Act, for confidential treatment. On July 29, 1983, PB-SB 1983 Investment Partnership III ("Partnership III"), a New York limited partnership, and its general partner (the "General Partner"), PB-SB Ventures Inc ("Applicants"), filed an application and an amendment thereto on August 30, 1983 ("Application II"), pursuant to Section 6(b) of the Act, requesting an order of the Commission exempting Partnership III and other partnerships (the "Partnerships") which may be offered in successive years to the same or similar classes of limited partner investors from all provisions of the Act or, alternatively, from the provisions of Sections 10(a), 10(b), 10(f), 15(a), 16(a), 17(a), 17(d), 17(e)(1), 17(g), 18(i), 19(b), 23(c), 30(a), 30(b), 30(d) and 32(a) of the Act, and, pursuant to Section 45(a) of the Act, for confidential treatment. The Prior Notice summarized the representations made in Application I and Applicants make substantially similar representations in Application II.[1] All interested persons are referred to Application I and Application II on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Prior Notice. Such persons are also referred to the Act for the text of the relevant provisions thereof.

Applicants state that Partnership III was formed to enable certain officers and other employees of Phibro-Solomon Inc. ("PSB"), its subsidiaries, including Salomon Brothers Inc., and their successors in interest (the "Employers") to pool their investment resources and to receive the benefit of certain venture captial investment opportunities which come to the attention of the General Partner. In addition to relief pursuant to Section 6(b) of the Act from the provisions of Sections 10(a), 10(b), 10(f), 15(a), 16(a), 17(a), 17(d), 17(g), 18(i), 23(c), 30(a), 30(b), 30(d), and 32(a) of the Act, and, pursuant to Section 45(a) of the Act for confidential treatment, Applicants request an exemption from the provisions of the following Sections of the Act:

(a) From Section 17(e)(1) to the extent requested to permit the Employers or affilated persons of the Employers (other than the General Partner or any director, officer or employee of the General Partner, except in their capacities as shareholders of PSB) to receive compensation for acting, in the ordinary course of their business, as agents for general partners or principals of proposed investment entitities in which a Partnership may invest (or persons designated by such persons) in connection with the sale to, or purchase by, the Partnerships of interests in such investment entities. Applicants state that in the ordinary course of their brokerage and securities business the Employers and affiliated persons thereof are regularly engaged as agents of others to solicit investments in a broad range of investment opportunities.

---

[1] This notice summarizes only those material representations contained in Application II that differ from those made in Application I.

Applicants submit that application of Section 17(e)(1) of the Act would require a Partnership to forego investment in such opportunities which might otherwise be attractive to it or would require the respective Employer affiliate, as the case may be, to forego customary and usual compensation. Applicants assert that the protections of Section 17(e)(1) of the Act are not required because of the community of interests between the Employers and the Partnerships. Applicants request an exemption from the provisions of Section 17(e)(1) of the Act on the undertakings that whenever a Partnership proposes to enter into an investment entity and as a result any Employer or affiliate thereof would receive compensation for acting as agent for the general partners or principals of such investment entity (or persons designated by such persons) in connection with the sale of interests therein to a Partnership, (1) the fact of such compensation and all terms and arrangements in connection therewith shall be fully described in the subscription agreement relating to such investment, (2) the Board of Directors of the General Partner shall review the terms of the proposed transaction, inlcuding the compenstion to be received by any Employer or affilate thereof, with full regard to its fiduciary responsibility to the limited partners and shall determine that such terms are fair and reasonable and (3) the Board of Directors of the General Partner shall determine that the proposed transaction, including the compensation to be received by any Employer or affilate thereof, is consistent with the general policies of the Act. In addition, the General Partner specifically represents and concedes that it is subject to Sections 36, 57(f)(3) and 57(h) of the Act.

(b) From Section 19(b) and Rule 19(b–1 to the extent necessary to permit the General Partner to distribute cash and assets to the partners of, and to terminate, classes of the Partnerships in accordance with the terms of the Partnerships' limited partnership agreement. Cash or assets allocable to or arising from the investment of a particular class, which may include the proceeds of long-term capital gains allocable to such investment, would, in accordance with the limited partnership agreement be distributed on a quarterly basis (in the case of cash) or in the General Partner's discretion (in the case of assets). Applicants maintain that compliance with Section 19(b) of the Act and Rule 19b–1 thereunder would seriously interfere with the proposed operations of the Partnerships and would therefore be contrary to the best interests of the investors therein.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commision, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24497 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13480; 812-5592]

Scudder Cash Investment Trust and Scudder, Stevens & Clark; Application

September 1, 1983.

Notice is hereby given that Scudder Cash Investment Trust ("Trust") 175 Federal Street, Boston, Massachusetts 02110, an open-end, management investment company registered under the Investment Company Act of 1940 ("Act"), and its adviser, Scudder, Stevens & Clark ("Adviser") 345 Park Avenue, New York, New York 10154 (together, the "Applicants"), filed an application on June 27, 1983, for an order of the Commission, pursuant to Section 17(d) of the Act and Rule 17d–1 thereunder, permitting Applicants to carry out the terms of an agreement settling certain litigation with a shareholder of the Trust. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below, and are referred to the Act and the rules thereunder for further information as to the provisions to which the exemption applies.

Applicants state that a shareholder of the Trust, in September 1981, filed a shareholder derivative action *(Gloria Kamen v. Scudder, Stevens & Clark and Scudder Cash Investment Trust)* in the United States District Court for the District of Massachusetts ("Court"), alleging that the Adviser had breached its fiduciary duty to the Trust under Section 36(b) of the Act by charging excessive advisory fees. After extensive discovery, the parties entered into a stipulation of settlement submitted to the Court on April 22, 1983 (and to the Commission on April 26, 1983, pursuant to Section 33 of the Act). The Trust gave its shareholders notice, in a form approved by the Court, of the terms of the proposed settlement, and advised them of their right to file objections to the settlement and to appear at a hearing held by the Court to determine the appropriateness of the proposed settlement. The Court approved the proposed settlement, after a hearing on June 17, 1983, and entered a final order on that date dismissing the action in its entirety. The settlement mandated, among other things, that the Trust, subject to the receipt of an exemptive order pursuant to Rule 17d–1, pay one-third of plaintiff's attorneys' fees and expenses. The Court awarded $205,000 in attorneys' fees and expenses to the plaintiff, making the Adviser's shares of those expenses $136,666.67 and the Trust's share $68,333.33.

Applicants contend that, because the Adviser will bear twice as much of the plaintiff's litigation expenses as the Trust, the proposed division of fees does not constitute participation by the Trust in a joint transaction on a basis less advantageous than the Adviser's participation. Moreover, because prevailing legal principles would ordinarily require the Trust, as beneficiary of a settlement of a derivative action brought on its behalf, to pay all of the plaintiff's litigation expenses, Applicants argue that such a division of fees cannot constitute participation by the Trust on a basis less advantageous than the Adviser's basis. The disinterested trustees of the Trust, as well as the entire board of trustees, unanimously approved the settlement, including the fee payment provision, as being in the best interest of the Trust and its shareholders.

Applicants claim that the Trust will obtain benefits from the settlement that more than compensate it for the accompanying expenses it will incur. The settlement stipulates that the Adviser rebate to the Trust, for a period of eight years, a portion of the advisory fees it receives from the Trust. Applicants assert that such rebates in the first year alone will total more than twice the Trust's portion of the plaintiff's expenses. Applicants assert that the settlement further benefits the Trust by freeing it from the added

expense, inconvenience, and disruption of continued litigation. The settlement also reconstitutes the Trust's board of trustees so that a majority of its members shall not be "interested persons" of the Adviser as defined by Section 2(a)(19) of the Act, and stipulates that any written plan adopted by the Trust under Rule 12b–1 of the Act shall not require or cause the Trust to bear any distribution costs during the two-and-a-half year period commencing on the effective date of the settlement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollins,

Assistant Secretary.

[FR Doc. 83-24496 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 13482; 812-5603]

Texaco Capital Inc.; Application

September 1, 1983.

Notice is hereby given that Texaco Capital Inc. ("Applicant"), 229 South State Street, Dover, Delaware 19901, a Delaware corporation and a wholly owned subsidiary of Texaco Inc. ("Texaco"), a Delaware corporation, filed an application on July 15, 1983, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of relevant statutory provisions.

Applicant states that it was organized on June 24, 1983, and that it wishes to engage primarily in the business of lending funds, derived either from capital contributions or borrowed from unrelated persons, to Texaco and its subsidiaries for general corporate purposes. In accordance with this purpose, it is stated, Applicant wishes to be in a position to undertake, on behalf of Texaco, the issuance and sale of long-term, intermediate-term, or short-term debt securities ("Securities") in the United States. Applicant represents that payment of principal and premium and interest, if any, on Securities would be unconditionally guaranteed by Texaco, and that the terms of the Texaco guaranties will be such that in the event of a default with respect to a Security, legal proceedings could be instituted directly against Texaco to enforce the guarantee without previously proceeding against Applicant. It is stated further that Applicant would advance to, or deposit with, Texaco or subsidiaries of Texaco substantially all of the proceeds of Applicant's sales of Securities, and that the terms of the advances or deposits would be such as to permit Applicant to make timely payments of principal and premium and interest, if any, owing on such Securities. Applicant states that it will not deal or trade in securities or hold securities other than instruments resulting from its primary purpose of borrowing funds and making them available to Texaco and its subsidiaries.

Applicant further represents that prior to any public offering of Securities in the United States not exempt from the registration requirements of the Securities Act of 1933 ("Securities Act"), it would file a registration statement under the Securities Act, and would not sell such Securities until the registration statement had been declared effective by the Commission and the related indenture had been qualified under the Trust Indenture Act of 1939. It is also stated that Applicant and Texaco would comply with the prospectus-delivery requirements of the Securities Act in connection with the offering and sale of such Securities.

In addition, it is stated that, in the case of an offering of Securities not requiring registration under the Securities Act, Applicant and Texaco would undertake, as an express condition to the granting of the exemption requested herein, to provide to any offeree of such securities a memorandum at least as comprehensive as memoranda customarily used in such offerings, and in the event that subsequent such offerings are made, to update such memorandum to reflect material changes in the financial position of Texaco. Applicant undertakes, in addition, to appoint an agent, in connection with any issuance by Applicant of Securities, to accept service of process in any action based on such Securities and instituted in any state or federal court located in New York City by any holder thereof, and undertakes further to submit to jurisdiction in any state or federal court located in the city of New York in any action based on such Securities instituted by any holder thereof. Such appointment and consent, it is stated, would be irrevocable until the amounts due or to become due on such Securities had been paid, but no such authorized agent for service of process would be a trustee for the holders of Securities, or have any responsibilities or obligation to act for such holders as would a trustee.

Applicant further represents that prior to their issuance and sale, the Securities shall have received one of the three highest investment grade ratings from at least one nationally recognized statistical rating organization, and Applicant shall have certified to its counsel in writing that such rating has been received. It is also stated, however, that no such rating shall be required to be obtained if in the opinion of counsel for the Applicant, an exception from registration is available with respect to such issuance and sale under Section 4(2) of the Securities Act.

Applicant states that its proposal to engage in the business of lending funds to Texaco and its other subsidiaries would cause all of Applicant's assets to consist of amounts receivable from such borrowers, thereby bringing Applicant within the definition of an "investment company" set forth in Section 3(a) of the Act. However, having been organized solely for the purpose of financing operations of Texaco and its subsidiaries, Applicant asserts that it is not a person which the Act was intended to regulate. Therefore, Applicant contends that the issuance of an order by the Commission pursuant to Section 6(c) of the Act exempting Applicant from all provisions of the Act would be appropriate.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 26, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-

at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24494 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20149; File No. SR-PCC-82-7]

Amendment of Proposed Rule Change by Pacific Clearing Corp.

September 2, 1983.

Pacific Clearing Corporation ("PCC") submitted on August 16, 1983, an amendment to a proposed rule change (SR-PCC-82-7), pursuant to Rule 19b-4 under the Securities Exchange Act of 1934, concerning minimum standards for admission to, and continued participation in, PCC. Notice of the proposed rule change, together with a statement of its terms, was published in Securities Exchange Act Release No. 19198 (November 1, 1982), 47 FR 50792 (November 9, 1982).

The amendment to the proposed rule change sets forth PCC's Standards of Financial Responsibility and Operational Capability ("Standards") to be applied by PCC to its members and applicants for membership. The largely separate Standards for broker-dealers and banks provide (i) minimum financial and operational requirements for members and applicants; (ii) criteria for closer surveillance of certain securities issues and financially or operationally troubled members; (iii) guidelines for requiring members to provide PCC specified further assurances of financial responsibility and operational capability; and (iv) requirements for members to report to PCC on a regular basis and upon the occurrence of specified events. The amendment also makes various related technical or nonsubstantive changes to PCC's rules. PCC believes that the proposed rule change, as amended, is consistent with the requirements of Section 17A(b)(3)(A) of the Act in that it will not affect PCC's ability to safeguard securities and funds in its custody or control or for which it is responsible.

In order to assist the Commission in determining whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-PCC-82-7.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24500 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 20148; SR-Phlx-82-4]

Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

September 2, 1983.

The Philadelphia Stock Exchange, Inc., 1900 Market Street, Philadelphia, PA 19103, submitted on August 27, 1982, copies of a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, to define and standardize the methods by which title to exchange memberships may be held; to implement a program for the leasing of memberships; to clarify the use of a-b-c agreements relating to membership; and to achieve certain objectives relating to the use of memberships for the satisfaction of members' debts. On July 22, 1983, Phlx filed with the Commission Amendment No. 1 to the proposed rule change.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commisson Release (Securities Exchange Act Release No. 19163, October 21, 1982) and by publication in the **Federal Register** (47 FR 49515, November 1, 1982). Notice of Amendment No. 1 together with the terms of substance of the amendment was given by the issuance of a Commission Release (Securities Exchange Release Act No. 20010, July 27, 1983) and by publication in the **Federal Register** (48 FR 35219, August 3, 1983). No comments were received with respect to the proposed rule filing.

The Commission finds that the proposed rule change, by providing a ready mechanism for the satisfaction of certain securities related debts owned by Phlx members, will provide greater creditor protection to the Exchange and its members; will facilitate access to the exchange by eliminating confusion relating the procedures and substantive requirements attendant to application for a membership which is to be subject to a lease or a-b-c agreements; and is designed to protect investors by establishing means to assure Phlx members' satisfaction of their financial obligations. The Commission also finds that any burden on competition imposed upon Phlx members by requiring their execution of sale and subordination agreements in certain circumstances is clearly outweighed by the additional creditor protection this affords to the Exchange, its members, and, thus, ultimately, to public investors. The Commission finds, therefore, that the proposed rule change is consisent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6 generally and Sections 6(b)(2), 6(b)(5), 6(b)(8), and 6(c)(3)(A) specifically.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24501 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

---

[1] *See also* File No. SR-Phlx-83-15, a related filing in which Phlx proposes to make Phlx Rule 941 permanent. Rule 941 requires Phlx members and member organizations who are parties to a-b-c agreements to execute a sale and subordination agreement relating to the seat subject to the a-b-c agreement. File No. SR-Phlx-83-15 was granted accelerated approval in Securities Exchange Act Release No. 20147, September 2, 1983.

[Rel. No. 20147; SR-Phlx-83-15]

Philadelphia Stock Exchange, Inc.; Filing and Order Granting Accelerated Approval of Proposed Rule Change

September 2, 1983.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 29, 1983, the Philadelphia Stock Exchange, Inc. ("Phlx"), 1900 Market Street, Philadelphia, Pa. 19103, filed with the Securities and Exchange Commission the proposed rule change as described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The Phlx proposes to amend Phlx Rule 941 to delete the scheduled expiration date of the rule and thus, to make the rule permanent.[1] Rule 941 requires Phlx member organizations and members who are parties to a-b-c agreements to execute a sale and subordination agreement under which the exchange may sell the membership upon termination of the member's interest in it and to apply the proceeds to satisfy the priority claims specified in Phlx By-law XV. The purpose of Rule 941 is to give Phlx a ready mechanism for the collection of certain debts owing to the Phlx or its members. The Exchange states that the statutory basis for the proposed rule change is Sections 6(b)(1), 6(b)(5) and 6(c)(3)(A) of the Act.

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change within 21 days after the date of publication in the **Federal Register**. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Reference should be made to File No. SR-Phlx-83-15.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission and all written communications relating to the proposed rule change between the Commission any any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the Phlx.

The Commission finds that the proposed rule change, by making temporary Rule 941 permanent, will provide greater creditor protection to the Phlx, Phlx members, and ultimately to public customers of Phlx members. As such it is designed to be a part of the overall membership transfer package approved by the Commission today in Securities Exchange Act Release No. 20148. The Commission finds, therefore, that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular the requirements of Sections 6(b)(1), 6(b)(5) and 6(c)(3)(A). Furthermore, the Commission finds that the proposed rule change is consistent with Section 6(b)(8) of the Act in that any possible burden on competition imposed by the proposed rule change is clearly outweighed by the increased financial protection it affords to the Exchange, its members and its members' customers.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that it merely makes permanent a temporary rule already in place, the proposed permanency of which has been effectively announced in the several orders approving the rule temporarily. In addition, proposed Rule 941 directly parallels Phlx Rule 932, which requires the same sale and subordination agreement in the context of leases and which the Commission has approved today after over 10 months public notice in Securities Exchange Act Release No. 20148.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 83-24502 Filed 9-7-83; 8:45 am]

BILLING CODE 8010-01-M

[1] The Commission approved adoption of temporary Rule 941 on October 21, 1982 (Securities Exchange Act Release No. 19335, October 21, 1982; 47 FR 49503, November 1, 1982). Most recently the Commission approved the extension of the rule through August 31, 1983 (Securities Exchange Act Release No. 19667, July 13, 1983; 48 FR 32903, July 19, 1983).

SMALL BUSINESS ADMINISTRATION

Region II Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, will hold a public meeting at 9:00 a.m., on Wednesday, September 28, 1983, at the Federal Building—U.S. Courthouse, 100 South Clinton Street, Room 1117 (11th floor), Syracuse, New York, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Room 1071, Syracuse, New York 13260; (315) 423-5371.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 29, 1983.

[FR Doc. 83-24437 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

Region VIII Advisory Council; Public Meeting

The Small Business Administration Region VIII Advisory Council, located in the geographical area of Fargo, North Dakota, will hold a public meeting at 9:30 a.m., on Tuesday, October 4, 1983, at the Federal Building, Room 435, 657-2nd Avenue North, Fargo, North Dakota, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, or other attending.

For further information, write or call Robert L. Pinkerton, District Director, U.S. Small Business Administration, 657-2nd Avenue North, Fargo, North Dakota 58102—(701) 237-5771, extension 5131.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 29, 1983.

[FR Doc. 83-24438 Filed 9-7-83; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Washington, D.C., will hold a public meeting at 9:00 a.m. to 12 Noom, on Wednesday, September 14, 1983, at the SBA Washington District Office, 1111 18th Street, NW., Room 404, Washington, D.C., to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Janice E. Wolfe, District Director, U.S. Small Business Administration, 1111

Eighteenth Street, NW., Washington, D.C. 20417, (202) 634–1805.

Jean M. Nowak,

Director, Office of Advisory Councils.

August 31, 1983.

[FR Doc. 83-24439 Filed 9-7-83; 8:45 am]

BILLING CODE 6025-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

(Notice 83-15)

Senior Executive Service Performance Review Boards (PRB); Membership

AGENCY: Department of Transportation (DOT).

ACTION: Notice.

SUMMARY: DOT publishes the names of the persons selected to serve on the various Departmental Performance Review Boards (PRB) established by DOT under the Civil Service Reform Act (CSRA).

FOR FURTHER INFORMATION CONTACT: Robert S. Smith, Director, Office of Personnel and Training, and Executive Secretary, DOT Executive Resources Board (202) 426–4088.

SUPPLEMENTARY INFORMATION: The CSRA of 1978, which created the Senior Executive Service, requires that each agency implement a performance appraisal system making senior executives accountable for organizational and individual goal accomplishment. As part of this system, CSRA requires each agency to establish one or more PRB's, the function of which is to review and evaluate the initial appraisal of a senior executives's performance by the supervisor and to make recommendations to the final rating authority relative to the performance of the senior executive.

The persons named below have been selected to serve on one or more Departmental PRB's.

Issued in Washington, D.C., on August 29, 1983.

Karen S. Lee,

Acting Assistant Secretary for Administration.

Department of Transportation Senior Executive Service Performance Review Boards

Office of the Secretary

Gail T. Young, Director, Office of Financial Management
Bruce T. Barkley, Director, Office of Management Planning
Robert E. Jones, Director, Transportation Computer Center
Martin Convisser, Director, Office of Industry Policy
Rosario J. Scibilia, Director, Office of International Policy and Programs
Raymond A. Karam, Deputy Assistant Secretary for Budget and Programs
William H. FitzGerald, Jr., Director, Office of Budget
Carolina L. Mederos, Director, Office of Programs and Evaluation
Rosalind A. Knapp, Deputy General Counsel
Barclay W. Webber, Assistant General Counsel for Environmental, Civil Rights and General Law
Diane R. Liff, Assistant General Counsel for Litigation
Thelma Duggin, Coordinator of Minority Affairs
Shirley Ybarra, Special Assistant to the Assistant Secretary for Policy and International Affairs
Lawrence A. Cresce, Assistant Inspector General for Investigations, Office of the Inspector General
Joseph J. Genovese, Assistant Inspector General for Auditing, Office of the Inspector General
Glenn W. Wienhoff, Assistant Inspector General for Policy, Planning and Resources, Office of the Inspector General

Office of the Inspector General

C. Shannon Roberts, Deputy Director, Office of Management Planning, Office of the Secretary
Donald R. Trilling, Executive Assistant to the Deputy Secretary, Office of the Secretary
Richard D. Morgan, Executive Director, Federal Highway Administration
James R. Richards, Inspector General, Department of Energy
Joseph A. Sickon, Inspector General, General Services Administration
Wallace E. Busbee, Executive Assistant to the Inspector General, Veterans Administration
Raymond F. Randolph, Assistant Inspector General for Auditing, Small Business Administration

United States Coast Guard

RADM Richard P. Cueroni, Chief, Office of Personnel
RADM William P. Kozlovsky, Comptroller
RADM Bobby F. Hollingsworth, Chief, Office of Marine Environment and Systems
Karen S. Lee, Deputy Assistant Secretary for Administration, Office of the Secretary
C. Shannon Roberts, Deputy Director, Office of Management Planning, Office of the Secretary
James G. Gross, Deputy Associate Administrator for Research and Development, Maritime Administration
Leon C. Watkins, Director, Office of Civil Rights, Federal Aviation Administration

Federal Aviation Administration

Albert P. Albrecht, Associate Administrator for Development and Logistics
Paul K. Bohr, Director, Great Lakes Region
Franklin L. Cunningham, Deputy Director, Alaskan Region.
Joseph M. Del Balzo, Director, Eastern Region
Benjamin Demps, Jr., Director, Aeronautical Center
Charles R. Foster, Director, Northwest Mountain Region
Jonathan Howe, Director, Southern Region
Walter S. Luffsey, Associate Administrator for Aviation Standards
Homer C. McClure, Director, Western-Pacific Region
Clarence R. Melugin, Jr., Director, Southwest Region
John E. Murdock, III, Chief Counsel
Donald R. Segner, Associate Administrator for Policy and International Aviation
William F. Shea, Associate Administrator for Airports
Murray E. Smith, Director, Central Region
Raymond J. Van Vuren, Director, Air Traffic Service
Leon C. Watkins, Director, Office of Civil Rights
Charles E. Weithoner, Associate Administrator for Administration
Robert E. Whittington, Director, New England Region
Jenna Dorn, Special Assistant to the Secretary, Office of the Secretary
Shirley Ybarra, Special Assistant to the Assistant Secretary for Policy and International Affairs, Office of the Secretary
Anthony Welters, Associate Deputy Secretary, Office of the Secretary

Federal Highway Administration

Rex C. Leathers, Associate Administrator for Engineering and Operations
Marshall Jacks, Jr., Associate Administrator for Safety, Traffic Engineering and Motor Carriers
Daniel Markoff, Associate Administrator for Administration
George R. Turner, Regional Administrator, Region 3
Edward M. Wood, Associate Administrator for Research, Development and Technology

Joseph M. O'Connor, Associate Administrator for Right-of-Way and Environment
Robert G. S. Young, Regional Administrator, Region 9
Thelma Duggin, Coordinator of Minority Affairs, Office of the Secretary
Rebecca C. Gernhardt, Director, Office of Public Affairs, Office of the Secretary

Federal Railroad Administration

James C. Rooney, Associate Administrator for Policy
Leavitt A. Peterson, Deputy Associate Administrator for Safety
Robert C. Hunter, Deputy Associate Administrator for Federal Assistance
W. Wayne Wilson, Associate Administrator for Administration
William H. FitzGerald, Jr., Director, Office of Budget, Office of the Secretary
Gail T. Young, Director, Office of Financial Management, Office of the Secretary

National Highway Traffic Safety Administration

Diane K. Steed, Deputy Administrator
Richard E. Burdette, Jr., Director, Office of Public and Consumer Affairs
Michael M. Finkelstein, Associate Administrator for Research and Development
George L. Reagle, Associate Administrator for Traffic Safety Programs
Anthony Welters, Associate Deputy Secretary, Office of the Secretary

Urban Mass Transportation Administration

Thomas R. Hunt, Associate Administrator for Administration
Robert H. McManus, Associate Administrator for Grants Management
Raymond J. Sander, Executive Director
Harold B. Williams, Deputy Associate Administrator for Management and Demonstrations
Carole A. Foryst, Associate Administrator for Budget and Policy
Kevin E. Heanue, Director, Office of Highway Planning, Federal Highway Administration
Dennis C. Judycki, Chief, Urban Planning and Transportation Management Division, Federal Highway Administration
Raymond A. Karam, Deputy Assistant Secretary for Budget and Programs, Office of the Secretary
C. Shannon Roberts, Deputy Director, Office of Management Planning, Office of the Secretary
W. Wayne Wilson, Associate Administrator for Adminstration, Federal Railroad Adminstration
William T. Hudson, Director, Office of Civil Rights, Office of the Secretary
Logan H. Sallada, Director, Executive Secretariat, Office of the Secretary

Maritime Administration

Howard A. Watters, Deputy Administrator (Inland Waterways and Great Lakes)
Russell F. Stryker, Jr., Associate Administrator for Policy and Administration
Gerald E. Neumann, Associate Administrator for Maritime Aids
Thomas W. Pross, Associate Administrator for Shipbuilding and Ship Operations
James G. Gross, Deputy Associate Administrator for Research and Development
Gary S. Misch, Associate Administrator for Marketing and Domestic Enterprise
Logan H. Sallada, Director, Secretariat, Office of the Secretary
Jenna Dorn, Special Assistant to the Secretary, Office of the Secretary

Research and Special Programs Administration

James Costantino, Director, Transportation Systems Center
Leon D. Santman, Director, Materials Transportation Bureau
Lloyd J. Money, Director, Office of University Research
Rosalind A. Knapp, Deputy General Counsel, Office of the Secretary
Michael M. Finkelstein, Associate Administrator for Research and Development, National Highway Traffic Safety Administration
Lester P. Lamm, Jr., Deputy Adminstrator, Federal Highway Administration

[FR Doc. 83-24521 Filed 9-7-83; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular; Public Debt Series—No. 26-83]

Treasury Notes; Series K-1988

The Secretary announced on August 31, 1983, that the interest rate on the notes designated Series K-1988, described in Department Circular—Public Debt Series—No. 26-83 dated August 24, 1983, will be 11¾percent. Interest on the notes will be payable at the rate of 11¾ percent per annum.

Washington, September 1, 1983.

Carole J. Dineen,

Fiscal Assistant Secretary.

[FR Doc. 83-24474 Filed 9-7-83; 8:45 am]
BILLING CODE 4810-40-M

Customs Service

[T.D. 83-190]

Decision Denying Domestic Interested Party Petition Requesting Reclassification of Certain Acrylic Blankets; Petitioner's Desire To Contest the Decision

AGENCY: Customs Service, Treasury.

ACTION: Notice of: (1) Decision on domestic interested party petition, and (2) receipt of notice of petitioner's desire to contest the decision.

SUMMARY: In response to a petition from a domestic interested party requesting that certain imported acrylic blankets that have a fabric border or capping be reclassified for tariff purposes under the provision for other bedding, ornamented, of man-made fibers, blankets, 363.25, Tariff Schedules of the United States (TSUS), Customs invited comments on the correctness of the current classification. However, no comments were received. After further review of the matter, Customs has advised the petitioner that such blankets would continue to be classified under the provision for bedding, not ornamented, of man-made fibers, blankets, in item 363.85, TSUS, at a lower rate of duty than for blankets classified under item 363.25, TSUS. Upon being informed that its petition had been denied, the petitioner filed a notice of its desire to contest the decision.

DATE: September 8, 1983.

FOR FURTHER INFORMATION CONTACT: Phil Robins, Classification and Value Division, Office of Regulations and Rulings, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; (202-566-8181).

SUPPLEMENTARY INFORMATION:

Background

On April 13, 1982, a petition was filed under section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), on behalf of Textiles Asociados del Caribe, Inc., an American manufacturer of acrylic blankets, requesting that certain imported acrylic blankets that have a fabric border or capping be reclassified under the provision for other bedding, ornamented, or man-made fibers, blankets, in item 363.25, Tariff Schedules of the United States (TSUS) (19 U.S.C. 1202) at a higher rate of duty. Based on Customs practice that they are not ornamented, such blankets have been classified under the provision for other bedding, not ornamented, of man-made fibers, blankets, in item 363.85, TSUS, at

a lower rate of duty than for blankets classified under item 363.25, TSUS.

A notice of receipt of the petition was published in the **Federal Register** on October 6, 1982 (47 FR 44184), inviting public comment on the correctness of the current classification. Written comments were to have been received on or before December 6, 1982. However, no comments were received.

The petitioner argues that the imported blankets should be classified as ornamented because of the fabric edgings around their border. It is contended that these borders are decorative in nature and therefore cause the blankets on which they are located to be classified under the ornamented bedding provisions of the tariff schedules, specifically item 363.25, TSUS.

The edgings which are described in the petition are, in actuality, folded over strips of fabric that encase the edgings of the blankets. As such, they constitute capping. It is Customs experience that borders or cappings of this type almost always *cover unfinished edges* and thus protect and finish the edges. Although the borders or cappings do add a certain amount of embellishment to the article, it is Customs position that the functional purpose performed by them outweighs any decorative effects they may impart.

In regard to those blankets which have borders or cappings that *cover finished edges*, Customs has continually classified such merchandise as ornamented for tariff purposes.

Decision on Petition and Receipt of Petitioner's Notice of Desire To Contest

In a ruling dated March 3, 1983, the petitioner was advised that Customs would adhere to its practice of classifying such blankets as nonornamented, in item 363.85, TSUS. In response, by letter dated April 1, 1983, the petitioner filed a notice of its desire to contest the decision in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.23, Customs Regulations (19 CFR 175.23).

After further review of the matter, Customs remains of the opinion that its practice of classifying the subject blankets under item 363.85, TSUS, is correct. This practice will continue unless a decision of the United States Court of International Trade or the United States Court of Appeals for the Federal Circuit not in harmony with this practice is rendered.

This notice is being published in accordance with section 516(c), Tariff Act of 1930, as amended (19 U.S.C. 1516(c)), and § 175.24, Customs Regulations (19 CFR 175.24).

Drafting Information

The principal author of this document was Jesse V. Vitello, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: July 12, 1983.

William von Raab,

Commissioner of Customs.

[FR Doc. 83-24528 Filed 9-7-83; 8:45 am]

BILLING CODE 4820-02-M

VETERANS ADMINISTRATION

Advisory Committee on Structural Safety of Veterans Administration Facilities; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Advisory Committee on Structural Safety of Veterans Administration faiclities will be held in Room 442, of the Lafayette Building, 811 Vermont Avenue NW, Washington, DC on October 14, 1983, at 10 a.m. The committee members will review Veterans Administration construction standards and criteria relating to fire, earthquake and other disaster resistant construction.

The meeting will be open to the public up to the seating capacity of the room. Because of the limited seating capacity, it will be necessary for those wishing to attend to contact Mr. Richard D. McConnell, Director, Civil Engineering Service, Office of Construction, Veterans Administration Central Office (phone 202-389-2864) prior to October 7, 1983.

Dated: August 30, 1983.

By the direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-24505 Filed 9-7-83; 8:45 am]

BILLING CODE 8320-01-M

Cooperative Studies Evaluation Committee; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Cooperative Studies Evaluation Committee, authorized by 38 U.S.C. 4101, will be held at the Howard Johnson's Motor Lodge, 2650 Jefferson Davis Highway, Arlington, Virginia 22202 on October 28, 1983. The meeting will be for the purpose of reviewing proposed cooperative studies and advising the Veterans Administration on the relevance and feasibility of the studies, the adequacy of the protocols, and the scientific validity and propriety of technical details, including protection of human subjects. The Committee advises the Director, Medical Research Service, through the Chief of the Cooperative Studies Program, on its findings.

The meeting will be open to the public up to the seating capacity of the room from 8 to 8:30 a.m., on October 28, to discuss the general status of the program. To assure adequate accommodations, those who plan to attend should contact Dr. James A Hagans, Coordinator, Cooperative Studies Evaluation Committee, Veterans Administration Central Office, Washington, DC (202-389-3702), prior to October 14, 1983.

The meeting will be closed from 8:30 a.m. to 4:00 p.m. on October 28, for consideration of specific proposals in accordance with provisions set forth in subsection 10(d) of Public Law 92-463, as amended by section 5(c) of Pub. L. 94-409, and subsection (c)(6) and (c)(9)(B) of section 552b, title 5, United States Code. During this portion of the meeting, discussions and decisions will deal with qualifications of personnel conducting the studies and the medical records of patients who are study subjects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. Additionally, premature disclosure of the Committee's recommendations would likely frustrate implementation of final proposed actions.

Dated: August 26, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-24506 Filed 9-7-83; 8:45 am]

BILLING CODE 8320-01-M

Special Medical Advisory Group; Meeting

The Veterans Administration gives notice under Pub. L. 92-463 that a meeting of the Special Medical Advisory Group will be held in the Administrator's Conference Room at the Veterans Administration Central Office, 810 Vermont Avenue, NW, Washington, DC, on September 27 and 28, 1983. The purpose of the Special Medical Advisory Group is to advise the Administrator and the Chief Medical Director relative to the care and treatment of disabled veterans, and other matters pertinent to the Veterans Administration's Department of Medicine and Surgery.

The sessions will convene at 8:30 a.m. both days. These sessions will be open to the public up to the seating capacity of the room. Because this capacity is limited, it will be necessary for those wishing to attend to contact Mrs. Von Hudson, Program Assistant, Office of the Chief Medical Director, Veterans Administration Central Office (phone 202/389-2298) prior to September 16, 1983.

Dated: August 29, 1983.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 83-24507 Filed 9-7-83; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 175
Thursday, September 8, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL RESERVE SYSTEM

(Board of Governors)

TIME AND DATE: 10 a..m., Wednesday, September 14, 1983.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 6, 1982.

James McAfee,

Associate Secretary of the Board.

[S-1288-83 Filed 9-6-83; 3:27 pm]

BILLING CODE 6210-01-M

2

FOREIGN CLAIMS SETTLEMENT COMMISSION

[F.C.S.C. Meeting Notice No. 7-83]

Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date, Time, and Subject Matter

Mon., Sept. 19, 1983 at 10:30 a.m.
Consideration of decisions involving claims against the Government of the Czechoslovak Socialist Republic.

Tues., Sept. 20, 1983 at 10:30 a.m.
Consideration of decisions involving claims against the Government of the Czechoslovak Socialist Republic.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 1111 20th Street, NW., Washington, D.C. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 1111 20th Street, NW., Room 409, Washington, DC 20579. Telephone: (202) 653-6155.

Dated at Washington, D.C. on September 2, 1983.

Judith H. Lock,

Administrative Officer.

[S-1287-83 Filed 9-6-83; 1:54 pm]

BILLING CODE 4410-01-M

3

NATIONAL SCIENCE FOUNDATION

AGENCY HOLDING MEETING: National Science Board

DATE AND TIME:

September 15, 1983 9 a.m. Open Session
September 16, 1983 8:45 a.m. Closed Session
September 16, 1983 9:15 a.m. Open Session

PLACE: National Science Foundation, Washington, D.C.

STATUS: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED AT THE OPEN SESSIONS: *Thursday, September 15, 1983—9 a.m.:*

1. Minutes—August 1983 Meeting.
2. Chairman's Items.
3. Report of NSB Commission on Precollege Education in Mathematics, Science, and Technology.
4. Program Review—Industrial Science and Technological Innovation.

Friday, September 16, 1983—9:15 a.m.:

5. Director's Report.
6. Grants, Contracts, and Programs.
7. Report on Capital Facilities Planning.
8. Physics Briefing.
9. Reports of Board Committees.
10. Board Representation at Advisory Committee and Other Meetings.
11. Other Business
12. Next Meeting.

MATTERS TO BE CONSIDERED AT THE CLOSED SESSION: *Friday, September 16, 1983—8:45 a.m.:*

A. Minutes—August 1983 Meeting.
B. NSB and NSF Staff Nominees.
C. Nominees for Alan T. Watewman Award Committee.
D. Grants, Contracts, and Programs.

[S-1289-83 Filed 9-6-83; 3:38 pm]

BILLING CODE 7555-01-M

4

NUCLEAR REGULATORY COMMISSION

DATE: Week of September 5, 1983 (revised) and Week of September 12, 1983.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE DISCUSSED: *Tuesday, September 6:*

10:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (New Item)

Wednesday, September 7:

10:00 a.m.
Discussion of Regulatory Reform Task Force—Administrative Proposals—Revisions to Part 2 (Public Meeting) (As Announced)

Thursday, September 8:

3:30 p.m.
Affirmation/Discussion and Vote (Public Meeting) (As Announced)

a. Final Rule on Temporary Operating Licensing Authority
b. Review of ALAB-734
c. Motion for Reconsideration of Indian Point Decision
d. Draft Order ALAB-698
e. Final Rule—NRC Rulemaking to Amend 10 CFR 2.200 and 2.201

Friday, September 9:

9:30 a.m.
Briefing by Executive Branch (Closed—Exemption 1) (Time Change)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Exemption 2 and 6) (As Announced)

Monday, September 12:

1:00 p.m.

Status of NTOL Plants (Public Meeting)
2:00 p.m.
Discussion of Status of Investigations (Closed—Exemption 5 and 7)

Tuesday, September 13:

10:00 a.m.
Public Meeting on Diablo Canyon (Public Meeting)
1:30 p.m.
Continuation of Public Meeting on Diablo Canyon (Public Meeting)

Wednesday, September 14:

10:00 a.m.
Discussion of Proposed Insider Safeguards Rule (Public Meeting)

Friday, September 16:

10:00 a.m.
Discussion/Possible Vote on Full Power Operating License for San Onofre-3 (Public Meeting)
11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Final Rule—10 CFR 50—Fitness for Duty of NPP Personnel
1:30 p.m.
Periodic Meeting with Advisory Panel on TMI-2 Cleanup (Public Meeting)

AUTOMATIC TELEPHONE ANSWERING SERVICE FOR SCHEDULE UPDATE: (202) 634-1498. Those planning to attend a meeting should verify the status on the day of the meeting.

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634-1410.

September 2, 1983.

Walter Magee,

Office of the Secretary.

[S-1286-83 Filed 9-3-83; 4:56 pm]

BILLING CODE 7590-01-M

5

TENNESSEE VALLEY AUTHORITY

[No. 8-523-4539]

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 40056, September 2, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 10:15 a.m. (e.d.t.), Wednesday, September 7, 1983.

PREVIOUSLY ANNOUNCED PLACE OF MEETING: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

ADDITIONAL MATTER: The following item is added to the previously announced agenda:

F. *Unclassified*
6. Interagency agreement with the Department of Energy (DOE) providing for TVA's technical support and assistance in connection with a study of the terrestrial impacts of acidic deposition on deciduous forests in the Tennessee Valley region.

CONTACT PERSON FOR MORE INFORMATION: Craven H. Crowell, Jr., Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office, 202-245-0101.

SUPPLEMENTARY INFORMATION:

TVA Board Action

The TVA Board of Directors has found, the public interest not requiring otherwise, that TVA business requires the subject matter of this meeting to be changed to include the additional item shown above and that no earlier announcement of this change was possible.

The members of the TVA Board voted to approve the above findings and their approvals are recorded below.

Dated: September 2, 1983.

C. H. Dean, Jr.,

S. David Freeman,

Richard M. Freeman.

[S-1285-83 Filed 9-2-83; 4:37 pm]

BILLING CODE 8120-01-M

federal register

Thursday
September 8, 1983

Part II

Department of Energy

Office of Conservation and Renewable Energy

Industrial Energy Conservation Program; Notice of Exempt Corporations and Adequate Reporting Programs

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Docket No. CAS-RM-80-304]

Industrial Energy Conservation Program; Notice of Exempt Corporations and Adequate Reporting Programs

AGENCY: Department of Energy.

ACTION: Notice of exempt corporations and adequate reporting programs.

SUMMARY: As an annual part of the Department of Energy's (DOE) Industrial Energy Conservation Program, DOE is exempting certain corporations from the requirement of filing corporate energy consumption reporting forms directly with DOE and is determining as adequate certain industrial reporting programs for third party sponsor reporting. This notice is required pursuant to section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulations set forth at 10 CFR Part 445, Subpart D. These procedures which allow identified corporations to be exempted from filing energy consumption data directly with DOE, assist in maintaining the confidentiality of consumption information and reduce the reporting burden for corporations. The exempt corporations and the respective sponsors of adequate reporting programs are listed alphabetically by industry in the appendix to this notice.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, CE-122.1, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-2371.

or

Pamela Pelcovits, Office of General Counsel, GC-33, U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, D.C. 20585; (202) 252-9519.

Issued in Washington, D.C., August 30, 1983.

Joseph J. Tribble,

Assistant Secretary, Conservation and Renewable Energy.

Final Exempt Corporations and Sponsors of Adequate Reporting Programs

SIC 20—FOOD AND KINDRED PRODUCTS

American Bakers Association

Campbell Soup Company (partial)
Campbell Taggart, Inc.
Consolidated Foods Corporation (partial)
Flowers Industries Inc.
G. Heileman Brewing Company, Inc. (partial)
ITT Continental Baking Company Inc. (partial)
Interstate Brands Corporation

American Feed Manufacturers Association

Archer Daniels Midlands Company (partial)
Cargill Inc.
Central Soya Company Inc. (partial)
Gold Kist Inc.
Land O'Lakes, Inc. (partial)
Moorman Manufacturing Company
Ralston Purina Company (partial)

American Frozen Food Institute

Campell Soup Company (partial)
J. R. Simplot Company

American Meat Institute

Beatrice Foods Company (partial)
Consolidated Foods Corporation (partial)
Farmland Industries Inc.
Geo. A. Hormel & Company
Greyhound Corporation
Oscar Mayer & Company
Rath Packing Company
Swift & Company
United Brands Company
Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

Keebler Company
Lance Inc.
Nabisco Inc. (partial)
Sunshine Biscuits Inc.

Chemical Manufacturers Association

National Distillers Products Company

Corn Refiners Association

A. E. Staley Manufacturing Company (partial)
American Maize-Products Company
CPC International Inc.
Grain Processing Association
National Starch & Chemical Corporation

Grocery Manufacturers of America, Inc.

A. E. Staley Manufacturing Company (partial)
American Home Products Corporation
Amstar Corporation
Anderson Clayton & Company
Archer Daniels Midland Company (partial)
Basic American Foods
Beatrice Foods Company (partial)
Borden Inc. (partial)
Carnation Company
Central Soya Company, Inc. (partial)
Chesebrough-Ponds Inc.
Cola-Cola Company
Consolidated Foods Corporation (partial)
General Foods Corporation
General Mills Inc.
H. J. Heinz Company (partial)
Hershey Foods Corporation
Kellogg Company
Kraft Inc.
Kroger Company
Lance Inc.
Lever Bros.
Mars Inc.
Nabisco Inc. (partial)
Pepsico Inc.
Pet Incorporated
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Ralston Purina Company (partial)
R. T. French Company
Thomas J. Lipton Inc.
Universal Foods Corporation

National Food Processors Association

California Canners and Growers Company
Campbell Soup Company (partial)
Castle & Cooke Inc.
Curtice-Burns Inc.
Del Monte Corporation
Gerber Products Company
H. J. Heinz Company (partial)
Norton Simon Inc.
Stokely-Van Camp Inc.
Sunkist Growers Inc.
Tri/Valley Growers Inc.

National Frozen Food Association

ITT Continental Baking Company Inc. (partial)

Pharmaceutical Manufacturers Association

Eli Lilly and Company

U.S. Beet Sugar Association

Amalgamated Sugar Company
American Crystal Sugar Company
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative
Union Sugar Company

U.S. Brewers Association

Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Froedtert Malt Corporation
Jos. Schlitz Brewing Company
Ladish Malting Company
Miller Brewing Company
Olympia Brewing Company
Pabst Brewing Company
The Stroh Companies Inc.

U.S. Cane Sugar Refiners Association

California & Hawaiian Sugar Company
Colonial Sugars Inc.
Georgia Sugar Refinery
Imperial Sugar Company

Refined Sugars Inc.
Revere Sugar Corporation
Savannah Foods & Industries Inc. (partial)
Supreme Sugar Company, Inc.

SIC 22—TEXTILE MILL PRODUCTS

American Textile Manufacturers Institute

Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J. P. Stevens & Company Inc.
Johnson & Johnson
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.
Reeves Brothers Inc.
Riegel Textile Corporation
Sayles Biltmore Bleacheries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Industries Inc.
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.

Carpet & Rug Instiute

Bigelow-Sanford Inc.
Mohasco Corporation
Shaw Industries Inc.
Standard Oil Company (Indiana)
WWG Industries Inc.

SIC 24—LUMBER AND WOOD PRODUCTS

National Forest Products Association

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Koppers Company Inc.
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 26—PAPER AND ALLIED PRODUCTS

American Paper Institute

Abitibi-Price Southern Corporation
Alabama River Pulp Company, Inc.
Alton Box Board Company
American Can Company
Appleton Papers Inc.
Arcata Corporation
Austell Box Board Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Clevepak Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Group Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers, Inc.
Dennison Manufacturing Company
Dexter Corporation
Diamond International Corporation
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper, Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Kimberly-Clark Corporation
Litton Industries Inc.
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
National Gypsum Company
Newark Boxboard Company
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Penntech Papers Inc.
Pentair Industries Inc.
Philip Morris Inc.
Pope and Talbort Inc.
Port Huron Paper Company
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
Scott Paper Company
Simpson Paper Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries Inc.
St. Joe Paper Company
St. Regis Paper Company
Sorg Paper Company
Stone Container Corporation
Tenneco Inc.
Time Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Minnesota Mining & Manufacturing Company
Mobil Chemical Company

SIC 28—CHEMICALS AND ALLIED PRODUCTS

Aluminum Association

Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association

Cargill Inc.

Chemical Manufacturers Association

Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Corporation
American Can Company
American Chrome & Chemicals Inc.
American Cyanamid Company
American Hoechst Corporation
American Petrofina Inc.
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtex Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
Celanese Corporation
CIBA-GEIGY Corporation
Cities Service Company
CONOCO Inc.
Corpus Christi Petrochemical Company
CPC North America
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemcial Company
Dow Corning Corporation
E. I. du Pont de Nemours & Company
Eastman Kodak Company
Elf Aquitaine Inc.
El Paso Products Company
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc. (partial)
Firestone Tire & Rubber Company
FMC Corporation

Freeport Minerals Company
GAF Corporation
Georgia-Pacific Corporation
Getty Oil Company
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Harshaw Chemical Company
Henkel Corporation
Hercules Incorporated
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.

Fertilizer Institute

Cominco America Inc.
Estech General Chemicals Corporation
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Big River Inc.
Green Valley Chemcial Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J. R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Reichhold Chemicals Inc. (partial)
Terra Chemicals International Inc.
Tyler Corporation (Atlas Powder Company)
Union Oil Company of California
United States Steel Corporation (partial)
Vertac Inc. (partial)
The Williams Companies

Pharmaceutical Manufacturers Association

Abbott Laboratories
American Home Products Corporation (partial)
Baxter-Travenol Laboratories
Eli Lilly & Company
Hoffmann-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Miles Laboratories Inc.
Richardson Vicks Inc.
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—PETROLEUM AND COAL PRODUCTS

American Petroleum Institute

Agway Inc.
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Cities Services Company
Clark Oil & Refining Corporation
Coastal Corporation
Crown Central Petroleum Corporation
Diamond Shamrock Corporation
Dorchester Gas Corporation
Earth Resources Company
Energy Cooperative Inc.
Exxon Corporation
Farmers Union Central Exchange Inc.
Farmland Industries Inc.
Fletcher Oil & Refining Company
Getty Oil Company
Gulf Oil Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc.
Little America Refining Company
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association
OKC Corporation
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Powerine Oil Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Southern Union Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Time Oil Company
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
USA Petroleum Corporation
Winston Refining Company
Witco Chemical Corporation

Chemical Manufacturers Association

GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc.
USS Chemicals

Glass—Pressed and Blown (Battelle Institute)

Owns-Corning Fiberglas Corporation

SIC 30—RUBBER AND MISCELLANEOUS PLASTIC PRODUCTS

Chemical Manufacturers Association

American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W. R. Grace & Company

Pharmaceutical Manufacturers Association

Baxter-Travenol Laboratories

Rubber Manufacturers Association

Armstrong Rubber Company
B. F. Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Uniroyal Inc.

SIC 32—STONE, CLAY AND GLASS PRODUCTS

Brick Institute of America

Belden Brick Company
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justin Industries Inc.

Chemical Manufacturers Association

Engelhard Corporation
GAF Corporation
Minnesota Mining & Manufacturing Company
Reichhold Chemicals Inc.
Vulcan Materials Company

Expanded Shale Clay and Slate Institute

Lehigh Portland Cement Company (partial)
Solite Corporation

Glass—Flat (Eugene L. Stewart)

AFG Industries Inc.
Ford Motor Company
Guardian Industries Corporation
Hordis Brothers Inc.
Libbey-Owens-Ford Company
PPG Industries Inc.

Glass Packaging Institute

Anchor Hocking Corporation (partial)
Ball Corporation
Brockway Glass Company Inc. (partial)
Coors Container Company
Diamond Glass
Dorsey Corporation
Gallo Glass Company
Glenshaw Glass Company Inc.
Indian Head Inc.
Kerr Glass Manufacturing Corporation
Latchford Glass Company
Liberty Glass Company
Midland Glass Company Inc.
National Bottle Manufacturing Company
National Can Corporation
Norton Simon Inc.

Owens-Illinois Inc. (partial)
Philip Morris Inc.
Thatcher Glass Corporation
Wheaton Industries

Glass—Pressed and Blown (Battelle Institute)

Anchor Hocking Corporation (partial)
Brockway Glass Company Inc. (partial)
Certainteed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)

Gypsum Association

Domtar Industries Inc. (partial)
Genstar Building Materials Company
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)

National Lime Association

Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Can-Am Corporation
CLM Corporation
Domtar Industries Inc. (partial)
Dravo Corporation
Edw. C. Levy Company
Flintkote Company (partial)
General Dyanmics Corporation (partial)
J. E. Baker Company (partial)
Martin Marietta Corporation (partial)
National Gypsum Company (partial)
Pfizer Inc. (partial)
Round Rock Lime Company
St. Clair Lime Company
United States Gypsum Company (partial)
Vulcan Materials Company (partial)
Warner Company

Portland Cement Association

Alamo Cement Company
Alpha Portland Cement Company
Arkansas Louisiana Gas Company
Ash Grove Cement Company (partial)
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Citadel Cement Corporation
Coplay Cement Manufacturing Company
Crane Company
Cyprus Hawaiian Cement Company
Dundee Cement Company
Filtrol Corporation
Flintkote Company (partial)
Florida Mining & Materials Corporation
General Portland Cement Company
Giant Portland & Masonry Cement Company
Gifford-Hill & Company Inc.
Ideal Basic Industries Inc.
Independent Cement Corporation
Kaiser Cement & Gypsum Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Martin Marietta Corporation (partial)
McDonough Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
National Cement Company
Newmont Mining Corporation
Northwestern St. Portland Cement Company
Oregon Portland Cement Company
Penn-Dixie Industries Inc.
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southdown Inc.
Texas Industries Inc. (partial)
Whitehall Cement Manufacturing Company

Refractories Institute

Allied Chemical Corporation (partial)
Combustion Engineering Inc. (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Ferro Corporation (partial)
Grefco Inc.
Interpace Corporation (partial)
J. E. Baker Company (partial)
Kaiser Aluminum & Chemical Corporation (partial)
Kennecott Corporation (partial)
Martin Marietta Corporation (partial)
McDermott Inc. (partial)
Norton Company (partial)
Pfizer Inc. (partial)
United States Gypsum Company (partial)

Tile Council of America

National Gypsum Company (partial)

SIC 33—PRIMARY METAL INDUSTRIES

Aluminum Association

Alcan Aluminum Corporation
Alumax Inc.
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Considated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company

American Die Casting Institute

Hayes-Albion Corporation (partial)

American Foundrymen's Society

American Cast-Iron Pipe Company
Clow Corporation
Dayton Mallleable Inc.
Grede Foundries Inc.
Mead Corporation
Teledyne Inc. (partial)

American Iron & Steel Institute

A. Finkl & Sons Company
Allegheny International
Armco Inc.
Athlone Industries Inc.
Atlantic Steel Company
Bethlehem Steel Corporation
Cargill Inc.
Carpenter Technology Corporation
Ceco Corporation
Colt Industries Inc.
Crane Company
Cyclops Corporation
Eastmet Corporation
Florida Steel Corporation
Ford Motor Company
Guteri Special Steel Corporation
Inland Steel Company
Interlake Inc. (partial)
Jones & Laughlin Steel Corporation
Kaiser Steel Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Company
LTV Corporation
Lukens Steel Corporation
McDermott Inc.
McLouth Steel Corporation
National Steel Corporation (partial)
Northwest Industries Inc. (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Phoenix Steel Corporation
Republic Steel Corporation
Sharon Steel Corporation
Shenango Inc.
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation

American Mining Congress

Amax Inc.
Asarco Inc.
Inspiration Consol Copper Company
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
Marmon Group Inc.
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Construction Industry Manufacturers Association

Caterpillar Tractor Company
Tenneco Inc.

Copper & Brass Fabricators Council

Atlantic Richfield Company (partial)
Century Brass Products Inc.

Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
National Distillers & Chemical Corporation
Olin Corporation
Phelps Dodge Corporation (partial)
Revere Copper & Brass Inc. (partial)

Ferroalloys Association

Chromium Mining & Smelting Corporation
Dow Chemical Company
Elkem Metals Company
Foote Mineral Company
Hanna Mining Company—Silicon Division
Hanna Nickel Smelting Company
Interlake Inc. (partial)
International Minerals & Chemical Corporation
MacAlloy Corporation
Newmont Mining Corporation (partial)
Ohio Ferroalloys
SKW Alloys
Union Carbide Corporation

SIC 34—FABRICATED METAL PRODUCTS

Aluminum Association

Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company

American Boiler Manufacturers Association

Combustion Engineering Inc.
McDermott Inc.

Can Manufacturers Institute

American Can Company
Campbell Soup Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Jos Schlitz Brewing Company
Miller Brewing Company
National Can Corporation

Chemical Manufacturers Association

E. I. du Pont de Nemours & Company
Remington Arms Company Inc.

SIC 35—MACHINERY, EXCEPT ELECTRICAL ELECTRICAL

Air Conditioning & Refrigeration Institute.

Emerson Electric Company
IC Industries
Trane Company

Computer & Business Equipment Manufacturers Association

Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry Rand Corporation
TRW Inc.
Xerox Corporation

Construction Industry Manufacturers Association

Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Cummins Engine Company Inc.
FMC Corporation
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
Tenneco Inc

SIC 36—ELECTRIC, ELECTRONIC EQUIPMENT

Chemical Manufacturers Association

Great Lakes Carbon Corporation
Minnesota Minning & Manufacturing Company

National Electrical Manufacture's Association

Airco Inc.
Allied Chemical Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
McGraw-Edison Company
Reliance Electric Company
Square D Company
Union Carbide Corporation

SIC 37—TRANSPORTATION EQUIPMENT

Aerospace Industries Association of America

Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Northorp Corporation
Textron, Inc.
Thiokol Corporation
TRW Inc.
Vought Corporation

Chemical Manufacturers Association

Hercules Incorporated
Tenneco Inc.

Motor Vehicle Manufacturers Association

American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—INSTRUMENTS AND RELATED PRODUCTS

Chemical Manufacturers Association

Eastman Kodak Company
Minnesota Mining & Manufacturing Company

Pharmaceutical Manufacturers Association

Johnson & Johnson

[FR Doc. 83-24381 Filed 9-7-83; 8:45 am]
BILLING CODE 6450-01-M

federal register

Thursday
September 8, 1983

Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; General Requirements and Performance Standards for Coal Exploration

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 772, 776, and 815

Surface Coal Mining and Reclamation Operations Permanent Regulatory Program; General Requirements and Performance Standards for Coal Exploration

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is amending its rules that relate to coal exploration activities outside of the permit area that are not subject to the requirements of 30 CFR Part 211. The amendments include a requirement that notices of intention to explore need to be filed only when an exploration operation proposing to remove 250 tons of coal or less may substantially disturb the natural land surface, rather than by all persons who propose to conduct coal exploration. In addition, the definition of the term "substantially disturb" is amended.

EFFECTIVE DATE: October 11, 1983.

FOR FURTHER INFORMATION CONTACT: Stan J. Zeccolo, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, DC, 20240; 202–343–2184.

SUPPLEMENTARY INFORMATION:

I. Background

The Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1201 *et seq.*, requires that each State and Federal program ensure that coal exploration operations that substantially disturb the natural land surface are conducted in accordance with exploration rules issued by the regulatory authority. Section 512 of the Act, entitled "Coal Exploration Permits," sets forth the notice, reclamation, and other requirements for conducting coal exploration operations. Section 512(a) of the Act specifies that, at a minimum, the exploration rules must include (1) a requirement that before beginning exploration operations, a person planning such operations must file with the regulatory authority a notice of intention to explore that includes a description of the area of exploration and the period of exploration, and (2) provisions for reclamation of all lands to be disturbed by the exploration, including excavations, roads, drill holes, and the removal of facilities and equipment, in accordance with the performance standards set forth in Section 515 of the Act. Although the Act requires that a notice of intention to explore be filed with the regulatory authority, the Act does not require that the exploration be approved by the regulatory authority unless more than 250 tons of coal are to be removed, in which case specific written approval is required under Section 512(d).

On March 13, 1979, the Office of Surface Mining (OSM) issued general requirements for coal exploration, 30 CFR Part 776, and performance standards for coal exploration, 30 CFR Part 815. 44 FR 15351 and 15394, respectively.

On May 18, 1982, OSM published in the **Federal Register** proposed rules to revise the coal exploration notice and permit requirements, to redesignate them as 30 CFR Part 772 (originally Part 776), and to revise the coal exploration performance standards in 30 CFR Part 815. Also proposed for revision were the definitions of the terms "coal exploration" and "substantially disturb," in 30 CFR 701.5 (See 47 FR 21442.)

A public comment period commenced with publication of the proposed rules. The comment period closed on August 25, 1982.

The comment period was reopened on September 7, 1982, and closed again on September 10, 1982. Two speakers presented testimony at a public hearing in Denver, Colo., on June 16, 1982; no one requested to testify at hearings that had been scheduled for Washington, D.C., and Pittsburgh, Pa. Industry and associations, environmental groups, universities, State and Federal agencies, and interested individuals commented. All comments received on the May 18, 1982, proposed rules were considered in this final rulemaking and are on file in the Administrative Record.

To assist the reader in understanding the changes in the final rule the following derivation table shows the relationship of the final rules to the previous rules and the proposed rules.

DERIVATION TABLE—COAL EXPLORATION, PARTS 772 AND 815

Final rule	Previous rule	Proposed rule
772.1	776.1 and 776.2	772.1.
772.10		772.10.
772.11 (a)	776.11 (a) and (c)	772.11 (a).
772.11 (b)(1)	776.11 (b)(1)	772.11 (b)(1).
772.11 (b)(2)	776.11 (b)(2)	772.11 (b)(2).
772.11 (b)(3)	776.11 (b)(3)	772.11 (b)(3).
772.11 (b)(4)	776.11 (b)(4)	772.11 (b)(4).
772.11 (b)(5)	776.11 (b)(6)	772.11 (b)(5).
772.12(a)	776.12 intro	772.12(a).
772.12(b)	776.12(a)	772.12(b).
772.12(b)(1)	776.12(a)(1)	772.12(b)(1).
772.12(b)(2)	776.12(a)(2)	772.12(b)(2).
772.12(b)(3)	776.12(a)(3)(i)	772.12(b)(3).
772.12(b)(4)	776.12(a)(3)(ii)	772.12(b)(4).
772.12(b)(5)	776.12(a)(3)(iii)	772.12(b)(5).
772.12(b)(6)	776.12(a)(3)(iv)	772.12(b)(6).
772.12(b)(7)		772.12(b)(7).
772.12(b)(8)	776.12(a)(3)(i)	772.12(b)(8).
772.12(b)(9)	776.12(a)(3)(ii)	
772.12(b)(10)	776.12(a)(3)(v)	772.12(b)(9).
772.12(b)(11)	776.12(a)(4)	772.12(b)(10).
772.12(b)(12)	776.12(a)(5)	772.12(b)(11).
772.12(b)(13)	776.12(a)(6)	772.12(b)(12).
772.12(c)	776.12(b)	772.12(c).
772.12(c)(1)	776.12(b)(1)	772.12(c)(1).
772.12(c)(2)	776.12(b)(2)	772.12(c)(2).
772.12(c)(3)	776.12(b)(3)	772.12(c)(3).
772.12(d)(1)	776.13(a)	772.12(d)(1).
772.12(d)(2)	776.13(b)	772.12(d)(2).
772.12(d)(2)(i)	776.13(b)(1)	772.12(d)(2)(i).
772.12(d)(2)(ii)	776.13(b)(2)	772.12(d)(2)(ii).
772.12(d)(2)(iii)	776.13(b)(3)	772.12(d)(2)(iii).
772.12(d)(3)	776.13(c)	772.12(d)(3).
772.12(e)(1)	776.14(a)	772.12(e)(1).
772.12(e)(2)	776.14(b)	772.12(e)(2).
772.13(a)	776.15(a)	772.13(a).
772.13(b)	776.15(b)	772.13(b).
772.14	815.17	772.14.
772.15(a)	776.17(a)	772.15(a).
772.15(b)	776.17 (b)(1) and (b)(2).	772.15(b).
772.15(c)	776.17(b)(3)	772.15(c).
815.1	815.1	815.1.
815.13	815.13	815.13.
815.15(a)	815.15(a)	815.15(a).
815.15(b)	815.15(c)(2–4)	815.15(b).
815.15(c)	815.15(d)	815.15(c).
815.15(d)	815.15(e)	815.15(d).
815.15(e)	815.15(f)	815.15(e).
815.15(e)(1)	815.15(f)(1)	815.15(e)(1).
815.15(e)(2)	815.15(f)(2)	815.15(e)(2).
815.15(f)	815.15(g)	815.15(f)(1) and (f)(2).
815.15(g)	815.15(h)	815.15(g).
815.15(h)	815.15(i)	815.15(h).
815.15(h)(1)	815.15(i)(1)	815.15(h)(1).
815.15(h)(2)	815.15(i)(2)	815.15(h)(2).
815.15(h)(3)	815.15(i)(3)	815.15(h)(3).
815.15(i)	815.15(j)	815.15(i).
815.15(j)	815.15(k)	815.15(j).

II. Discussion of Comments and Rules Adopted

Section 700.11 Applicability.

On February 16, 1983 (48 FR 6915–6916), OSM revised 30 CFR 700.11 to clarify the extent to which the Act governs coal exploration on Federal lands. It extended the requirements of 30 CFR Chapter VII to coal exploration on Federal lands except for Federal lands that are subject to the requirements of 30 CFR Part 211. Where 30 CFR Part 211

applies, the Bureau of Land Management has the primary responsibility for coal exploration. In the February 16 rule, OSM inadvertently amended § 700.11(g), a paragraph that had been redesignated as § 700.11(a)(6) on August 2, 1982 (47 FR 33432) as part of the revision to OSM's "2-acre" rule. This final rule corrects that error and properly amends § 700.11(a)(6) rather than attempting to amend § 700.11(g) which no longer exists. The substance of the rule is unchanged from the February rule.

Section 701.5 Definitions.

This section of the preamble contains a discussion of the definitions of the two terms—"coal exploration" and "substantially disturb"—that are fundamental to understanding the requirements for conducting coal exploration.

"Coal exploration"

The term "coal exploration" is defined in § 701.5 as the field gathering of (a) surface or subsurface geologic, physical, or chemical data by mapping, trenching, drilling, geophysical, or other techniques necessary to determine the quality and quantity of overburden and coal of an area; and (b) the gathering of environmental data to establish the conditions of an area before beginning surface coal mining and reclamation operations.

On May 18, 1982, OSM proposed a revised definition that it thought would be more easily understood, while retaining the same basic features of the previous definition (47 FR 21446). After consideration of the comments received, OSM found the existing definition to be more descriptive of the procedures commonly associated with coal exploration, especially in that it better expresses the role of environmental-data gathering during coal exploration. Consequently, the existing definition will not be revised.

The definition is based generally on the definition of "exploration" under the Interior Department's rules for coal exploration on Federal lands (30 CFR Part 211), as was explained in the preamble to the 1978 proposed permanent program rules (September 18, 1978, 43 FR 41669). The definition was slightly revised from the proposal in those final permanent program rules for the reasons given in the preamble to those rules (March 13, 1979, 44 FR 14927).

"Coal exploration" consists of data-gathering activities with two objectives: To locate and evaluate coal deposits in an area, and to establish the environmental conditions in an area before beginning mining operations. As was explained in the preamble to the 1979 permanent program rules, the existing definition was written to cover pre-permit environmental-data gathering as an activity separate from locating and evaluating coal deposits in an area, although the two types of exploration may be conducted at the same time. However, the proposed definition did not appear to some commenters to make that distinction.

Seven commenters expressed their opinions regarding various aspects of the proposed definition, and all discussed the collection of environmental data, as was requested in the preamble to the proposed definition. One of the commenters felt that the collection of environmental data did not come within the meaning of coal exploration, and that collecting the data would be an unnecessary burden. Another remarked that the gathering of data on related environmental conditions was not contemplated by Congress and therefore recommended deletion of that phrase, as did another commenter who stated that no other environmental data were needed beyond those related to data collection on coal, associated strata, and hydrologic conditions. The former commenter cited the rules of the Bureau of Land Management (30 CFR Part 211) in which the definition of the term "exploration" does not include a requirement for additional environmental data-gathering. A fifth commenter believed that reference to hydrologic conditions should also be deleted from the definition.

These commenters apparently misunderstood the purpose and effect of the coal exploration rules. These rules do not require operators to engage in exploration. Rather, they set environmental protection standards if and when exploration is conducted for whatever reason. Data collection requirements for permit applications are provided in Parts 779, 780, 782, 783, 784, and 785 of the permanent program regulations. These requirements extend to data on coal, associated strata, hydrologic conditions and other environmental conditions. Many of these activities could, based on the scope of the exploration and site-specific conditions, result in a substantial disturbance to the environment. The inclusion of such activities in the definition ensures that the environmental protection requirements of Section 512 of the Act will be met and that such data gathering activities will be subject to the notice, approval, and reclamation standards set by these rules.

A commenter who advocated retention of environmental data-gathering within the definition pointed out that that activity may cause substantial disturbance, such as the destruction of the hydraulics of alluvial valley floors by excessive soil compaction by vehicles and the contamination of water by drilling fluids. OSM agrees that the procedures used in collecting environmental data could substantially disturb the land surface under some circumstances.

The existing definition, which has been retained, will ensure that such disturbances are in accordance with the requirements applicable to coal exploration.

A commenter recommended that "related" be substituted for "field" in the phrase "field activities." The term "field" is more appropriate. Several comments were received when the permanent program definition was originally proposed that recommended insertion of the word "field" so that activities carried out away from the exploration site, such as laboratory studies, would not be included (March 13, 1979, 44 FR 14972). These comments were accepted and OSM continues to believe that Congress intended that the rules apply to field activities that could disturb the environment and not laboratory studies or other "related" activities.

Another commenter maintained that unless the definition of coal exploration was limited to data-gathering activities that substantially disturb the land, all exploration operations would require approval by the regulatory authority. This is not correct. Only exploration that is proposed to take place on lands designated as unsuitable for mining or that remove more than 250 tons of coal will require regulatory authority approval (30 CFR 772.12(a)). Other persons conducting exploration activities that substantially disturb the surface are only required to submit a notice to the regulatory authority and comply with the performance standards in Part 815.

One commenter thought that the proposed definition would weaken the environmental protection sought by Section 512 of the Act. The commenter claimed that trenching is generally more environmentally destructive than drilling and that the phrase "to determine the quality and quantity of overburden and coal of an area" made the previous definition more inclusive, yet neither concept was included in the proposed definition. Additionally, the commenter felt that the proposed definition for "coal exploration" would

apply to scientific research not related to locating and describing coal deposits, which had been excluded by the previous definition. Further, it was unclear to the commenter as to whether the phrase "related environmental conditions" referred to the exploration process or to pre-permit data gathering.

OSM has decided to retain the existing definition of coal exploration. It defines coal exploration to include the field gathering of data on the overburden and coal in an area as well as collection of environmental data. OSM agrees that this definition does not extend to scientific research and applies only to prepermit data gathering.

One commenter suggested that the word "utilized" be used in place of "necessary," so that all methods of exploration that might actually be used, whether or not they are in fact necessary, would be included. While OSM agrees with the objective indicated by the commenter, no change is deemed necessary in the existing definition. Whatever techniques are used by a particular exploration operation would be considered "necessary" to that operation and would be covered.

"Substantially disturb"

The term "substantially disturb" was defined in previous § 701.5 as including, for purposes of coal exploration, such activities as blasting, mechanical excavation, drilling or altering coal or water exploratory holes or wells, construction of roads and other access routes, and the placement of structures, excavated earth, or other debris on the surface of the land that have a significant impact on land, air, or water resources.

OSM proposed to revise the definition (May 18, 1982, 47 FR 21446) so that it would be more closely aligned with the definition of the term "disturbed area" than was the previous definition. Specific reference to blasting, drilling, mechanical excavation, and placement of structures was proposed to be removed, and the more general categories likely to have a significant impact individually, such as the removal of vegetation, topsoil, or overburden; the construction of roads; and the placement of excavated earth or waste material on the land surface used in their place. This was not intended to indicate that blasting, drilling, or mechanical treatment could not result in a substantial disturbance, but rather was a desire to rely on the more generic terms. Additionally, a new activity—the removal of more than 250 tons of coal—was added in the proposed rule as causing a "substantial disturbance" because of the significant impact that results from such activity.

The final definition is essentially the same as the proposed definition, except that blasting has been restored as an exploration activity that is presumed to have a significant impact. Also, the phrase "removal of more than 250 tons of coal" has been set out from the rest of the activities to clarify that the removal of such an amount of coal will be considered in all cases a substantial disturbance.

The final rule is generally in agreement with the rules that govern coal exploration on Federal lands (30 CFR 211.10). Those rules distinguish between "casual use" of the land which does not cause significant surface disturbance during exploration and "other than casual use" (the use of heavy equipment or explosives and vehicular movement off established roads and trails are given as example of the latter).

The final definition is as specific as is practical, given the variability of the environmental and technical factors involved. The definition describes only minimum requirements. Individual regulatory authorities will have the flexibility to establish more specific standards that consider the particular conditions within the State.

One of the major concerns of commenters was whether or not drilling should be included as one of the activities mentioned specifically in the definition of "substantially disturb." Four commenters concurred with removal of that activity from the definition and three protested its removal. As was expressed in the preamble to the proposed definition, drilling may, but need not in every case, result in a substantial disturbance to the natural land surface. Therefore, while it is not included specifically as a listed activity, the definition as revised is broad enough to encompass drilling when it does result in such a disturbance. Usually, such a substantial disturbance would occur when drilling is combined with other activities (e.g., drilling alongside existing roads versus construction of roads to a drilling site, or the removal of vegetation and topsoil for the drill pad, in addition to the drilling itself). Whether such activities result in a substantial disturbance will be determined by the regulatory authorities either on a case-by-case basis or through guidelines supplementing the State program.

Another major concern of commenters was how to determine at what point the activities identified in the definition are considered to significantly impact land or water resources. For example, one commenter was concerned that drill cuttings or cores that are temporarily placed on the land surface before being replaced in the hole or removed from the site would be considered as earth or waste material placed on the land surface. The commenter also questioned whether the phrase "construction of roads," referred to removal of vegetation and topsoil, use of a bulldozer, or upgrading of existing roads.

Other commenters were concerned that the removal of small amounts of vegetation, the taking of samples (e.g., soil sampling), or driving across a field, or spreading drill cuttings on the ground near a drill hole would be construed as substantially disturbing the land. Other commenters recommended that the language of the rule be revised to either apply only to, or to exclude, such items as "large areas," "limited vegetation removal," "temporary placement," "extensive removal," and "lasting degradation." Two commenters maintained that the term "significant impact" should be defined because they said it is ambiguous and vague, but they offered no suggestion as to wording.

As previously indicated, the final rule is not intended to extend to casual use and other minor activities that would not be expected to result in substantial disturbances to the land surface. On the other hand, it is not possible to exclude broad categories of activities from the definition. Thus, placing drill cuttings on the surface or driving across a field could be classified as a substantial disturbance based on site-specific circumstances. A complete listing of every possible situation that may be encountered is not possible in a rule of nationwide application. Rather, the final rule provides basic standards to be applied by State regulatory authorities.

The concept of a substantial disturbance, which in turn depends upon the interpretation of what constitutes a significant impact on land or water resources, is necessarily expressed in general terms, just as it was in the Act. Section 515 of the Act provides sufficient additional guidance to establish the reclamation requirements and goals of the Act. OSM expects the requirements for coal exploration to be applied in a manner consistent with this intent. The phrase "to significantly impact land or water resources" will be interpreted and applied in the same way as the phrase "to impact significantly upon land, air or water resources" in the previous rule, except that air resources are not included.

A commenter who questioned the ligitimacy of establishing that the

removal of more than 250 tons of coal would substantially disturb the land claimed that the figure has no significance in terms of land disturbance. OSM agrees that removal of a lesser amount of coal may also substantially disturb the land. However, the removal of that large a quantity of coal will always substantially disturb the land. The commenter also maintained that because special rules under § 772.12 apply to the removal of more than 250 tons of coal, the provision is not needed in the definition. OSM disagrees. The definition of substantial disturbance is consistent with Section 512(d) of the Act and § 772.12. In those sections the Act and regulations impose more stringent approval requirements for exploration operations that remove more than 250 tons. Thus, Congress was concerned that such exploration not occur without special approval to ensure reclamation and protection of the environment. The definition of substantially disturb supports this approval by ensuring that such large amounts of coal are not removed without reclamation occurring.

One commenter proposed that the definition of "substantially disturb" not apply to exploration operations of less than 2 acres, claiming this would then correspond with Section 529(a) of the Act. Since Section 529 of the Act refers to anthracite coal mining, it is assumed the commenter means Section 528 of the Act which provides that the Act shall not apply to the "extraction of coal for commercial purposes where the mining affects two acres or less." Because Section 528(2) of the Act applies only to the extraction of coal for "commercial purposes," the 2-acre exemption does not apply to coal exploration operations.

Two commenters remarked that reference to air resources in the previous definition was unnecessary, as the effect of coal exploration on air quality would be negligible. On the other hand, two commenters maintained that air should not have been deleted as one of the resources that can be subject to substantial disturbance by coal exploration. Their reasoning was that vehicular traffic and other sources generate fugitive dust.

Previous §§ 816.95 and 817.95, entitled "Air Resources Protection," of the permanent program, promulgated under Sections 515(b)(4) and 516(b)(10) of the Act and regulating air pollution, were remanded by the court in *In re: Permanent Surface Mining Regulation Litigation*, CA 79-1144, at 28 (D.D.C., May 16, 1980), on the grounds that the Act's legislative history "indicates that the Secretary's authority to regulate [air] pollution is limited to activities related to erosion." As a result, OSM revised § 816.95 and § 817.95 and on January 10, 1983, published final rules that relate only to erosion control and air pollution attendant to erosion (48 FR 1160). Fugitive-dust emissions are subject to the National Ambient Air Quality Standards established by the U.S. Environmental Protection Agency under the Clean Air Act, as amended (42 U.S.C. 7401 *et seq.*), and each State is responsible for complying with those standards. Thus, inclusion of air quality in the definition of substantially disturb is inappropriate. The final rule thus does not include reference to air resources.

New Part 772—Requirements for Coal Exploration

Part 776 is redesignated as Part 772 because the requirements for initiating coal exploration logically should precede those for initiating coal mining, which, as revised, start with Part 773.

Section 772.1 Scope and purpose.

In the final rule the scope and purpose of Part 772 are set forth in § 772.1. As proposed, final § 772.1 does not contain a specific section entitled "Responsibilities" (previous § 776.3) because the substantive requirements of the rules delineate with adequate specificity the respective obligations of the regulatory authorities and the persons conducting coal exploration activities. Similarly, there is no need for a separate section containing the objectives of the part, as was done in previous § 776.2.

In general, final Part 772 applies to all coal exploration operations outside the permit area, which are not subject to 30 CFR 211. No comments were received on this section. The final rule is revised, however, for clarity and to be consistent with OSM's final Federal lands rules issued on February 16, 1983, by excluding exploration operations regulated under 30 CFR Part 211. Under these rules, coal exploration activities on Federal lands not subject to 30 CFR Part 211 would be regulated. This would include such activities on lands with federally-owned surface and privately-owned minerals.

Section 772.10 Information collection.

The mandatory information collection requirements of Part 772 will be used by the regulatory authority to establish a baseline on which to assess the impact of a proposed coal exploration operation. Collection of the information is necessary in order to meet the requirements of Section 512(a) of the Act and has been approved by the Office of Management and Budget. No comments were received on this section.

Section 772.11 Notice requirements for exploration removing 250 tons of coal or less.

Final § 722.11(a) requires that any person who is proposing to conduct coal exploration that would remove up to 250 tons or less of coal and which may substantially disturb the land surface, must file a written notice of intention with the regulatory authority before beginning the operation. Previous § 776.11 had required that a notice of intention be filed whether or not a substantial disturbance would occur. Final § 722.11(b) lists the type of information required to be in the notice of intent.

Section 722.11(a)

The broad notice requirement of previous § 776.11(a) was held to be consistent with the Act in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79-1144, at 33 (D.D.C. February 26, 1980), but it is not mandated by the Act. On the basis of comments received initially on the preproposed draft rules circulated by OSM prior to the issuance of the proposal and, more recently, on the proposed rules, as well as reexamination of the statutory language, OSM has determined that a notice of intent to conduct coal exploration is not necessary if there will not be a substantial disturbance of the natural land surface. States can continue to require notices of all coal exploration activities if the State determines that such notice is necessary to protect the environment or aid in enforcement. The State can also set standards, consistent with the definition in § 701.5, as to activities that it considers to substantially disturb the natural land surface according to local conditions. Anyone planning coal exploration should determine from the regulatory authority what activities have been established as substantially disturbing the land surface in the area of exploration. The final rule will ease the paperwork burden associated with the previous filing requirement, but will continue to provide protection for environment.

Proposed § 722.11(a) was supported by seven commenters and was opposed by two State agencies and two environmental groups. Three proponents of the change advocated replacing "may" with "will" in the phrase "may substantially disturb," on the grounds that it would be more precise. As a further indication of the difficulty in

establishing precisely what activities substantially disturb, one of the commenters who favored "will" remarked in justification that "virtually any exploration activity has the potential to substantially disturb the land," and another stated that "anything may substantially disturb."

No change in the proposal has been made based upon these suggestions. Filing a notice of intent for any exploration operations that may cause substantial disturbance as opposed to those that will certainly have that effect is not an excessive burden. OSM disagrees with the commenter who suggested that anything "may" substantially disturb. Such a reading of the language of the final rule would be excessive. OSM interprets the use of the term "may" in this context to refer to those operations that have a reasonable likelihood of resulting in such a disturbance.

Several commenters expressed concern that unless all persons planning exploration are required to file a notice of intention with the regulatory authority, the land could be substantially disturbed without the knowledge of the regulatory authority and therefore without reclamation or penalty. OSM recognizes the possibility that notices of intent will not be filed. However, this is an enforcement problem. The failure to submit the required notice could occur under the previous rule as easily as under the new rule. In any event, any such failure to file the notice will not waive reclamation requirements upon disturbance of the environment. The penalties for noncompliance with these rules are the same as those for surface coal mining operations and should deter non-compliance.

Section 772.11(b)

The required contents of a notice of intention to conduct exploration activities are set forth in final § 772.11(b)(1–5). Final § 722.11 (b)(1) and (b)(2), adopted as proposed, require the notice to include the names, addresses and telephone numbers of the person seeking to explore and the person's representative who will be responsible for conducting the exploration.

A commenter objected to the requirement in proposed § 722.11(b)(1) that the person seeking to explore be identified and suggested that a consultant or attorney should be able to submit the notice without disclosing the company name or the nature of the activity. OSM rejects this comment. The name of the person or company responsible for the exploration activity must be known in the event of a violation, and the nature of the activity must be stated so that it can be determined that no more than 250 tons of coal will be removed. A determination of confidentiality can be requested under § 772.15, if desired, but it is unlikely that the name of the company will be kept from public disclosure.

Final § 772.11(b)(3) requires the notice to include a narrative or a map describing the exploration area. In accordance with the May 16, 1980, district court decision, the new final rules neither require the submission of a map of the exploration area nor a description of the legal basis of the right to enter for exploration when 250 tons of coal or less are proposed for removal. These requirements were located Paragraphs (b)(3) and (b)(5), respectively, of previous § 776.11. Both requirements were held to be beyond the authority of the Act in *In re: Permanent Surface Mining Regulation Litigation*, Civil Action No. 79–1144, at 54 (D.D.C. May 16, 1980) at 54.

A commenter noted that under the district court ruling a map may be submitted only as an adjunct to the narrative description.

OSM disagrees. Section 512(a)(1) of the Act requires a description of the exploration area, but does not dictate that the description be a narrative or a map. The court was concerned that OSM was attempting to "convert" the requirement for a description into a requirement for a map. This rule does not do that. A narrative without a map may satisfy the requirement for a description. On the other hand, a map that is sufficiently detailed to describe the exploration area could also suffice without the narrative. Thus, the final rule allows a map to be used as an alternative to a narrative describing the area, but does not require a map.

Final § 772.11(b)(4) requires a statement of the period of intended exploration be included in the notice. No comments were received on this provision and it is adopted as proposed.

Final § 772.11(b)(5) requires the notice of intent to include a description of the method of exploration, including what practices will be followed to protect the environment and to reclaim the area in accordance with the performance standards of 30 CFR Part 815. A requirement to describe the "method of exploration" is added to Paragraph (b)(5) to assist the regulatory authority in determining the potential impacts likely to result from the proposed exploration. Another phrase was also added to clarify that the method and practices used must be in accordance with 30 CFR Part 815.

Section 772.12 Permit requirements for exploration removing more than 250 tons of coal.

Requirements for conducting coal exploration that will remove more than 250 tons of coal were included in previous §§ 776.12, 776.13, and 776.14. Those sections are combined into new final § 772.12, which contains the same basic requirement that any person who plans to conduct such exploration must have the approval of the regulatory authority, in writing, before starting exploration activities. Final § 772.12 also lists the type of information required in an exploration permit application and sets the procedures for public notice of the application, for opportunity to comment, for decisions on exploration applications proposing to remove more than 250 tons of coal, and for decision notifications and review proceedings.

Section 772.12(a)

Final § 772.12(a) requires any person intending to conduct coal exploration operations outside a permit area during which more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under Subchapter F, to obtain, prior to mining, a written approval from the regulatory authority in an exploration permit.

An editorial change in the phrasing was made from the proposal to clarify that the written approval must come from the regulatory authority.

A commenter, who objected to the word "permit" in proposed § 772.12(a) instead of "written approval" on the basis of the legislative history, also stated that the term "permit" would invite needless litigation. OSM notes that section 512 of the Act is entitled "Coal Exploration Permits," and section 512(d) of the Act refers specifically to "an exploration permit." The required permit is a form of written approval to conduct an exploration operation that will remove more than 250 tons of coal and is in keeping with the terminology mentioned above.

One commenter noted that any exploration operation within an area designated as unsuitable for mining must have written approval regardless of whether or not it will remove over 250 tons of coal. OSM agrees and language has been added to final § 772.12(a) which requires that any person planning coal exploration on lands designated as unsuitable for surface mining obtain an exploration permit from the regulatory authority regardless of whether or not it may substantially disturb the land surface or whether 250 tons of coal are

removed. This change is consistent with § 762.14, which requires that such exploration operations receive regulatory authority approval.

Section 772.12(b)

The information that must be supplied in an application for an exploration permit under final § 772.12(b)(1–13) is similar to that proposed and retains some provisions from previous § 776.12(a).

One commenter recommended that the concept of an exploration and reclamation plan of previous § 776.12(a)(3) be retained. The commenter felt this would be in keeping with the structure for a surface mining operation permit and more adequately anticipate and protect the environment.

OSM agrees that certain aspects of previous § 776.12(a)(3) should be included as requirements for a coal exploration permit application in the final rule. OSM disagrees, however, that there is any significance to the label "exploration and reclamation plan" and therefore has not retained this as a "concept" in the final rule.

Previous § 776.12(a)(3)(i) identified specific items that were to be described and cross referenced to the map required by previous § 776.12(a)(5). New Paragraphs (b)(3), (b)(8), and (b)(9) of final §772.12 contain three of those items; other items that appeared in the previous paragraph were repetitious of items normally shown on a map. The final rule is simplified by removing from the narrative description those items that will be adequately described by their inclusion on the map required by final § 772.12(b)(12). Also, information pertaining to important habitats of fish and wildlife is no longer required. The February 26, 1980, district court decision, cited previously, held that such information cannot be required in surface coal mining permit applications. OSM has determined that such information is not necessary and should not be required for an exploration permit application.

Previous § 776.12(a)(3) (ii), (iii), (iv), and (v) correspond to § 773.12(b) (4), (5), (6) and (10) respectively of the final rule. Each of these requirements is discussed in more detail below.

Section 772.12 (b)(1) and (b)(2)

Final § 772.12 (b)(1) and (b)(2), which requires the name, address and telephone number of the applicant and that of the representative responsible for conducting the exploration activities, is adopted as proposed. No comments were received on these provisions.

Section 772.12(b)(3)

Final § 772.12(b)(3) requires an exploration application to include a narrative or map describing the proposed exploration area. The final rule has been revised to allow the description to include either narrative or map descriptions. This change parallels final § 772.11(b)(3) discussed above.

Section 772.12(b)(4)

Final § 772.12(b)(4), adopted as proposed, contains information previously required under § 776.12(a)(3)(ii). It requires a narrative description of the method and equipment to be used to conduct the exploration and reclamation.

One commenter suggested that proposed § 772.12(b)(4) require that the narrative description be specific as to the type of methods and equipment to be used, as was required in previous § 776.12(a)(3)(ii). Such specificity is not necessary in a rule of nationwide applicability. The required narrative description of the methods and equipment will, of necessity, identify the procedures and types of equipment to be used. The regulatory authority may require more specific descriptions if necessary to ensure that exploration will be conducted in accordance with the Act and the regulatory program.

Section 772.12(b)(5)

Final § 772.12(b)(5), adopted as proposed, requires an estimated timetable for conducting and completing each phase of the exploration and reclamation. No comments were received on this provision. It follows previous § 776.12(a)(3)(iii).

Section 772.12(b)(6)

Final § 772.12(b)(6), adopted as proposed, requires an estimate of the amount of coal to be removed and a description of the methods used to determine those amounts. No comments were received on this provision. It follows previous § 776.12(a)(3)(iv).

Section 772.12(b)(7)

Final § 772.12 (b)(7), adopted as proposed, requires that the reason for extracting more than 250 tons of coal be stated in the exploration application. Two commenters supported the requirement, and another commenter questioned the statutory right to require it. Section 512(d) of the Act requires specific written approval of the regulatory authority to remove more than 250 tons. It is important in the regulatory process to know exactly why it is necessary to remove more than 250 tons of coal, in order to prevent mining under the guise of exploration. This is particularly pertinent because of the abbreviated permit approval requirements and the lack of a requirement for a performance bond associated with exploration operations.

Section 772.12(b)(8)

Final § 772.12(b)(8) requires that applications for approval contain a description of cultural and historical resources known to be eligible for listing on the National Register of Historic Places (NRHP), as well as a description of those already listed on the register. Proposed § 772.12(b)(8) did not contain the former requirement.

Proposed § 772.12(b)(8) received several comments, all of which were opposed to the proposed rule, and two of which claimed that the rule would be in violation of the National Historic Preservation Act. OSM does not agree that the proposal was in violation of the National Historic Preservation Act. However, the final rule restores the requirement of previous § 776.12(a)(3)(i) that resources eligible for listing on the NRHP, as well as those already listed, must be described under final § 772.12(b)(8). The provision is slightly modified to require description of only those resources known to be eligible for listing on the Register and is in accordance with the National Historic Preservation Act. Since notices of eligiblity are published in the **Federal Register**, this requirement should not impose an undue burden, yet help ensure that the person conducting exploraton is aware of such sites.

Section 772.12(b)(9)

Final § 772.12(b)(9) requires that a description of any endangered or threatened species identified within the proposed area of exploration be included in the exploration application.

This provision was not proposed, but is included in the final rule from previous § 776.12(a)(3)(i).

Two commenters protested the removal of the requirements of previous § 772.12 (a)(3)(i) and (a)(5), respectively, to describe and show on a map the critical habitats of endangered or threatened species. OSM agrees that such habitats should be identified so that the finding, required by final § 772.12(d)(2)(ii), relating to threatened and endangered species can be made. The district court in February 1980 held that the study and information on habitats of all fish and wildlife was not authorized by the permitting sections for surface coal mining operations. However, the court did not have before it the issue of how the Secretary could implement his responsibilities under the

Endangered Species Act of 1973, 16 U.S.C. 1531 *et seq.* (ESA), with respect to coal exploration. Under the Act and the ESA, OSM has decided to continue to require a description of any identified endangered or threatened species listed under the ESA to be included in the exploration application.

Section 772.12(b)(10)

Final § 772.12(b)(10), proposed as § 772.12(b)(9), is adopted as proposed. It requires a description of the measures to be used to comply with the applicable requirement of Part 815 of this chapter. No comments were received on this provision. It follows previous § 776.12(a)(3)(v).

Section 772.12(b)(11)

Final § 772.12(b)(11), proposed as § 772.12(b)(10), is adopted as proposed. It requires the exploration permit application to include the name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored. No comments were received on this provision. It follows previous § 776.12(a)(4).

Section 772.12(b)(12)

Final § 772.12(b)(12), proposed as § 772.12(b)(11), contains the requirements for a map of the exploration area previously contained in § 776.12(a)(5). Though not proposed, a previous requirement is included in this final provision and it requires that critical habitats of endangered or threatened species be shown on the map. Two commenters objected to the proposed deletion from the map requirements of habitats of endangered or threatened species. Under its authority under the Act and the Endangered Species Act, OSM has decided to include in final § 772.12(b)(12) a requirement that the map of the exploration area show critical habitats of endangered or threatened species as that term is defined under the Endangered Species Act. The final rule also requires the map to show roads, occupied dwellings, bodies of water, pipelines, proposed locations of trenches, access routes, structures, excavations, drill holes and other important locations. Previous provisions requiring the map to show historic and cultural features are deleted because they duplicate provisions of Paragraph (b)(8) which requires a description of such features. The final rule includes, however, a requirement from previous § 776.12(a)(3)(i) to show topographic and drainage features. These features are important in relation to potential impacts and reclamation and are normally included on all maps. Another revision for final § 772.12(b)(12) requires that the map show all "areas of the land to be disturbed." In the proposed and previous rules only those areas to be "substantially disturbed" had to be shown on the map. This revision is to ensure that all areas disturbed by coal exploration activities, that is, areas where vegetation, topsoil, or overburden are removed, are reclaimed in accordance with Part 815.

Section 772.12(b)(13)

Final § 772.12(b)(13), proposed as § 772.12(b)(12), requires that, if the surface is owned by someone other than the applicant, the application include the basis upon which the applicant claims the right to enter the land for exploration and reclamation operation. No comments were received on this provision. It follows previous § 772.12(a)(6).

Section 772.12(c)

Final § 772.12(c)(1–3) is adopted as proposed except for a few minor editorial changes. It provides procedures for public notice and opportunity to comment on exploration applications. Final § 772.12(c)(1) revises the proposal by requiring that the applicant place public notice of the filing of an administratively complete application in a newspaper of general circulation in the county, rather than the "vicinity," in which exploration will take place. This change is discussed later in this preamble.

A commenter claimed that there is no statutory basis for public notice and comment on exploration plans, and recommended deletion of § 772.12(c)(1–3). (12G) The similar issue of public availability of notices of intent was discussed in the preamble to the previous rules. Such notice and availability are authorized under Sections 102, 201(c), 501(b), 512 and 517(f) of the Act, to provide for an adequate level of public participation in the permanent regulatory program.

Under Section 517(f) of the Act, a general rule of public availability is established for information obtained by the regulatory authority in administration of programs under Title V of the Act, including Section 512(a). As such, documents obtained under Section 512(a) of the Act are ordinarily to be made available to the public for inspection and copying under Section 517(f) of the Act. In addition, OSM is required to ensure under Section 102(i) of the Act that adequate provisions are made for public participation in the enforcement of regulatory programs. To foster the purposes of the Act, as supplied by Section 102(8), OSM has decided that public availability of exploration applications received by the regulatory authority is to be required as an aid to public participation in enforcement of the permanent regulatory programs. (See 44 FR 15019)

A commenter who concurred with publication of the notice recommended that the requirement for providing public notice should follow the permit requirements for mining by being more specific as to the timing of the notice and the comment period. OSM disagrees. Final § 772.12(c) ensures adequate opportunity for public review and input into the decision to approve or deny an application for an exploration permit. Because coal exploration generally does not have as adverse an impact on the environment as surface mining, more flexibility can be provided to the regulatory authority to establish the more specific requirements for timing of the notice and comment period.

One commenter proposed that the area of public notice be the county, not the vicinity, of the proposed exploration area. OSM agrees that the term "county" is more definitive an area than "vicinity." While either term would likely result in adequate public notice, OSM has accepted the comment and replaced the term "vicinity" with the term "county" in final § 772.12(c)(1).

Final § 772.12(c)(2), adopted as proposed with minor editorial revisions, requires the public notice to include the name and address of the applicant, filing date, address of the regulatory authority, closing date of the comment period and a description of the proposed exploration area. No comments were received on this provision.

Final § 772.12(c)(3), adopted as proposed with minor editorial revisions, provides that any person having an interest which is or may be adversely affected may file written comments on the application within a reasonable time limit.

A commenter suggested that, for consistency, proposed § 772.12(c)(3) be changed to the same language as that of § 764.13(a), which states that any person having an interest which is or may be adversely affected has the right to petition the regulatory authority, with regard to lands unsuitable for mining. OSM agrees that the suggested language is appropriate because it is similar to that used in the rules on public comments on surface coal mining permits and the final rule is editorially revised to reflect similar language.

A commenter questioned the reference to § 772.11(c) in the preamble

discussion of proposed § 772.12(c), which, because of a typographical error in the section number, stated that a notice of exploration had to be published for exploration removing 250 tons or less. The commenter correctly surmised that the reference should have been to § 772.12(c).

Section 772.12(d)

Proposed § 772.12(d), which is similar to previous § 776.13, remains essentially unchanged in the final rule and continues to set forth the necessary findings and terms for approval of an exploration application where more than 250 tons of coal are to be removed, including compliance with the performance standards of Part 815.

Final § 772.12(d)(1) requires the regulatory authority to act upon an administratively complete application for a coal exploration permit within a reasonable period of time. However, any approval of an exploration permit may only be based upon a complete and accurate application. This final rule differs from the previous and proposed rules which required the regulatory authority to "act upon a complete application * * *." The modifiers "administratively complete" and "complete and accurate" (in final § 772.12 (d)(1) and (d)(2)) are used in referring to applications for coal exploration permits replacing the phrase "complete application" used in the previous and proposed rules. For a complete explanation of these terms see the preamble to the proposed permitting rules (47 FR 27694, June 25, 1982). The phrase "application for coal exploration permit" was added to final § 772.12(d)(1) to clarify what type of application the rule covered. No comments were received on the proposed rule.

Final § 772.12(d)(2) provides that the regulatory authority shall approve a complete and accurate application in accordance with Part 772 if it finds, in writing, that the applicant has demonstrated that three specific conditions listed in § 772.12(d)(2)(i–iii) will be met.

Under the final rule the applicant must demonstrate that the exploration and reclamation described in the application will—(i) be conducted according to 30 CFR Parts 772 and 815 and any other applicable provisions of the regulatory program; (ii) not jeopardize the continued existence of an endangered or threatened species or destroy or adversely modify the critical habitat of those species; and (iii) not adversely affect any cultural or historical resources listed on the National Register of Historic Places, unless the proposed exploration has been approved by both the regulatory authority and the agency with jurisdiction over such matters.

Final § 772.12(d)(2) (i) and (ii) are adopted as proposed. The phrase "districts, sites, buildings, structures, or objects" from the previous and proposed rules is replaced by the more inclusive term "historical resources" without changing the intended meaning of final § 772.12(d)(2)(iii).

A commenter recommended that in § 772.12(d)(2)(iii) on the adverse effects on cultural resources, the final word "matters" be retained from the previous rules rather than the word "resources," because it is broader in scope. OSM agrees and the final word of the provision continues to be "matters."

Final § 772.12(d)(3), adopted as proposed, requires that terms of approval of the application issued by the regulatory authority contain conditions necessary to ensure exploration and reclamation will be done in compliance with 30 CFR Parts 772 and 815 and the regulatory program.

A commenter advocated including a reference to "the Act" in § 772.12 (d)(2)(i), (d)(2)(iii), and (d)(3), as well as the reference to the rules promulgated thereunder. General references to the Act that were in the previous rules are unnecessary. It is implicit in all of the rules that they derive their authority from, and fully implement the provisions of, the Act.

Section 772.12(e)

Final § 772.12(e), similar to previous § 776.14, pertains to the notice of decision on an application and right of review. It is adopted as proposed with a few editorial changes. The previous rule had required that the regulatory authority notify the applicant and appropriate local government officials, in writing, of its decision. As proposed, final § 772.12(e)(1) requires that commenters on the application also be notified in writing of the decision on the application, in keeping with the objective of ensuring public participation. The previous rule had also required that the regulatory authority provide public notice of the decision in a newspaper of general circulation in the vicinity of the exploration area. Although it is important to require a newspaper notice of the filing of an application so that it can be commented on before a decision is made, final § 772.12(e)(1) requires only that a public notice be posted at a public office in the vicinity of the proposed exploration operation once a decision has been made. Because OSM has added all those who commented on the application to the lists of those receiving written notification of the decision (§ 722.12(e)(1)), the placing of the notice of decision in a public office is sufficient to notify other interested persons.

One commenter concurred with proposed § 772.12(e)(1) provided that the written decision of the regulatory authority is to be mailed to the persons who provided comments on the application pursuant to § 772.12(c). Although such notification may often best be accomplished through the mails, the regulatory authority should have the flexibility to use other methods of actual notification, such as hand delivery for example. The final rule states only that the regulatory authority must notify such persons, in writing, of its decision.

Another commenter recommended that notification of a decision should be published rather than posted, because changes resulting from the decision might be of interest to persons who had not commented previously. This recommendation was rejected. Persons who are interested in proposed exploration in an area, even though they submitted no comments, would be aware that the decision will be posted. Requiring that the decision be published would be an unnecessary burden.

A third commenter opposed proposed § 772.21 (e)(1) and (e)(2) on the grounds that there should be no public participation in coal exploration decisions. The comment is rejected, for the reasons stated under the preamble discussion of § 772.12(c). One of the primary objectives of the Act is to include the public in the decision-making process. This also applies to coal exploration.

Final § 772.12(e)(2) provides that any person having an interest which is or may be adversely affected by the decision of the regulatory authority pursuant to Paragraph (e)(1) shall have the opportunity for administrative and judicial review as set forth in 30 CFR Part 775. The language of proposed § 772.12(e)(2) is changed to be consistent with the changes in final § 772.12(c)(3) discussed above. This change is not intended to have any affect on the rights of persons to obtain administrative or judicial review. The proposed incorrect reference to Paragraph (d)(1) is changed to Paragraph (e)(1) which follows previous § 776.14(b). The references in the proposed and previous rules to 30 CFR Part 787 is changed to Part 775 to reflect the redesignation of revised Part 787. No comments were received on the proposed provision.

Section 772.13 Coal exploration compliance duties.

Final § 772.13 is similar to previous § 776.15. Final § 772.13(a) requires any person who conducts coal exploration activities that substantially disturb the natural land surface to comply with the performance standards of 30 CFR Parts 772 and 815, the regulatory program and any exploration permit term or condition imposed by the regulatory authority. Such operations are also subject to the inspection and enforcement provisions of Subchapter L and the regulatory program.

Final § 772.13(a) is the same as the proposed rule except for removal of the phrase "or that remove more than 250 tons of coal" and a few editorial changes. The quoted phrase does not appear in the final rule because it is now an integral part of the definition of the term "substantially disturb" and is therefore redundant. That phrase, and similar phrases used in the proposed rules that referred to more than 250 tons of coal in conjunction with the term "substantially disturbed," are not used in any of the final rules, except in the definition itself.

Final § 772.13(b), adopted as proposed, states that any person conducting coal exploration in violation of the regulations listed in Paragraph (a) is subject to the provisions of Section 518 of the Act, Subchapter L of this chapter and the applicable inspection and enforcement provisions of the regulatory program.

The phrase "or any exploration permit term or condition imposed by the regulatory authority" was added to clarify that if the terms or conditions are violated the operator is subject to the provisions of Section 518 of the Act, Subchapter L and inspection and enforcement provisions of the regulatory program.

One comment on this section was received regarding the omission of the phrase "the Act." OSM's response is the same as that given to the same commenter in the preamble discussion of § 772.12(d)(3).

Section 772.14 Requirements for commercial sale.

Previous § 815.17, setting forth the requirements for commercial sale of coal extracted during exploration operations, is retitled and moved to Part 772 as § 772.14. The substance of the previous section was unchanged in the proposed rule except to clarify that a "surface coal mining and reclamation operations" permit will be needed for the commercial sale of coal extracted during exploration operations and that no such permit is needed if, prior to exploration, the regulatory authority determines the sale is to test coal properties for development of a mining operation for which a permit is to be submitted at a later time. In final § 772.14 the phrase "must obtain" is changed to "shall obtain" for legal clarity and the reference to Part 771 is changed to Parts 773–785 to reflect the new organization of the permitting rules.

Three other commenters suggested changes in the wording of the phrase "is to be submitted at a later time." They felt the requirement to submit a permit application should be optional, based on results of the testing and whether or not it would be worthwhile to submit a permit application, rather than mandatory, based on the fact of commercial sales. Although it is possible that unsatisfactory test results of some marginal coal deposits, or changing economic conditions, might cause abandonment of plans for mining coal in an area, the large majority of exploration operations that remove more then 250 tons of coal will follow up with a full mining operation. The operator must show an intent to mine the area at a later date. It is not intended to require that a permit application be submitted at a later date if the testing shows that the mine would be uneconomical.

A commenter claimed that there is no statutory basis for the first sentence of the proposed section and that some coal removed during exploration may be disposed of by placing it in a stockpile. The commenter said that eventual use of the coal has no environmental significance, and that what is important is how much coal is removed and the extent of the damage to the environment. Section 506(a) of the Act states that a permit is required to engage in surface coal mining operations. Surface coal mining operations, by definition in Section 701(28) of the Act, are activities whose products "enter commerce." Final § 772.14 recognizes a difference between exploration operations and mining operations and is in accordance with Sections 512 and 701 of the Act. The comment is therefore not accepted.

One commenter was confused as to why coal would be sold if it was to be used for testing purposes. Users, the commenter asserted, generally do not pay for "test burns." The commenter said if the sample load is so large it is paid for, then a permit should be required anyway. The commenter feared the provision would be abused by operators who negotiate purchase agreements with buyers of coal providing in those agreements for testing of the coal in order to fit within the exception.

OSM agrees that it is common for larger operators to provide test loads to users rather than to charge for such tests. However, this is not necessarily always the case and thus the language of final § 772.14 allows a regulatory authority to distinguish between those situations where coal is sold in interstate commerce as part of a surface coal mining and reclamation operation, and those situations where, although the coal is sold, the objective is testing of the coal as part of coal exploration. OSM agrees that care should be taken so that this provision is not abused.

Section 772.15 Public availability of information.

Final § 772.15, adopted as proposed, follows previous § 776.17. Under this final rule, all information submitted to the regulatory authority is to be made available to the public, unless it is confidential. Trade secrets and other confidential information are to be kept confidential only if requested by the applicant. The final rule differs from the previous rule by making some editorial changes and allowing information requested to be held confidential to be kept confidential if it meets criteria for confidentiality until after opportunity to be heard is afforded persons both seeking and opposing disclosure.

One commenter concurred with the rule, provided that confidentiality applies only to trade secrets or privileged commercial or financial information. The commenter was concerned that justification of confidentiality might be broadened by the wording of the rule. That was not OSM's intent in simplifying the structure of this section.

A commenter wanted it made clear that Paragraph (a) of this section would also apply to written notices of intent to explore where 250 tons or less would be removed.

Final § 772.15 applies to any information submitted to the regulatory authority under Part 772. That requirement, which was in previous § 776.11(d), is not repeated in final § 772.11 because it would be duplicative.

A commenter was concerned that the rule would imply that all information will eventually be released after the hearing. The commenter misunderstood the intent of the rule, which states that information will not be made available until persons seeking and opposing the disclosure of the information have had an opportunity to be heard. The rule does not state that the information will be made available after the hearing. If it

is determined after the hearing that the information should be treated as confidential, the information cannot be made public until such time as the applicant authorizes its disclosure.

Part 815—Permanent Program Performance Standards—Coal Exploration

Section 815.1 Scope and purpose.

Final § 815.1 states that this part sets forth the performance standards required if the land is to be substantially disturbed by coal exploration. The final rule also clarifies that the regulatory authority may require coal exploration operations to comply with applicable standards of Parts 816–828, as well as the requirements of Part 815.

Previous §§ 815.2 and 815.11, which has set the objectives, and general responsibilities of the part, are removed in the final rules, for the same reasons that previous §§ 776.2 and 776.3 were not included in final § 772.1. In addition, the language in final § 815.1 describing the scope and purpose of Part 815 is shortened without changing the legal effect.

One commenter expressed concern that removal of the proviso in previous § 815.1 that the regulatory authority may impose additional performance standards "threatens to transform 'floor' standards into a 'ceiling' beyond which State programs cannot go." OSM disagrees. The deleted portion mentioned by the commenter is unnecessary. Under Section 505 of the Act, a regulatory authority may always prescribe additional requirements. However, OSM agrees that there may be some benefit to referencing Parts 816–828 in § 815.1 to ensure the requirements of Section 512(a)(2) of the Act to reclaim all disturbed lands in accordance with the standards of Section 515 of the Act are met in all cases. Thus, the final rule specifies that regulatory authorities may impose further reclamation standards if it is determined that these minimum standards are inadequate to ensure proper reclamation under particular local conditions.

Section 815.13 Required documents.

Previous § 815.13 required that while persons are conducting coal exploration that would substantially disturb the land surface and would remove more than 250 tons of coal, the written approval of the regulatory authority must be available for review by authorized representatives of the regulatory authority. Final § 815.13 requires the person conducting the exploration to have either the notice of intention to explore or the coal exploration permit available for review by the representative of the regulatory authority upon request. Both the previous and proposed rule had included the phrase "including exploration which removes more than 250 tons of coal," to describe an additional situation when the documents would be required. This phrase is unnecessary with the change to the rule replacing "written approvals" with the specific documents. The notice of intention should be available for those exploration operations removing less than 250 tons of coal and substantially disturbing the land, as well as the exploration permit for those removing more than 250 tons of coal.

Final § 815.13 has been rephrased to clarify that only copies of the official documents must be available, not the originals. In the case of notices of intent, it must be a copy of the actual notice that was filed.

One commenter stated that it is unnecessary for an exploration crew to have a copy of the notice already in the possession of the regulatory authority and that this section should be deleted in its entirety. Reclamation according to the exploration performance standards is mandatory if an operation substantially disturbs the land surface. Under §§ 840.11(c) and 772.13(b), exploration operations are subject to inspection and monitoring for compliance. A filed notice, or an exploration permit, is a document that an inspector must have in order to properly evaluate the site. The onsite copies of notices or permits are necessary so that exploration crews will be aware of their responsibilities and so that inspectors will have the correct information on the exploration activities at the site for reference.

Section 815.15 Performance standards.

The performance standards for exploration that substantially disturbs the land surface are specified in final § 815.15. The introductory paragraph of this section in the proposed rules was repetitious of final § 815.1 and is removed in the final rules.

Section 815.15(a)

Final § 815.15(a), as proposed, set forth the protection for fish, wildlife, and other related environmental values by specifying habitats that cannot be disturbed during exploration. This was done for clarity, eliminating the need for reference to the provisions of the permit application, as in previous § 815.15(a). The final rule describes two types of habitats. Critical habitats of threatened or endangered species identified under the Endangered Species Act must not be disturbed by the coal exploration operations. Under the Endangered Species Act such critical habitats may not be destroyed or adversely modified except as provided in that statute. The proposed phrase "protected by State or Federal law" is not included in the final rule as it is replaced by the Endangered Species Act which specifies those Federal laws involved and the regulatory authority may specify any State law that is applicable. In addition, habitats of unique or unusually high value for fish and wildlife and related environmental values must not be disturbed by the exploration. No comments were received on this section.

Previous § 815.15(b), which required operators to "measure important environmental characteristics of the exploration area during the operations," is removed as proposed because of its vagueness. A request to collect and measure such information could be imposed by the regulatory authority in specific instances if deemed necessary to ensure compliance with any of the performance standards which require protection of important environmental characteristics during coal exploration.

The lack of specificity of previous § 815.15(b) was remarked on by a commenter who was in agreement with OSM's proposed removal. The commenter further remarked that the rule would have been unnecessarily burdensome because much of the land upon which exploration is conducted is not mined.

Commenters who objected to this revision maintained that this action, coupled with the proposed changes in § 815.1, would absolve the operator from seeking environmental information. One commenter said it is essential to mitigation of environmental harm that the operator catalog and monitor the environmental values of the exploration area. Another said it would seem difficult for the operator to determine if environmental damage is minimized without making some assesment of the environment. OSM agrees that there may be circumstances where operational monitoring or data collection is appropriate with a coal exploration operation to ensure that the requirements of the performance standards will be met. However, coal exploration generally does not have as large scale or as adverse an impact on the environment as surface mining. Therefore, such an across the board requirement is unnecessary in a rule of nationwide applicability. Under the final rule, the regulatory authority is provided discretion to impose any monitoring requirements that may be necessary.

Section 815.15(b)

Final § 815.15(b), adopted as proposed, sets performance standards for roads used in coal exploration. The final rule also includes reference to OSM's revised roads rules which were published on May 16, 1983 (48 FR 22110).

One commenter thought that it was improper to refer in proposed rules to the specifics of other rules that are not yet final. OSM disagrees that the reference to the proposed roads rules was improper. In the interest of clarity and providing the public with the best notice of contemplated changes to rules, referring to other proposed rules was appropriate when changes were being proposed concurrently.

Another commenter supported the addition of an ancillary-road category to encompass roads used only for a brief period, as is frequently the case in coal exploration. A third commenter maintained that it would be inefficient and environmentally unsound to require roads to be removed and the land otherwise restored to its original condition if the area was to be redisturbed by future mining operations. OSM rejects this comment because many factors can delay the start of mining operations for months, years, or indefinitely, during which time environmental damage could occur.

The final regulatory language is simplified from the proposed rule and requires that all roads, including ancillary roads, meet the general performance standards for all roads in § 816.150 and requires that primary roads meet additional standards in § 816.151. The phrase "or other transportation facilities" is added to final § 815.15(b) as is the reference to §§ 816.180 and 816.181 to cover any "other transportation facilities" used in the exploration operation besides roads. See proposed rule in 47 FR 16599, April 16, 1982 and the final §§ 816.180 and 816.181 in 48 FR 20401, May 5, 1983.

Section 815.15(c)

Final § 815.15(c), adopted as proposed, repeats previous § 815.15(d) in requiring prompt restoration of the approximate original contour after artificial topographical features created by exploration are no longer needed for the exploration.

One commenter maintained that it would be inefficient and environmentally unsound to require the reclamation performance standards of § 815.15(c–g) be met if the area is to be redisturbed by future mining operations. OSM disagrees. Mining operations can be unexpectedly delayed for months, years, or indefinitely, during which time damage to the environment could occur.

Section 815.15(d)

Final § 815.15(d), adopted as proposed with slight editorial revisions, follows previous § 815.15(e) in requiring topsoil removal, storage, and redistribution to assure successful revegetation or as required by the regulatory authority.

A commenter pointed out that the term "disturbed area" is defined in § 701.5 only in terms of surface coal mining operations and that those disturbed areas require bonding. The commenter was correct, and consequently the phrase "disturbed areas" will be replaced wherever it occurs in these coal exploration rules by the phrase "areas disturbed by coal exploration activities." The intent, however, is unchanged and the terms still refer to areas where vegetation, topsoil or overburden are removed.

The requirement that topsoil be separately removed is added to final § 815.15(d) to be consistent with Section 515(b)(5) of the Act and to ensure that the integrity and qualities of the topsoil are maintained.

Section 815.15(e)

Final § 815.15(e), adopted as proposed with only an editorial change, requires all areas disturbed by coal exploration activities to be revegetated so as to encourage prompt revegetation and recovery of a diverse, effective and permanent cover. Additional performance standards are listed in Paragraphs (e)(1) and (e)(2). The separate references in previous § 815.15(f)(1) to preexploration and postexploration use of intensive-agriculture land are removed, as proposed, to reflect that exploration activities are not expected to change land uses.

In addition, in final Paragraphs (e) and (e)(1) the phrases "disturbed areas" and "disturbed lands" are replaced by the phrase "areas disturbed by coal exploration activities" for the reasons given in the preamble discussion of § 815.15(d).

A commenter maintained that proposed § 815.15(e) should specify that the person conducting the exploration is responsible for revegetating areas disturbed, so that legal responsibility would be specified. OSM rejects the comment. Persons conducting exploration are responsible for observing *all* of the rules, and to add that wording to this paragraph is unnecessary.

Final § 815.15(e)(1), adopted as proposed with the editorial change discussed, requires that all areas disturbed by coal exploration activities be seeded and planted to the same seasonal variety native to the area disturbed. If the land use of the area is intensive agriculture, the planting of crops normally grown will meet the provision of this paragraph. One commenter claimed that the rule is vague and subject to abuse because the planting of crops where the land use had not been agriculture might be used to avoid responsibility for proper revegetation. The intent and language of final § 815.15(e)(1) is clear and not subject to abuse. If the land use had not been agriculture prior to exploration, then the condition that the "land use of the exploration area is intensive agriculture" would not be met and planting crops would not be allowed. There is no need to change the language.

Two commenters recommended that for exploration in forested areas an exception be granted to § 815.15(e)(1), which requires that areas disturbed by exploration activities must be revegetated with a plant variety that is native to the area of exploration. Their reasoning was that reforestation would be prohibitively expensive and that grasses and other low cover are often a better alternative. OSM disagrees. Section 815.15(e)(1) does not specifically require reforestation. A variety of plant species may meet the requirements of Paragraphs (e)(1) and (e)(2), including grasses and legumes. This will be determined by the regulatory authority.

Final § 815.15(e)(2) is adopted as proposed with one editorial change to clarify that the surface is to be stabilized "from" erosion rather than "in regards to" erosion.

Section 815.15(f)

Final § 815.15(f) allows diversion of streams, as well as the diversion of overland flow, in contrast to previous § 815.15(g), which prohibited diversion of ephemeral, intermittent, or perennial streams with the exception of small and temporary diversions of overland flow of water around new roads, drill pads, and support facilities. Such diversions shall be made in accordance with the performance standards for such diversions in § 816.43. The design criteria for perennial and intermittent stream diversions specified in previous § 815.15(g) are not specified in the final rule, so as to allow flexibility in meeting the exploration performance standards. Proposed Paragraphs (f)(1) and (f)(2) are combined in the final rules and the appropriate reference change has been made to reflect the new organization of the hydrology rules.

A commenter was concerned that this proposed provision did not reference all of §§ 816.43 and 816.44 and §§ 817.43 and 817.44. Previous § 816.44 is to be combined in § 816.43, and consequently proposed §§ 815.15 (f)(1) and (f)(2) may be combined and reference new final § 816.43 in its entirety. There is no need to refer to the performance standards for underground mines in Part 817 because exploration is conducted on the surface. There are no distinct differences between the surface effects of exploring prior to underground mining and prior to surface mining sufficient to require different performance standards. Reference to one set of standards is less confusing and accomplishes the required reclamation.

Another commenter stated that OSM's proposed rule would allow more flexibility in meeting the performance standards. OSM agrees and adopts the rule essentially as it was proposed with the appropriate reference changes.

Section 815.15(g)

Final § 815.15(g), adopted as proposed, requires the casing and sealing of exploration holes, boreholes, wells or other exposed underground openings created during exploration in accordance with §§ 816.13–816.15. No specific comments were received on this provision. It is unchanged from previous § 815.15(h).

Section 815.15(h)

Final § 815.15(h), adopted as proposed with some editorial changes, requires prompt removal of facilities and equipment no longer needed for exploration, but allows them to remain if the regulatory authority determines they are needed for the purposes listed in Paragraph (h)(1–3). The final rule is relatively unchanged from previous § 815.15(i) except for deletion of the superfluous word "quality" in the phrase "environmental quality data" from Paragaph (h)(1). The phrase "under an approved permit" in proposed § 815.15(h)(3) and previous § 815.15(i)(3) is not included in the final rule because it is redundant. The phrase "on- and offsite" is corrected to read "onsite and offsite." These editorial changes do not affect the meaning of the provisions. No comments were received on this provision.

Section 815.15(i)

Final § 815.15(i), adopted as proposed, requires that exploration be conducted in a manner that minimizes disturbance of the prevailing hydrologic balance by complying with the hydrologic balance performance standards of §§ 816.41–816.49, including the use of sediment-control measures. It also provides that the regulatory authority may specify additional measures which must be adopted by the person engaged in coal exploration. Both requirements were in previous § 815.15(j). No comments were received on this provision.

Section 815.15(j)

Final § 815.15(j), adopted as proposed with some editorial changes, requires that acid- and toxic-forming materials be handled and disposed of in accordance with hydrologic-balance protection and backfilling and grading standards. The allowance in previous § 815.15(k) for regulatory authority specification of additional measures is also included in final § 815.15(j). The appropriate change in references was done to reflect the new organization of the hydrology and backfilling and grading rules. No comments were received on this provision.

Reference Materials.

The reference materials used to develop these final rules are the same as those listed in the previous rules (44 FR 15017–15021 and 1526–15136).

Cross-referencing

This final rule references certain of OSM's regulatory revisions that have not yet been finalized. An approximate picture of those final rules that have not been finalized is set forth in Volume III of the FEIS. To the extent the rules referenced in this final rule are not adopted, or are adopted with different section numbers, a conforming amendment will be issued.

III. Procedural Matters

National Environmental Policy Act

OSM has analyzed the impacts of these final rules in the "Final Environmental Impact Statement OSM EIS–1: Supplement" (FEIS) according to Section 102(2)(c) of the National Environmental Policy Act of 1969 (NEPA) [42 U.S.C. 4332(2)(c)]. This FEIS is available in OSM's Administrative Record in Room 5315, 1100 L Street, N.W., Washington, D.C., or by mail request to Mark Boster, Chief, Branch of Environmental Analysis, Room 134, Interior South Building, U.S. Department of the Interior, Washington, D.C. 20240. This preamble serves as the record of decision under NEPA. Although there have been a number of editorial changes and clarifications, in general, these final rules were analyzed as the preferred alternative A in the FEIS.

The following substantive changes are noted between these final rules and the FEIS preferred alternative.

1. The scope of Part 772 has been broadened to encompass those Federal lands for which BLM does not regulate exploration. This is more environmentally protective than the preferred alternative.

2. Exploration on lands designated as unsuitable for mining requires approval of the regulatory authority under § 772.12 rather than just the filing of a notice of intent under § 772.11. This change has no environmental effect because such approval was already required under existing § 762.14.

3. Under § 772.11 and § 772.12, a map may be submitted instead of a narrative description. This will have no environmental effect because the map has to be sufficiently detailed to replace the narrative.

4. The map required under § 772.12(b)(10) must show location of critical habitats of listed endangered or threatened species. This is more protective than the FEIS preferred alternative.

5. Final § 815.1 expressly provides regulatory authorities with discretion to impose additional performance standards. This is not expected to have any environmental effect.

6. Final § 815.15(a) does not allow disturbance of habitats of unique or unusally high value for fish, wildlife or other related environmental values. This is more environmentally protective than the FEIS preferred alternative and consistent with FEIS alternatives B and C.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior (DOI) has determined, according to the criteria of Executive Order 12291, February 17, 1981, that this document is not a major rule and does not require a regulatory impact analysis. These rules have also been examined pursuant to the Regulatory Flexibility Act, 5 U.S.C., 601 *et seq.*, and OSM has certified that these rules do not have significant economic impact on a substantial number of small entities. The rules are expected to ease the regulatory burden on small coal operators proposing to remove 250 tons of coal or less in their exploration activities by requiring regulatory programs to require notices of intent only when their exploration activities may substantially disturb the natural land surface. Previously, all persons who conducted exploration activities were required to file a notice of intent to explore. The rules also reduce the types of information that will have to accompany each permit application.

Federal Paperwork Reduction Act

The information collection requirements in Part 772 have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507 and assigned clearance number 1029–0033. This approval is codified under § 772.10. The information required by Part 772 is being collected to meet the requirements of Section 512(a) of the Act, which provides that coal exploration operations which substantially disturb the natural land surface be conducted in accordance with exploration rules. This information will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed exploration operation during the permanent regulatory program. The obligation to respond is mandatory.

There are no information collection requirements in Part 815. This rulemaking does not add any information collection requirements to Parts 700 or 701.

List of Subjects

30 CFR Part 700

Administrative practice and procedure, Coal mining, Surface mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 701

Coal mining, Law enforcement, Surface mining, Underground mining.

30 CFR Part 772

Coal mining, Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 776

Reporting and recordkeeping requirements, Surface mining, Underground mining.

30 CFR Part 815

Coal mining, Surface mining

Accordingly, 30 CFR Parts 700, 701, 772, 776, and 815 are amended as set forth herein.

Dated: September 6, 1983.

William P. Pendley,

Deputy Assistant Secretary, Energy and Minerals.

PART 700—GENERAL

1. Section 700.11 is amended by revising paragraph (a)(6) and by removing paragraph (g) as follows:

§ 700.11 Applicability.

(a) * * *

(6) Coal exploration on lands subject to the requirement of Part 211 of this title.

* * * * *

PART 701—PERMANENT REGULATORY PROGRAM

2. Section 701.5 is amended by revising the definition of the term "substantially disturb" to read as follows:

§ 701.5 Definition.

* * * * *

Substantially disturb means, for purposes of coal exploration, to significantly impact land or water resources by blasting; by removal of vegetation, topsoil, or overburden; by construction of roads or other access routes; by placement of excavated earth or waste material on the natural land surface or by other such activities; or to remove more than 250 tons of coal.

* * * * *

(Pub. L. 95–87, 30 U.S.C. 1201 *et seq.)*

3. Part 772 is added to read as follows:

PART 772—REQUIREMENTS FOR COAL EXPLORATION

Sec.

772.1 Scope and purpose.
772.10 Information collection.
772.11 Notice requirements for exploration removing 250 tons of coal or less.
772.12 Permit requirements for exploration removing more than 250 tons of coal.
772.13 Coal exploration compliance duties.
772.14 Requirements for commercial sale.
772.15 Public availability of information.

Authority: Pub. L. 95–87, 30 U.S.C. 1201 *et seq.*

§ 772.1 Scope and purpose.

This part establishes the requirements and procedures applicable to coal exploration operations on all lands except for Federal lands subject to the requirements of 30 CFR Part 211.

§ 772.10 Information collection.

The information collection requirements contained in Part 772 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1029—0033. The information is to be collected to meet the requirements of section 512(a) of the Act, which requires that coal exploration operations that substantially disturb the natural land surface be conducted in accordance with exploration rules. This information will be used to give the regulatory authority a sufficient baseline upon which to assess the impact of the proposed exploration operation during the permanent regulatory program. The obligation to respond is mandatory.

§ 772.11 Notice requirements for exploration removing 250 tons of coal or less.

(a) Any person who intends to conduct coal exploration operations outside a permit area during which 250 tons or less of coal will be removed and which may substantially disturb the natural land surface, shall, before conducting the exploration, file with the regulatory authority a written notice of intention to explore.

(b) The notice shall include—

(1) The name, address, and telephone number of the person seeking to explore;

(2) The name, address, and telephone number of the person's representative who will be present at, and responsible for, conducting the exploration activities;

(3) A narrative or map describing the exploration area;

(4) A statement of the period of intended exploration; and

(5) A description of the method of exploration to be used and the practices that will be followed to protect the environment and to reclaim the area from adverse impacts of the exploration activities in accordance with the applicable requirements of Part 815 of this chapter.

§ 772.12 Permit requirements for exploration removing more than 250 tons of coal.

(a) *Exploration permit.* Any person who intends to conduct coal exploration outside a permit area during which more than 250 tons of coal will be removed or which will take place on lands designated as unsuitable for surface mining under Subchapter F of this chapter shall, before conducting the exploration, submit an application and obtain written approval from the regulatory authority in an exploration permit.

(b) *Application information.* Each application for an exploration permit shall contain, at a minimum, the following information:

(1) The name, address, and telephone number of the applicant.

(2) The name, address and telephone number of the applicant's representative who will be present at, and responsible for, conducting the exploration activities.

(3) A narrative or map describing the proposed exploration area.

(4) A narrative description of the methods and equipment to be used to conduct the exploration and reclamation.

(5) An estimated timetable for conducting and completing each phase of the exploration and reclamation.

(6) The estimated amount of coal to be removed and a description of the methods to be used to determine the amount.

(7) A statement of why extraction of more than 250 tons of coal is necessary for exploration.

(8) A description of—

(i) Cultural or historical resources listed on the National Register of Historic Places;

(ii) Cultural or historical resources known to be eligible for listing on the National Register of Historic Places; and

(iii) Known archeological resources located within the proposed exploration area.

(9) A description of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) identified within the proposed exploration area.

(10) A description of the measures to be used to comply with the applicable requirements of Part 815 of this chapter.

(11) The name and address of the owner of record of the surface land and of the subsurface mineral estate of the area to be explored.

(12) A map or maps at a scale of 1:24,000, or larger, showing the areas of land to be disturbed by the proposed exploration and reclamation. The map shall specifically show existing roads, occupied dwellings, topographic and drainage features, bodies of surface water, and pipelines; proposed locations of trenches, roads, and other access routes and structures to be constructed; the location of proposed land excavations; the location of exploration holes or other drill holes or underground openings; the location of excavated earth or waste-material disposal areas; and the location of critical habitats of any endangered or threatened species listed pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

(13) If the surface is owned by a person other than the applicant, a description of the basis upon which the applicant claims the right to enter that land for the purpose of conducting exploration and reclamation.

(c) *Public notice and opportuntiy to comment.* Public notice of the application and opportuntiy to comment shall be provided as follows:

(1) Within such time as the regulatory authority may designate, the applicant shall provide public notice of the filing of an administratively complete application with the regulatory authority in a newspaper of general circulation in the county of the proposed exploration area.

(2) The public notice shall state the name and address of the person seeking approval, the filing date of the application, the address of the regulatory authority where written comments on the application may be submitted, the closing date of the comment period, and a description of the area of exploration.

(3) Any person having an interest which is or may be adversely affected shall have the right to file written comments on the application within reasonable time limits.

(d) *Decisions on applications for exploration removing more than 250 tons of coal.*

(1) The regulatory authority shall act upon an administratively complete application for a coal exploration permit and any written comments within a reasonable period of time. The approval of a coal exploration permit may be based only on a complete and accurate application.

(2) The regulatory authority shall approve a complete and accurate application for a coal exploration permit filed in accordance with this part if it finds, in writing, that the applicant has demonstrated that the exploration and reclamation described in the application will—

(i) Be conducted in accordance with this part, Part 815 of this chapter, and the applicable provisions of the regulatory program;

(ii) Not jeopardize the continued existence of an endangered or threatened species listed pursuant to Section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) or result in the destruction or adverse modification of critical habitat of those species; and

(iii) Not adversely affect any cultural or historical resources listed on the National Register of Historic Places, pursuant to the National Historic Preservation Act, as amended (16 U.S.C. Sec. 470 *et seq.*, 1976, Supp. V), unless the proposed exploration has been approved by both the regulatory authority and the agency with jurisdiction over such matters.

(3) Terms of approval issued by the regulatory authority shall contain conditions necessary to ensure that the exploration and reclamation will be conducted in compliance with this part, Part 815 of this chapter, and the regulatory program.

(e) *Notice and hearing.* (1) The regulatory authority shall notify the applicant, the appropriate local government officials, and other commenters on the application, in writing, of its decision on the application. If the application is disapproved, the notice to the applicant shall include a statement of the reason for disapproval. Public notice of the decision on each application shall be posted by the regulatory authority at a public office in the vicinity of the proposed exploration operations.

(2) Any person having an interest which is or may be adversely affected by a decision of the regulatory authority pursuant to paragraph (e)(1) of this section shall have the opportunity for administrative and judicial review as set forth in Part 775 of this chapter.

§ 772.13 Coal exploration compliance duties.

(a) All coal exploration and reclamation activities that substantially disturb the natural land surface shall be conducted in accordance with the coal exploration requirements of this part, Part 815 of this chapter, the regulatory program, and any exploration permit term or condition imposed by the regulatory authority.

(b) Any person who conducts any coal exploration in violation of the provisions of this part, Part 815 of this chapter, the regulatory program, or any exploration permit term or condition imposed by the regulatory authority shall be subject to the provisions of Section 518 of the Act, Subchapter L of this chapter, and the applicable inspection and enforcement provisions of the regulatory program.

§ 772.14 Requirements for commercial sale.

Any person who extracts coal for commercial sale during coal exploration operations shall obtain a surface coal mining and reclamation operations permit for those operations from the regulatory authority under Parts 773–785 of this chapter. No surface coal mining and reclamation operations permit is required if the regulatory authority makes a prior determination that the sale is to test for coal properties necessary for the development of surface coal mining and reclamation operations for which a permit application is to be submitted at a later time.

§ 772.15 Public availability of information.

(a) Except as provided in paragraph (b) of this section, all information submitted to the regulatory authority under this part shall be made available for public inspection and copying at the local offices of the regulatory authority closest to the exploration area.

(b) The regulatory authority shall keep information confidential if the person submitting it requests in writing, at the time of submission, that it be kept

confidential and the information concerns trade secrets or is privileged commercial or financial information relating to the competitive rights of the persons intending to conduct coal exploration.

(c) Information requested to be held as confidential under paragraph (b) of this section shall not be made publicly available until after notice and opportunity to be heard is afforded persons both seeking and opposing disclosure of the information.

PART 776—GENERAL REQUIREMENTS FOR COAL EXPLORATION—[REMOVED]

4. 30 CFR Chapter VII is amended by removing Part 776.

(Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*)

5. Part 815 is revised to read as follows:

PART 815—PERMANENT PROGRAM PERFORMANCE STANDARDS—COAL EXPLORATION

Sec.
815.1 Scope and purpose.
815.13 Required documents.
815.15 Performance standards for coal exploration.

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

§ 815.1 Scope and purpose.

This part sets forth performance standards required for coal exploration which substantially disturbs the natural land surface. At the discretion of the regulatory authority, coal exploration operations may be further required to comply with the applicable standards of 30 CFR Parts 816–828.

§ 815.13 Required documents.

Each person who conducts coal exploration which substantially disturbs the natural land surface shall, while in the exploration area, have available a copy of the filed notice of intention to explore or a copy of the exploration permit for review by the authorized representative of the regulatory authority upon request.

§ 815.15 Performance standards for coal exploration.

(a) Habitats of unique or unusually high value for fish, wildlife, and other related environmental values and critical habitats of threatened or endangered species identified pursuant to the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) shall not be disturbed during coal exploration.

(b) All roads or other transportation facilities used for coal exploration shall comply with the applicable provisions of §§ 816.150, 816.151, 816.180 and 816.181 of this chapter.

(c) If excavations, artificially flat areas, or embankments are created during exploration, these areas shall be returned to the approximate original contour promptly after such features are no longer needed for coal exploration.

(d) Topsoil shall be separately removed, stored, and redistributed on areas disturbed by coal exploration activities as necessary to assure successful revegetation or as required by the regulatory authority.

(e) All areas disturbed by coal exploration activities shall be revegetated in a manner that encourages prompt revegetation and recovery of a diverse, effective, and permanent vegetative cover. Revegetation shall be accomplished in accordance with the following:

(1) All areas disturbed by coal exploration activities shall be seeded or planted to the same seasonal variety native to the areas disturbed. If the land use of the exploration area is intensive agriculture, planting of the crops normally grown will meet the requirements of this paragraph.

(2) The vegetative cover shall be capable of stabilizing the soil surface from erosion.

(f) Diversions of overland flows and ephemeral, perennial, or intermittent streams shall be made in accordance with § 816.43 of this chapter.

(g) Each exploration hole, borehole, well, or other exposed underground opening created during exploration shall be reclaimed in accordance with §§ 816.13–816.15, of this chapter.

(h) All facilities and equipment shall be promptly removed from the exploration area when they are no longer needed for exploration, except for those facilities and equipment that the regulatory authority determines may remain to—

(1) Provide additional environmental data,

(2) Reduce or control the onsite and offsite effects of the exploration activities, or

(3) Facilitate future surface mining and reclamation operations by the person conducting the exploration.

(i) Coal exploration shall be conducted in a manner which minimizes disturbance of the prevailing hydrologic balance in accordance with §§ 816.41–816.49 of this chapter. The regulatory authority may specify additional measures which shall be adopted by the person engaged in coal exploration.

(j) Acid- or toxic-forming materials shall be handled and disposed of in accordance with §§ 816.41(b), 816.41(f), and 816.102(e) of this chapter. The regulatory authority may specify additional measures which shall be adopted by the person engaged in coal exploration.

[FR Doc. 83-24441 Filed 9-7-83; 8:45 am]
BILLING CODE 4310-05-M

federal register

Thursday
September 8, 1983

Part IV

Department of Agriculture

Agriculture Stabilization and Conservation Service

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

DEPARTMENT OF AGRICULTURE

Agriculture Stabilization and Conservation Service

7 CFR Part 725

Flue-Cured Tobacco Acreage Allotment and Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule with certain amendments the interim rule published in the **Federal Register** on December 17, 1982 (47 FR 56473). The amendments consist of technical revisions and a provision allowing the new owner of a farm to which flue-cured tobacco allotment and quota has been assigned to be considered as either the successor-in-interest to the previous owner of the farm or the buyer of the allotment and quota.

In addition, the proposed rule published in the **Federal Register** on April 22, 1983 (48 FR 17532) is adopted as final rule with one amendment with respect to the percentage or gross income which an owner of a flue-cured tobacco acreage allotment and marketing quota must derive from the management or use of land for agricultural purposes in order to retain such allotment and quota. The amendment reduces such percentage from 50 percent to 20 percent.

DATE: Effective September 8, 1983.

ADDRESS: Copies of the Final Regulatory Flexibility Impact Analysis and the Final Regulatory Impact Analysis may be obtained from the Director, Analysis Division, Room 3714 South Building, Fourteenth Street and Independence Avenue, SW., P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agriculture Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "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 geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises, to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 725) have been approved by the Office of Management and Budget in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560–0058 and 0560–0117.

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

While the Regulatory Flexibility Act is not applicable to this rule, a Final Regulatory Flexibility Impact Analysis has been prepared with a Final Regulatory Impact Analysis. Since this action may have a significant economic impact on a substantial number of small entities, the impact analysis addresses the issues required in section 603 of that Act.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

An interim rule was published in the **Federal Register** on December 17, 1982, (47 FR 56473) which amended 7 CFR Part 725 to set forth rules relating to the sale or forfeiture of flue-cured tobacco allotments and quotas. The interim rule provided for restrictions on lease and transfer of allotments and quotas and provided for adjustment of farm yields and acreage allotments. In addition, the interim rule provided for restrictions with respect to the marketing of tobacco by producers, warehousemen, and dealers. A proposed rule was published in the **Federal Register** on April 22, 1983 (48 FR 17532) which contained provisions with respect to the forfeiture of allotment and quota established for farms owned by persons, other than individuals, which are not significantly involved in the management or use of land for agricultural purposes.

Statutory Authority

This rule is necessary to implement amendments to the Agricultural Adjustment Act of 1938, as amended (the Act), which were made by the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218). The amendments provided for: (1) Changes with respect to the lease and transfer of flue-cured tobacco allotment and quota; (2) the sale of flue-cured tobacco allotment and quota; (3) forfeiture of flue-cured tobacco allotment and quota under certain conditions; (4) reallocation of forfeited allotment and quota; (5) periodic adjustment of flue-cured tobacco yields; (6) limitations on the amount of floor sweepings which may be marketed without penalty by a warehouseman; (7) a lien on tobacco as a mechanism for collecting marketing quota penalties; and (8) other changes to strengthen the operation of the tobacco price support and production adjustment programs.

Interim Rule

No comments were received in response to the interim rule which was published in the **Federal Register** on December 17, 1982 (47 FR 56473). Accordingly, the provisions of the interim rule have been adopted as a final rule with the following changes.

Amendments to the table of contents for 7 CFR Part 725 and to §§ 725.99 and 725.109 have been made to reflect the change of the name of the Kansas City Field Office (KCFO) to the Kansas City Management Office (KCMO).

Sections 725.72(m) and 725.74(f)(1)(x) are amended to correct typographical errors.

A new section has been added with respect to reporting requirements of the Paperwork Reduction Act. The table of contents has been amended to reflect this addition.

Section 725.74(d)(2) has been amended to include the phrase "for the production of tobacco" to clarify that the term "utilize" for purposes of this section does not include the sale or lease of an allotment or quota which has been purchased.

Section 725.74(j)(1) has been amended to provide that the new owner of a farm to which an allotment and quota has been assigned may elect to be treated as the buyer of such allotment and quota in lieu of being treated as the successor-in-interest to the prior owner. Without this amendment, if the seller of a farm to which an allotment and quota had been assigned was not considered an active flue-cured tobacco producer, the new owner, as successor-in-interest, would also not be considered an active flue-cured tobacco producer and would be required to sell the allotment and quota or forfeit such allotment and quota.

Section 725.102 has been amended to remove the requirement that prior approval of the Director, Production Adjustment Division, ASCS, is necessary when certain resales of tobacco are made by dealers and buyers. This prior approval has been determined to be unduly burdensome on

such dealers or buyers and unnecessary if the reporting requirements of section 725.102 are satisfied.

Proposed Rule

The Department received 79 comments from 67 persons relating to the proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17532). The 67 persons who commented consisted of 13 producers, 13 financial institutions, 21 individuals, 15 congressmen, 1 national farm organization, 2 State farm organizations, and 2 corporations.

The comments which were relevant to the proposed rule were made with respect to one or more of the following issues:

(a) *Whether certain persons, especially estates and trusts, should be excluded from the requirement to sell or forfeit allotment and quota established for farms owned by any person, other than an individual, who is not significantly involved in the management or use of land for agricultural purposes.* The No Net Cost Tobacco Program Act of 1982 added a new section 316A to the Act which provides, in part:

> (a) Any person (including, but not limited to, any governmental entity, public utility, education institution, or religious institution, but not including any individual) which, on or after the date of the enactment of the section—
>
> (1) Owns a farm for which a flue-cured acreage allotment or marketing quota is established under this Act; and
>
> (2) Is not significantly involved in the management or use of land for agricultural purposes;
>
> Shall sell such allotment or quota in accordance with section 316(g) of this Act not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, or shall forfeit such allotment or quota under the procedure specified in subsection (c).

The term "person" is defined by section 301(a)(8) of the Act to mean "an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State." Since the term "person" has previously been defined in the Act and has been used as a basis for defining the term "person" for the purpose of other domestic commodity programs, the proposed rule is adopted as the final rule with respect to the definition of a "person."

(b) *What constitutes "significantly involved in the management or use of land for agricultural purposes."* Section 316A of the Act also provides that any person, other than an individual, which is not significantly involved in the management or use of land for agricultural purposes shall sell or forfeit any flue-cured tobacco allotment and quota established for any farm which such person owns. In the proposed rule, the basic criterion for determining significant involvement was the determination that the primary business purpose of the person is to manage or use land for production of crops which are planted and harvested annually and/or the production of livestock, including pasture and forage for livestock. Also, more than 50 percent of such person's total gross income for the three preceding years must have been derived from the management or use of land for such purposes.

A national farm organization proposed that a person be considered significantly involved if "the primary purpose of the person is the management or use of land for the production of crops which are planted and harvested annually; or the person materially participates in the management or use of the land for agricultural purposes, including advancing funds or assuming financial responsibility for the production of tobacco." The organization expressed the view that its proposed language more directly addresses the significantly involved issue than a test which is based on both farm and nonfarm sources of gross income. The organization did not suggest a method for determining "primary purpose" without considering income. The Department, however, remains committed to the view that significant involvement should be on the basis of gross income since such a basis can be readily determined from existing records of the person. Also, such a basis can be uniformly applied by all county ASCS offices.

(c) *Whether the person's gross income for the three preceding years should be considered in determining significant involvement.* One person suggested that one year's gross income, rather than three years' gross income, should be considered in determining significant involvement. Another person suggested a period of five years, and a third person suggested that meeting the gross income requirement in any one of the past three years should suffice. Using one year would not be sufficient to conclusively determine whether a person is significantly involved. A five-year period would require the person to provide documentation for years for which records may no longer be available. In view of these concerns, a three-year period has been determined to be reasonable.

(d) *What percentage of gross income must be derived from the management or use of land for agricultural purposes.* The proposed rule requires that the person derive more than 50 percent of its gross income for the three preceding years from the management or use of land for agricultural purposes in determining whether the person is significantly involved in such activities. Twelve of the persons who commented recommended that either 5 percent or 10 percent of gross income be used instead of 50 percent. Four other persons recommended use of differing percentages ranging from 15 percent to 33 percent. Fifteen Congressmen recommended that the percentage be no higher than 20 percent. Only one person commented in support of the rule as proposed.

Section 201(d) of the No Net Cost Tobacco Program Act of 1982 amended section 316 of the Act to permit the owner of a flue-cured tobacco allotment and quota to sell such allotment and quota to an "active flue-cured tobacco producer." To be considered such a producer, several requirements must be met, including the requirement that "the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop." (See section 316(g)(2)(A) of the Act.) After reviewing this requirement and taking into consideration all comments received, the Department has concluded that the proposed rule may have been too restrictive. Therefore, the final rule provides that a person shall be considered significantly involved in the management or use of land for agricultural purposes if such person's total gross income from the management or use of land for agricultural purposes during the three preceding years is more than 20 percent of such person's total gross income from all sources during such period.

These comments and all others received were considered in developing the final rule.

Final Rule From Interim or Proposed Rules

The interim rule which was published in the **Federal Register** on December 17, 1982 (47 FR 56473), is adopted as the final rule with the exception of amendments which are required to make minor technical revisions and one substantive amendment.

The proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17532), is adopted as the final rule with the exception that more than 20 percent of a person's gross income during the three preceding years must be derived from the management or use of land for agricultural purposes

to constitute significant involvement in lieu of the 50 percent requirement of the proposed rule.

List of Subjects in 7 CFR Part 725

Acreage allotment, Marketing quota, Penalties, Report requirements, Tobacco.

Final Rule

PART 725—[AMENDED]

Accordingly, 7 CFR Part 725 is amended as follows:

1. The interim rule published at 47 FR 56473 is adopted as a final rule with the following changes:

A. The table of contents is amended by adding the entry for § 725.49 and revising the entry for § 725.109 to read as follows:

Sec.

* * * * *

725.49 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

725.109 Duties of Kansas City ASCS Management Office.

* * * * *

B. A new § 725.49 is added to read as follows:

§ 725.49 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 725) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers 0560–0058 and 0560–0117.

* * * * *

C. In § 725.72, the last sentence in paragraph (m) is revised to read as follows:

§ 725.72 Transfer of tobacco marketing quotas by lease or by sale.

* * * * *

(m) * * * If there was more than one farm to which a farm marketing quota was transferred by sale, the marketing may be assigned to the farms in the manner agreed to in writing by each of the buyers of such farm marketing quota.

* * * * *

D. In § 725.74, paragraph (d)(2) and the undesignated paragraph following paragraph (f)(1)(x) are revised and paragraph (j)(1) is revised to read as follows:

§ 725.74 Forfeiture of allotment and quota.

* * * * *

(d) * * *

(2) *Failure to utilize purchased allotment and quota.* Failure to utilize purchased allotment and quota for the production of tobacco shall not subject such allotment and quota to forfeiture, but the five year period of paragraph (d)(1) of this section shall be extended one year for each year in which the allotment and quota is not utilized.

* * * * *

(f) * * *

(1) * * *

(x) * * *

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the acres or pounds which are retained of the forfeiting farm from the acres or pounds established for the forfeiting farm before the forfeiture.

* * * * *

(j) * * *

(1) *New owner of farm.* The new owner of a farm on which a portion or all of the farm acreage allotment and farm marketing quota for such farm was either purchased and/or was reallocated from forfeited allotment and quota shall become the successor-in-interest to the previous owner of the farm. However, if a farm is acquired by a new owner on or before June 15 of the current crop year and such owner would otherwise be required to sell or forfeit the farm acreage allotment and farm marketing quota because in the preceding crop year the owner of such allotment and quota did not share in the risk of producing a crop of tobacco which was subject to such purchased or reallocated allotment and quota, the new owner may be considered the buyer of the allotment and quota instead of being considered as a successor-in-interest to the previous owner of the farm. However, the new owner must furnish to the county committee on or before June 15 of the current year a certification that such owner intends to become an active flue-cured tobacco producer. Any purchased or reallocated allotment and quota which is acquired by a new owner who is considered to be the buyer of allotment and quota in accordance with the provisions of this paragraph shall be subject to the same terms and conditions with respect to forfeiture which would be applicable if the new owner actually had purchased the allotment and quota at the time the farm was acquired.

* * * * *

§ 725.99 [Amended]

E. In § 725.99, paragraph (a)(4)(xvii) is amended by removing the words "Kansas City Field Office (KCFO)" and inserting in their place the words "Kansas City Management Office (KCMO)" and paragraph (d)(2) is amended by removing "KCFO" and inserting in its place "KCMO".

§ 725.102 [Amended]

F. In § 725.102, paragraph (a) is amended by removing the comma which follows the last parenthesis in the second sentence and inserting in its place a period and removing the words "provided prior approval is obtained from the Director."

G. Section 725.109 is revised to read as follows:

§ 725.109 Duties of Kansas City ASCS Management Office.

The Kansas City ASCS Management Office (KCMO) has responsibility for processing certain data and making such reports as may be required by the Deputy Administrator.

2. In § 725.74, a new paragraph (b) is added to read as follows:

§ 725.74 Forfeiture of allotment and quota.

* * * * *

(b) *Person not significantly involved in management or use of land for agricultural purposes.* For purposes of this paragraph, the term "person" means a person as defined in Part 719 of this chapter, including any governmental entity, public utility, educational institution, religious institution, or joint venture (but not including any farming operation involving only a husband and wife, but excluding any individual.

(1) *Required forfeiture.* Any person not significantly involved in the management or use of land for agricultural purposes which owns a farm for which a flue-cured tobacco acreage allotment and marketing quota are established shall forfeit such allotment and quota which is not sold on or before:

(i) *Farm owned or acquired before January 1, 1983.* December 1, 1983.

(ii) *Farm acquired on or after January 1, 1983.* December 1 of the year after the year in which the farm is acquired.

(2) *Significantly involved.* A person shall be considered to be significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that:

(i) For the 3 preceding years, more than 20 percent of the gross income of the person has been derived from the management or use of land for the production of crops which are planted and harvested annually, and/or livestock, including pasture and forage for livestock; and

(ii) Any other person or all other persons which in combination own more

than 50 percent of the assets of the owner of the flue-cured tobacco allotment and marketing quota also meet the criteria specified in paragraph (b)(2)(i) of this section.

(iii) In addition, an institution of higher education, such as a university or college, shall be considered to be a person significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that it is actively engaged in the production of tobacco for experimental purposes or for instructional purposes under a program whereby students are enrolled in courses requiring them to actually produce the tobacco crop.

(3) *Documentation.* Within 30 days after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(2) of this section have been met with respect to such person. Upon failure of such person to timely respond to such request, the county ASC committee shall determine that the person is not significantly involved in the management or use of land for agricultural purposes.

Authority: Sec. 301, 313, 314, 316, 316A, 317, 363, 372–375, 377, 378, 52 Stat. 38 as amended, 47, as amended, 48, as amended, 75 Stat. 469, as amended, 96 Stat. 205, 79 Stat. 66, as amended, 52 Stat. 63, as amended, 65–66, as amended, 70 Stat. 206, as amended, 72 Stat. 995, as amended, 7 U.S.C. 1301, 1313, 1314, 1314b, 1314b–1, 1314c, 1363, 1372–75, 1377, 1378, Sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

Signed at Washington, D.C. on September 1, 1983.

Daniel G. Amstutz,

Acting Secretary.

[FR Doc. 83-24503 Filed 9-2-83; 12:01 pm]

BILLING CODE 3410-05-M

federal register

Thursday
September 8, 1983

Part V

Department of Agriculture

Agricultural Stabilization and Conservation Service

Burley Tobacco Marketing Quota Regulations

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

7 CFR Part 726

Burley Tobacco Marketing Quota Regulations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Final rule.

SUMMARY: This rule adopts as a final rule with certain amendments the interim rule published in the **Federal Register** on April 22, 1983 (48 FR 17520) regarding Burley tobacco marketing quotas. The amendments consist of technical revisions.

In addition, the proposed rule published in the **Federal Register** on April 22, 1983 (48 FR 17528) is adopted as a final rule with one amendment with respect to the percentage of gross income which an owner of a burley tobacco quota must derive from the management or use of land for agricultural purposes in order to retain such quota. The amendment reduces such percentage from 50 percent to 20 percent.

DATES: Effective September 8, 1983.

ADDRESS: Copies of the Final Regulatory Flexibility Impact Analysis and the Final Regulatory Impact Analysis may be obtained from the Director, Analysis Division, Room 3714 South Building, Fourteenth Street and Independence Avenue, SW., P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Jack S. Forlines, Agricultural Program Specialist, Tobacco and Peanuts Division, USDA–ASCS, P.O. Box 2415, Washington, D.C. 20013, (202) 382–0200.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "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 geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Information collection requirements contained in this regulation (7 CFR Part 726) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB numbers 0560–0058 and 0560–0117.

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

While the Regulatory Flexibility Act is not applicable to this rule, a Final Regulatory Flexibility Impact Analysis has been prepared with a Final Regulatory Impact Analysis. Since this action may have a significant economic impact on a substantial number of small entities, the impact analysis addresses the issues required in section 603 of that Act.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Enviromental Impact Statement is needed.

An interim rule was published in the **Federal Register** on April 22, 1983 (48 FR 17520) which amended 7 CFR Part 726 to provide restrictions with respect to the lease and transfer of quotas by producers and the marketing of tobacco by producers, warehousemen, and dealers. A proposed rule was published in the **Federal Register** on April 22, 1983 (48 FR 17528) which contained provisions with respect to the forfeiture of burley tobacco quota established for farms owned by persons, other than individuals, which are not significantly involved in the management or use of land for agricultural purposes.

Statutory Authority

This rule is necessary to implement amendments to the Agricultural Adjustment Act of 1938, as amended (the Act), which were made by the No Net Cost Tobacco Program Act of 1982 (Pub. L. 97–218). The amendments provided for: (1) Changes with respect to the lease and transfer of burley tobacco quota; (2) forfeiture of burley tobacco quota under certain conditions; (3) reallocation of forfeited quota; (4) limitations on the amount of floor sweepings which may be marketed without penalty by a warehouseman; (5) a lien on tobacco as a mechanism for collecting marketing quota penalties; and (6) other changes to strengthen the operation of the tobacco price support and production adjustment programs.

Interim Rule

Only one comment was received in response to the interim rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17520). The comment relates to the provision which subjects a producer of burley tobacco to a penalty with respect to any marketing of burley tobacco produced on a farm on which the farm operator or any other producer has not agreed to pay assessments to the No Net Cost Tobacco Account. Since the penalty is required by section 314 of the Act, the Secretary does not have discretionary authority with respect to this matter. Accordingly, the provisions of the interim rule have been adopted as a final rule except for technical amendments required to correct a typographical error and to reflect the change of the name of the Kansas City Field Office (KCFO) to the Kansas City Management Office (KCMO). A new section has also been added with respect to the reporting requirements of the Paperwork Reduction Act. The table of contents has been amended to reflect this addition.

Proposed Rule

The Department received 223 comments from 221 persons relating to the burley tobacco proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17528). The 221 persons who commented consisted of 28 producers, 7 financial institutions, 160 individuals, 2 congressmen, 1 national farm organization, 2 State farm organizations, 7 organizations other than farm organizations, 1 church, 6 county governments, 1 State government, 1 law firm, and 5 corporations.

The comments which were relevant to the proposed rule were made with respect to one or more of the following issues:

(a) *Whether certain persons should be excluded from the requirement to sell or forfeit quota established for farms owned by any person, other than an individual, who is not significantly involved in the management or use of land for agricultural purposes.* The No Net Cost Tobacco Program Act of 1982 added a new section 316B to the Act, which provides, in part:

> (a) Any person (including, but not limited to, any governmental entity, public utility, educational institution, or religious institution, but not including any individual) which, on or after the date of the enactment of the section—
>
> (1) owns a farm for which a burley tobacco marketing quota is established under this Act; and
>
> (2) is not significantly involved in the management or use of land for agricultural purposes;
>
> shall sell, not later than December 1, 1983, or December 1 of the year after the year in which the farm is acquired, whichever is later, such quota to an active burley tobacco

producer or any person who intends to become an active burley tobacco producer, as defined by the Secretary, for use on another farm in the same county or shall forfeit such quota under the procedure specified in subsection (b).

The term "person" is defined by section 301(a)(8) of the Act to mean "an individual, partnership, firm, joint-stock company, corporation, association, trust, estate, or any agency of a State." Since the term "person" has previously been defined in the Act and has been used as a basis for defining the term "person" for the purpose of other domestic commodity programs, the proposed rule is adopted as the final rule with respect to the definition of a "person."

(b) *What constitutes "significantly involved in the management or use of land for agricultural purposes."* Section 316B of the Act also provides that any person, other than an individual, which is not significantly involved in the management or use of land for agricultural purposes shall sell or forfeit any burley tobacco quota established for any farm which such person owns. In the proposed rule, the basic criterion for determining significant involvement was the determination that the primary business purpose of the person is to manage or use land for production of crops which are planted and harvested annually and/or the production of livestock, including pasture and forage for livestock. Also, more than 50 percent of such person's total gross income for the three preceding years must have been derived from the management or use of land for such purposes.

A national farm organization proposed that a person be considered significantly involved if "the primary purpose of the person is the management or use of land for the production of crops which are planted and harvested annually; or the person materially participates in the management or use of the land for agricultural purposes, including advancing funds or assuming financial responsibility for the production of tobacco." The organization expressed the view that its proposed language more directly addresses the significantly involved issue than a test which is based on both farm and nonfarm sources of gross income. The organization did not suggest a method for determining "primary purpose" without considering income. The Department, however, remains committed to the view that significant involvement should be on the basis of gross income since such a basis can be readily determined from existing records of the person. Also, such a basis can be uniformly applied by all county ASCS offices.

(c) *Whether a governmental body or a school board should be permitted to retain any burley tobacco quota established for a farm owned by such entity.* The proposed rule requires any governmental entity or any educational institution to sell or forfeit any burley tobacco quota established for any farm owned by such entity if such entity is not significantly involved in the management or use of land for agricultural purposes. However, under the provisions of the proposed rule, institutions of higher education, such as a university or college, are considered to be a person significantly involved in the management or use of land for agricultural purposes if such institutions are actively engaged in the production of tobacco for experimental purposes or for instructional purposes in a program whereby students are enrolled in courses requiring them to actually produce the tobacco crop. There were 165 comments recommending that county governments or county school boards be permitted to retain burley tobacco quota established for any farms owned by such entities. Some of these comments suggested that such entities be considered significantly involved in the management or use of land for agricultural purposes if they meet the same criterion which is required for an institution of higher education to be considered as significantly involved.

In keeping with the requirements of the Act that the burley tobacco marketing quota established for certain farms must be sold to active tobacco producers, or forfeited and reallocated to active tobacco producers, the Department has concluded that there should be no special rules which would be applicable to governmental bodies or school boards in determining whether they are significantly involved in the management or use of land for agricultural purposes.

In order to conduct an effective high school teaching and training program with respect to the production of burley tobacco, it is not necessary that the students produce burley tobacco on farms owned by governmental bodies or school boards for which a burley tobacco marketing quota is established. There are many vocational agriculture programs conducted by high schools which do not have access to a publicly owned farm for which a burley tobacco quota is established. The students in such programs generally gain practical experience on privately owned farms which produce burley tobacco.

(d) *The percentage of gross income which must be derived from the management or use of land for agricultural purposes.* The proposed rule requires that the person derive more than 50 percent of its gross income for the three preceding years from the management or use of land for agricultural purposes when determining whether the person is significantly involved in such activities. Only one person commented with respect to burley tobacco. That person recommended that 10 percent of gross income be used instead of 50 percent.

Section 302 of the No Net Cost Tobacco Program Act of 1982 amended the Act by adding section 316B which requires any person who acquires any burley tobacco marketing quota by purchase to share in the risk of producing burley tobacco subject to such quota. For a person to be considered to have shared in the risk of producing burley tobacco, such person must meet several requirements, including the requirement that "the investment of such person in the production of such crop is not less than 20 per centum of the proceeds of the sale of such crop." (See section 316B(c)(2)(A) of the Act.) After reviewing this requirement and taking into consideration all comments received, the Department has concluded that the proposed rule may have been too restrictive. Therefore, the final rule provides that a person shall be considered significantly involved in the management or use of land for agricultural purposes if such person's total gross income from the management or use of land for agricultural purposes during the three preceding years is more than 20 percent of such person's total gross income from all sources during such period.

These comments and all others received were considered in developing the final rule.

Final Rule From Interim or Proposed Rules

The interim rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17520) is adopted as the final rule except for certain amendments which are made for the purpose of minor technical revisions.

The proposed rule which was published in the **Federal Register** on April 22, 1983 (48 FR 17528) is adopted as the final rule except for an amendment which states that more than 20 percent of a person's gross income during the three preceding years must be derived from the management or use of land for agricultural purposes to constitute significant involvement. This 20 percent level is substituted for the 50

percent requirement which was contained in the proposed rule.

List of Subjects in 7 CFR Part 726

Marketing quota, Penalties, Report requirements, Tobacco.

Final Rule

PART 726—[AMENDED]

Accordingly, 7 CFR Part 726 is amended as follows:

1. The interim rule published at 48 FR 17520 is adopted as a final rule with the following changes:

A. The table of contents is amended by adding the entry for § 726.49 and by revising the entry for § 726.100 to read as follows:

Sec.

* * * * *

726.49 OMB Control Numbers assigned pursuant to the Paperwork Reduction Act.

* * * * *

726.100 Duties of Kansas City ASCS Management Office.

* * * * *

B. A new § 726.49 is added to read as follows:

§ 726.49 OMB control numbers assigned pursuant to the Paperwork Reduction Act.

The information collection requirements contained in these regulations (7 CFR Part 726) have been approved by the Office of Management and Budget (OMB) in accordance with the provisions of the 44 U.S.C. Chapter 35 and have been assigned OMB Control Numbers 0560–0058 and 0560–0117.

§ 726.93 [Amended]

C. In § 726.93, the title of the section is corrected to read *"Warehouseman's records and reports."*; paragraph (a)(4) is amended by removing the words "Kansas City Field Office (KCFO)" and inserting in their place the words "Kansas City Management Office (KCMO)"; and paragraph (d)(2) is amended by removing "KCFO" and inserting in its place "KCMO".

D. Section 726.100 is revised to read as follows:

§ 726.100 Duties of Kansas City ASCS Management Office.

The Kansas City ASCS Management Office (KCMO) has responsibility for processing certain data and making such reports as may be required by the Deputy Administrator.

2. Section 726.69 is revised to read as follows:

§ 726.69 Forfeiture of quota.

(a) *Determination of quota subject to forfeiture.* (1) For purposes of paragraph (b) of this section, the phrase "owns a farm" means ownership of:

(i) A farm as constituted under Part 719 of this Chapter if the entire farm shares a common ownership; or

(ii) All of the land within a farm which shares common ownership (commonly referred to as a "tract") if the parent farm consists of tracts of land having separate ownership.

(2) For purposes of paragraph (b) of this section, the county committee shall apportion, in accordance with the provisions of Part 719 of this chapter, the burley tobacco quota assigned to a farm between the various tracts of land which are separately owned by:

(i) A person which is not significantly involved in the management or use of land for agricultural purposes, as described in paragraph (b) of this section.

(ii) An individual, or owned by a person which is significantly involved in the management or use of land for agricultural purposes.

(3) The farm marketing quota determined under this section for each farm or tract, as applicable, shall be the amount of quota subject to forfeiture under this section.

(b) *Person not significantly involved in management or use of land for agricultural purposes.* For purposes of this paragraph, the term "person" means a person as defined in Part 719 of this chapter, including any governmental entity, public utility, educational institution, religious institution, or joint venture (but not including any farming operation involving only a husband and wife), but excluding any individual.

(1) *Required forfeiture.* Any person not significantly involved in the management or use of land for agricultural purposes which owns a farm for which a burley tobacco marketing quota is established shall forfeit such quota which is not sold on or before:

(i) *Farm owned or acquired before January 1, 1983.* December 1, 1983.

(ii) *Farm acquired on or after January 1, 1983.* December 1 of the year after the year in which the farm is acquired.

(2) *Signficantly involved.* A person shall be considered to be significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that:

(i) For the 3 preceding years, more than 20 percent of the gross income of the person has been derived from the management or use of land for the production of crops which are planted and harvested annually, and/or livestock, including pasture and forage for livestock; and

(ii) Any other person or all persons which in combination own more than 50 percent or more of the assets of the owner of the farm for which a burley tobacco marketing quota is established also meet the criteria specified in paragraph (b)(2)(i) of this section.

(iii) In addition, an institution of higher education, such as a university or college, shall be considered to be a person significantly involved in the management or use of land for agricultural purposes if the county ASC committee determines that it is actively engaged in the production of tobacco for experimental purposes or for instructional purposes under a program whereby students are enrolled in courses requiring them to actually produce the tobacco crop.

(3) *Documentation.* Within 30 days after a written request is made by the county ASC committee, or within such extended time as may be granted by the county ASC committee, a person must submit such documentation as may be requested to support a determination that the provisions of paragraph (b)(2) of this section have been met with respect to such person. Upon failure of such person to timely respond to such request, the county ASC committee shall determine that the person is not significantly involved in the management or use of land for agricultural purposes.

(c) *Buyer of quota fails to share in risk of production*—(1) *Forfeiture required.* If any person buys burley tobacco quota in accordance with the provisions of § 726.68 and such person fails to share in the risk of producing the tobacco which was planted subject to such quota during any of the five crop years beginning with the crop year for which the purchase became effective, such person shall forfeit the purchased quota if it is not sold on or before December 31 of the year after the crop year in which such crop was planted.

(2) *Failure to utilize purchased quota.* The failure to utilize purchased burley tobacco quota for the production of tobacco shall not result in the forfeiture of such quota, but the five year period which is specified in paragraph (c)(1) of this section shall be extended one year for each year in which the quota is not utilized.

(3) *Reduction for failure to share in risk of production.* The effective quota shall be reduced, but not below zero pounds, for leasing and marketing quota purposes only, to the extent of the purchased quota for each crop year after the crop year in which the buyer of such quota fails to share in the risk of producing a crop of tobacco which is subject to such quota.

(4) *Determining forfeited amount.* If only part of the quota on a farm is attributable to a purchased quota, the amount of the farm marketing quota which must be forfeited under this paragraph (c) shall be determined by increasing or decreasing each respective purchase of farm marketing quota for the farm to reflect changes in national quota factors since the purchase occurred and subtracting the pounds of quota which have been sold to prevent forfeiture.

(d) *Hearing.* Before any forfeiture of quota becomes effective under the provisions of this section, the county committee shall:

(1) Schedule a hearing for the affected person.

(2) Notify the affected person of the hearing at least 10 days in advance of the hearing.

(3) Make a determination, on the basis of any evidence presented at the hearing, as to whether or not the affected person knowingly failed to take steps to prevent forfeiture of quota.

(4) Notify the affected person of the county committee determination and, if forfeiture of quota is to be required, afford such person an opportunity to appeal to a review committee in accordance with the provision of Part 711 of this chapter.

(e) *Apportionment of data and determination of quota after forfeiture*—(1) *Apportionment of data.* The pounds of farm marketing quota retained on the forfeiting farm after the forfeiture shall be divided by the farm marketing quota established for the forfeiting farm before the forfeiture to determine a factor for apportioning farm data. The data to be retained on the forfeiting farm shall be determined by multiplying the factor by the following data of the forfeiting farm:

(i) The overmarketings which have not been subtracted when determining the effective farm marketing quota of the forfeiting farm.

(ii) The pounds of quota transferred from the forfeiting farm by lease or by the owner in the current year.

(iii) The pounds of quota reduced in the current year for a marketing quota violation in a prior year.

(iv) The previous year's effective farm marketing quota.

(v) The previous year's marketings.

(vi) The previous year's farm marketing quota.

(vii) The pounds of quota transferred to the farm by lease or by the owner in the previous year.

The portion of the forfeiting farm data which shall be included in a forfeiture pool for the county shall be determined by subtracting the pounds of each respective item of farm data which are retained on the forfeiting farm from the pounds of the respective item of data which were established for the forfeiting farm before the forfeiture.

(2) *Forfeiture pool data.* The data for the forfeiture pool shall be added to any previous data in the forfeiture pool.

(3) *Quota after forfeiture.* After adjustment of data, the effective farm marketing quota shall be determined in accordance with the provisions of § 726.57 for the forfeiting farm.

(f) *Forfeiture pool*—(1) *Forfeiture pool required.* A forfeiture pool shall be established in each county in which a forfeiture of quota occurs. The forfeiture pool shall be increased to include data for each forfeiture and shall be decreased for each reallocation in order to reflect any forfeited or reallocated amounts of:

(i) The farm marketing quota for the current year.

(ii) The quota reduced for marketing quota violations.

(iii) The quota transferred from the forfeiting farm by lease or by the owner.

(iv) The previous year's effective farm marketing quota.

(v) The previous year's marketings.

(2) *Adjustment of data in forfeiture pool.* At the beginning of the current year, the data in the forfeiture pool shall be adjusted by the factor used in determining quotas for old farms. Quota data in the forfeiture pool shall be decreased each time any burley tobacco quota is reallocated from the forfeiture pool. Such decrease in the quota data will be made in the same proportion as the pounds of quota which are reallocated from the pool are to the pounds of quota which were in the pool before the reallocation.

(g) *Reallocation of quota from forfeiture pool*—(1) *Application.* In order to establish eligibility to receive quota from the forfeiture pool in the current year, an application must be made on a form approved by the Deputy Administrator. Such application must be filed:

(i) *Who may file.* By an active producer.

(ii) *When to file.* On or before April 30. *Provided,* That the State committee may establish an earlier date if notice of such earlier date is given in time for interested applicants to file an application by the earlier date.

(iii) *Where to file.* At the county ASCS office which serves the farm for which the application is filed.

(2) *Eligibility of applicant.* In order for an applicant to be eligible for quota from the forfeiture pool the county committee must determine that:

(i) The application was filed timely.

(ii) The applicant is an active tobacco producer.

(iii) During the current year or during the four years preceding the current year, the applicant has not sold or forfeited quota from any farm.

(3) *Time to reallocate.* The county committee shall:

(i) Not reallocate any quota from the forfeiture pool until the time has passed for filing an application for forfeited quota for the current year.

(ii) Reallocate any quota from the forfeiture pool only during the 30-day period beginning on the day after the final date for filing an application for quota from the forfeiture pool.

(4) *Reallocation by county committee.* Reallocation of any burley tobacco quota shall be made by the county committee. In making its determination of the amounts of quota to reallocate, the county committee may consider the size of the current quotas on the farms of the eligible applicants, the length of time the applicants have been farming tobacco, the type of farming done by the applicants (i.e., livestock, grain, or other commodities), previous leasing history of applicants, and such other factors which in the judgment of the county committee should be considered. A burley tobacco quota may be reallocated to a farm which currently does not have a burley tobacco quota. A factor shall not be used to reallocate quota between all eligible applicants.

(5) *Basis for reallocation from forfeiture pool.* Reallocation from the forfeiture pool shall be on the basis of pounds of farm marketing quota.

(6) *Amount of quota to reallocate.* The county committee may reallocate all or part of the quota in the forfeiture pool. The minimum and maximum amounts of quota which may be reallocated to an eligible applicant are:

(i) *Minimum.* The total amount of quota in the pool or 100 pounds, whichever is less.

(ii) *Maximum.* 500 pounds *Provided,* That not to exceed 1,500 pounds may be reallocated with State committee approval.

(7) *Data for receiving farm.* All quota data for the forfeiture pool shall be apportioned to the receiving farm in the proportion that the reallocated farm marketing quota is to the total farm marketing quota in the forfeiture pool before the reallocation. The data determined for the receiving farm in accordance with the provisions in this paragraph shall be added to any previous data for the receiving farm.

(8) *Quota for receiving farm.* After any adjustments which are made in accordance with the provisions of this

section, the effective farm marketing quota shall be determined for the receiving farm in accordance with the provisions of § 726.57.

(h) *Forfeiture of reallocated quota.* Any burly tobacco quota which is reallocated in accordance with the provisions of this section shall be forfeited if the applicant to whom the quota is reallocated fails to share in the risk of producing a crop of tobacco which is subject to such quota during any of the five years beginning with the crop year during which the quota is reallocated. The amount of farm marketing quota which must be forfeited shall be determined in the same manner which is specified in paragraph (c)(4) of this section with respect to the forfeiture of purchased quota. Any forfeiture of quota shall occur on December 1 of the year in which the applicant fails to share in the risk of production of tobacco which is produced subject to such quota: *Provided.* That while the failure to utilize a quota shall not subject the quota to forfeiture, the five year period which is specified in this paragraph shall be extended by a year for each year in which the allotment and quota is not utilized.

(i) *Successor-in-interest.* A successor-in-interest shall be subject to the provisions of this section in the same manner and to the same extent as would be applicable to the person whose interest has been assumed by such successor-in-interest.

(1) *New owner of farm.* The new owner of a farm on which a portion or all of the farm marketing quota for such farm was either purchased and/or was reallocated from forfeited quota shall become the successor-in-interest to the previous owner of the farm. However, if a farm is acquired by a new owner on or before June 30 of the current crop year and such owner would otherwise be required to sell or forfeit the farm marketing quota because in the preceding crop year the owner of such quota did not share in the risk of producing a crop of tobacco which was subject to such purchased or reallocated quota, the new owner may be considered the buyer of the quota instead of being considered as a successor-in-interest to the previous owner of the farm. However, the new owner must furnish to the county committee on or before June 30 of the current year a certification that such owner intends to become an active burley tobacco producer. Any purchased or reallocated quota, which is acquired by a new owner who is considered to be the buyer of quota in accordance with the provisions of this paragraph, shall be subject to the same terms and conditions with respect to forfeiture which would be applicable if the new owner actually had purchased the quota at the time the farm was acquired.

(2) *Buyer no longer shares in risk of production.* The owner of a farm shall become the successor-in-interest to the buyer of burly tobacco quota which was transferred to a farm but which was not owned by such buyer if the buyer ceases to share in the risk of production of burley tobacco produced on the farm.

Authority: Secs. 301, 313, 314, 314A, 316B, 317, 372–375, 377, 378, 52 Stat. 38, as amended, 47, as amended, 48, as amended, 98 Stat. 210, 215, 75 Stat. 469, as amended, 79 Stat. 66, 52 Stat. 63, as amended 65–66, as amended, 70 Stat. 206, 7 U.S.C. 1301, 1313, 1314, 1314–1, 1314b–2, 1314c, 1363, 1372–1375, 1377, 1378, Sec. 401, 63 Stat. 1054, as amended, 7 U.S.C. 1421.

Signed at Washington, D.C. on September 1, 1983.

Daniel G. Amstutz,

Acting Secretary.

[FR Doc. 83-24504 Filed 9-2-83; 12:03 pm]

BILLING CODE 3410-05-M

federal register

Thursday
September 8, 1983

Part VI

Department of Energy

Federal Energy Regulatory Commission

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Vol. 963]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 1, 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 963
ISSUED SEPTEMBER 1, 1983

WEST VIRGINIA DEPARTMENT OF MINES

-COLUMBIA GAS TRANSMISSION CORP — RECEIVED: 08/16/83 — JA: WV

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350516		4708702117		108		A B JACKSON 801401	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350880		4704300722		108		A F CUMMINGS 805825	WEST VIRGINIA FIELD A	6.0	COLUMBIA GAS TRAN
8350568		4704300400		108		A I DOTSON - 803908	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350838		4707900878		108		A P ROBERTS 804122	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350475		4705900323		108		A W BREWER - 800855	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350539		4705900900		108		A W BREWER 800854	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350487		4703902983		108		A W GRAHAM 801333	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350529		4708702327		108		A WALKER-800235	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350580		4703902984		108		ADAM B LITTLEPAGE 800477	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350496		4703902985		108		ADAM B LITTLEPAGE 800565	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350840		4707900879		108		ADDISON WISEMAN - 804189	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350799		4704302088		108		ALBERT HODGES 805877	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350605		4704303177		108		ALBERT RICA 805995	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350807		4704301853		108		ALBERT RICE 805998	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350712		4703900024		108		AMERICA SEARS - 804020	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350871		4704301855		108		ANDREW SPONAUGLE 805983	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350811		4704301856		108		ANDREW SPONAUGLE 805984	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350698		4701501585		108		ANNA B HICKS 820386	WEST VIRGINIA FIELD A	8.6	
8350461		4701500035		108		ANNA B HICKS 820387	WEST VIRGINIA FIELD A	8.6	
8350669		4701502091		108		ANNA B HICKS 820388	WEST VIRGINIA FIELD A	8.6	
8350434		4701502092		108		ANNA B HICKS 820392	WEST VIRGINIA FIELD A	8.6	
8350689		4701501255		108		ANNA B HICKS 820394	WEST VIRGINIA FIELD A	8.6	
8350928		4709900343		108		ANNIE PINSON ET AL 805466	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350503		4704501020		108		ANTHONY LAWSON HEIRS - 800633	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350677		4701502066		108		B G S BUTLER 801638	WEST VIRGINIA FIELD A	8.6	
8350438		4701500112		108		B G S GEARY 801247	WEST VIRGINIA FIELD A	8.6	
8350439		4701500121		108		B G S GEARY 801252	WEST VIRGINIA FIELD A	8.6	
8350680		4701500125		108		B G S GEARY 801258	WEST VIRGINIA FIELD A	8.6	
8350679		4701500131		108		B G S GEARY 801265	WEST VIRGINIA FIELD A	8.6	
8350442		4701500195		108		B G S GEARY 801282	WEST VIRGINIA FIELD A	8.6	
8350443		4701500196		108		B G S GEARY 801284	WEST VIRGINIA FIELD A	8.6	
8350444		4701500199		108		B G S GEARY 801285	WEST VIRGINIA FIELD A	8.6	
8350445		4701500237		108		B G S GEARY 801297	WEST VIRGINIA FIELD A	8.6	
8350446		4701500265		108		B G S GEARY 801315	WEST VIRGINIA FIELD A	8.6	
8350448		4701500267		108		B G S GEARY 801318	WEST VIRGINIA FIELD A	8.6	
8350447		4701500279		108		B G S GEARY 801323	WEST VIRGINIA FIELD A	8.6	
8350449		4701500280		108		B G S GEARY 801324	WEST VIRGINIA FIELD A	8.6	
8350450		4701500297		108		B G S GEARY 801327	WEST VIRGINIA FIELD A	8.6	
8350692		4701502058		108		B G S GEARY 801369	WEST VIRGINIA FIELD A	8.6	
8350597		4701500396		108		B G S GEARY 801554	WEST VIRGINIA FIELD A	8.6	
8350600		4701502060		108		B G S GEARY 801570	WEST VIRGINIA FIELD A	8.6	
8350601		4701501856		108		B G S GEARY 801571	WEST VIRGINIA FIELD A	8.6	
8350592		4701501857		108		B G S GEARY 801606	WEST VIRGINIA FIELD A	8.6	
8350675		4701501858		108		B G S GEARY 801641	WEST VIRGINIA FIELD A	8.6	
8350642		4701502074		108		B G S GEARY 801671	WEST VIRGINIA FIELD A	8.6	

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350641		4701502075		108		B G S GEARY 801919	WEST VIRGINIA FIELD A	8.6	
8350699		4701500734		108		B G S GEARY 802021	WEST VIRGINIA FIELD A	8.6	
8350636		4701500737		108		B G S GEARY 802024	WEST VIRGINIA FIELD A	8.6	
8350637		4701500738		108		B G S GEARY 802025	WEST VIRGINIA FIELD A	8.6	
8350633		4701500864		108		B G S GEARY 802040	WEST VIRGINIA FIELD A	8.6	
8350634		4701500865		108		B G S GEARY 802041	WEST VIRGINIA FIELD A	8.6	
8350702		4701500869		108		B G S GEARY 802042	WEST VIRGINIA FIELD A	8.6	
8350701		4701500870		108		B G S GEARY 802043	WEST VIRGINIA FIELD A	8.6	
8350700		4701500871		108		B G S GEARY 802044	WEST VIRGINIA FIELD A	8.6	
8350686		4701500872		108		B G S GEARY 802045	WEST VIRGINIA FIELD A	8.6	
8350684		4701500879		108		B G S GEARY 802046	WEST VIRGINIA FIELD A	8.6	
8350704		4701500880		108		B G S GEARY 802047	WEST VIRGINIA FIELD A	8.6	
8350644		4701500881		108		B G S GEARY 802048	WEST VIRGINIA FIELD A	8.6	
8350705		4701500900		108		B G S GEARY 802052	WEST VIRGINIA FIELD A	8.6	
8350640		4701500889		108		B G S GEARY 802053	WEST VIRGINIA FIELD A	8.6	
8350639		4701500903		108		B G S GEARY 802072	WEST VIRGINIA FIELD A	8.6	
8350468		4701502081		108		B G S GEARY 803904	WEST VIRGINIA FIELD A	8.6	
8350654		4701502083		108		B G S GEARY 803985	WEST VIRGINIA FIELD A	8.6	
8350703		4701500031		108		B G S GEARY 804039	WEST VIRGINIA FIELD A	8.6	
8350674		4701502086		108		B G S GEARY 804050	WEST VIRGINIA FIELD A	8.6	
8350667		4701502088		108		B G S GEARY 804090	WEST VIRGINIA FIELD A	8.6	
8350668		4701502090		108		B G S GEARY 804254	WEST VIRGINIA FIELD A	8.6	
8350655		4701500058		108		B G S GEARY 804258	WEST VIRGINIA FIELD A	8.6	
8350651		4701500096		108		B G S GEARY 804591	WEST VIRGINIA FIELD A	8.6	
8350646		4701501095		108		B G S GEARY 820325	WEST VIRGINIA FIELD A	8.6	
8350463		4701501088		108		B G S GEARY 820327	WEST VIRGINIA FIELD A	8.6	
8350599		4701501855		108		B G S SENNETT 801565	WEST VIRGINIA FIELD A	8.6	
8350602		4701502061		108		B G S SENNETT 801588	WEST VIRGINIA FIELD A	8.6	
8350435		4701502062		108		B G S SENNETT 801601	WEST VIRGINIA FIELD A	8.6	
8350436		4701502063		108		B G S SENNETT 801602	WEST VIRGINIA FIELD A	8.6	
8350440		4701502064		108		B G S SENNETT 801604	WEST VIRGINIA FIELD A	8.6	
8350678		4701502065		108		B G S SENNETT 801632	WEST VIRGINIA FIELD A	8.6	
8350695		4701502070		108		B G S SENNETT 801767	WEST VIRGINIA FIELD A	8.6	
8350666		4701502089		108		B G S SENNETT 804247	WEST VIRGINIA FIELD A	8.6	
8350877		4704301858		108		BETTY SMITH 806001	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350707		4703903122		108		BLUE CK COAL & LAND 803958	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350774		4703901059		108		BLUE CK COAL & LAND 805306	WEST VIRGINIA FIELD A	1.0	COLUMBIA GAS TRAN
8350548		4705900556		108		BURN CK MARBNE LD CO 800529	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350926		4705900086		108		BURN CK MARBNE LD CO 805608	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350694		4701502071		108		BUTLER 801768	WEST VIRGINIA FIELD A	8.6	
8350682		4701502080		108		BUTLER 803865	WEST VIRGINIA FIELD A	8.6	
8350616		4704302092		108		C A HOLDERBY - 802259	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350563		4704301861		108		C E BIAS 802596	W VA FIELD AREA	2.0	COLUMBIA GAS TRAN
8350584		4704301862		108		C K MADDOX 802530	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350543		4704302093		108		C M ADKINS 802426	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350849		4704302032		108		C M ADKINS 805930	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350578		4709901626		108		C M FARLEY 803956	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350843		4709901664		108		C M FRALEY 803957	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350878		4704302094		108		C MIDKIFF 805895	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350548		4704301863		108		C ROBERTS 802403	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350756		4704302096		108		CHAS BOOTH - 802179	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350557		4703901936		108		CINCO COAL CO 803919	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350528		4708702332		108		CO CANTERBURG ETAL 801219	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350533		4700501194		108		COURTNEY CO - 801845	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350892		4704300458		108		COURTNEY CO #11 805316	WEST VIRGINIA FIELD A	3.0	COLUMBIA GAS TRAN
8350893		4704300472		108		COURTNEY CO #12 805354	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350760		4700500633		108		COURTNEY CO #13 805373	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350764		4700500634		108		COURTNEY CO #14 805374	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350909		4704300521		108		COURTNEY CO #15 805467	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350781		4704300522		108		COURTNEY CO #16 805468	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350917		4704300547		108		COURTNEY CO #17 805510	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350898		4704300548		108		COURTNEY CO #18 805511	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350891		4704300549		108		COURTNEY CO #19 805512	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350532		4700500783		108		COURTNEY CO #2 801801	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350915		4704300550		108		COURTNEY CO #22 805515	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350914		4704300545		108		COURTNEY CO #24 805521	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350907		4704300557		108		COURTNEY CO #27 805528	W V FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350769		4700500678		108		COURTNEY CO #28 805529	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350768		4700500679		108		COURTNEY CO #30 805530	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350779		4704300566		108		COURTNEY CO #31 805533	W VA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350905		4704300440		108		COURTNEY CO NO 11 805293	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350509		4700501195		108		COURTNEY CO NO 801853	WVA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350749		4704300407		108		COURTNEY CO NO 805201	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350731		4700500133		108		COURTNEY CO 804273	WVA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350732		4700500134		108		COURTNEY CO 804274	WEST VIRGINIA FIELD A	0.8	COLUMBIA GAS TRAN
8350875		4704301969		108		CYRUS YEAGER 805946	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350473		4705900901		108		D F CASSADY 800098	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350501		4704302274		108		D G COURTNEY - 800556	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350508		4700500774		108		D G COURTNEY #3 801829	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350545		4704301865		108		DAN BIAS 802597	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350567		4704300426		108		DELITA MULLINS 803907	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350480		4708702339		108		E E MAHAN - 800209	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350867		4704501021		108		E J STONE 804493	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350722		4701100350		108		EA CHILDERS ETAL 804846	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350882		4704302099		108		EDGAR SOWARDS 805922	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350757		4704302104		108		EDWARD SANSON - 802263	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350632		4704302100		108		EDWARD SANSON 802129	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350631		4704302102		108		EDWARD SANSON 802188	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350665		4704302103		108		EDWARD SANSON-802262	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350758		4704302105		108		EDWARD SANSON-802267	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350800		4704300699		108		ELIPHUS SPEARS 805789	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350713		4703900023		108		ELIZA BODKINS 804021	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350485		4703903124		108		ELK RIVER COAL CO 800284	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350483		4703903125		108		ELK RIVER COAL CO 800340	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350546		4704301870		108		EMILY S BIAS 802593	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350558		4703903517		108		ENOCH HUNTER 803917	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350741		4707900881		108		EVALINE JOHNSON 805164	WVA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350549		4704301872		108		F M VICKERS 802407	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350517		4708702158		108		FLORENCE & MARK YOUNG 800023	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350502		4704501022		108		FLOYD & R J BUTCHER - 800643	WVA FIELD AREA B	0.1	COLUMBIA GAS TRAN
8350861		4707900882		108		FRANK HARDIN 804107	W VA FIELD AREA A	2.8	COLUMBIA GAS TRAN
8350522		4708702341		108		G A HARPER - 800236	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350901		4704300492		108		G B ADKINS 805395	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350886		4704301972		108		G S SITES 805941	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350598		4704301973	108			G W GODBY - 802283	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350518		4703702168	108			G W OSBORNE - 801400	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350579		4704301825	108			GEO & WALTER CHAMBRS 802430	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350794		4704301876	108			GEORGE NIDA 806048	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350858		4705900049	108			GEORGE STEPP ETAL 804865	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350623		4709901631	108			GUYAN LD ASSN - 802207	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350621		4709901633	108			GUYAN LD ASSN - 802310	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350605		4709901635	108			GUYAN LD ASSN - 802361	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350604		4709901636	108			GUYAN LD ASSN - 802362	W VA FIELD AREA B	0.2	COLUMBIA GAS TRAN
8350627		4709901630	108			GUYAN LD ASSN 802136	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350586		4704301878	108			GUYAN LD ASSN 802372	WVA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350622		4709901638	108			GUYAN LD ASSN 802396	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350573		4709901640	108			GUYAN LD ASSN 802556	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350574		4709901641	108			GUYAN LD ASSN 802558	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350575		4709901642	108			GUYAN LD ASSN 802560	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350577		4709901623	108			GUYAN LD ASSOC 802040	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350606		4709901627	108			GUYAN LD ASSOC 802071	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8350625		4709901628	108			GUYAN LD ASSOC 802098	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350619		4709901634	108			GUYANLD ASSN - 802316	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350572		4709901639	108			GYYAN LD ASSN 802553	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350842		4709901667	108			H G & G CO MIN FEE 804367	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350862		4707900883	108			H HENSON 804126	WEST VA FIELD AREA A	7.0	COLUMBIA GAS TRAN
8350469		4708702345	108			H W SHARR - 800254	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350844		4709900228	108			HANEY BLANKENSHIP 804985	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350792		4704301858	108			HENRY LAKE 806050	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350804		4704301859	108			HENRY LAKE 806051	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350481		4705900906	108			HIRAM STEPP - 800327	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350520		4705900905	108			HIRAM STEPP #2 800409	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350536		4700500784	108			HORSE CK COAL LD 29 801867	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350734		4700500078	108			HORSE CK COAL LD 40 804072	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350823		4700500530	108			HORSE CK COAL LD 58 805276	WEST VIRGINIA FIELD A	8.0	COLUMBIA GAS TRAN
8350822		4700500591	108			HORSE CK COAL LD 59 805277	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350763		4700500536	108			HORSE CK COAL LD 60 805292	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350761		4700500608	108			HORSE CK COAL LD 61 805311	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350766		4700500695	108			HORSE CK COAL LD 66 805556	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350765		4700500697	108			HORSE CK COAL LD 67 805557	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350476		4700500615	108			HORSE CK COAL LD 801761	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350534		4700501199	108			HORSE CK COAL LD 801846	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350511		4700501200	108			HORSE CK COAL LD 801864	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350537		4700501201	108			HORSE CK COAL LD 801865	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350510		4700501202	108			HORSE CK COAL LD 801866	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350535		4700501203	108			HORSE CK COAL LD 801868	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350717		4700500075	108			HORSE CK COAL LD 804069	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350718		4700500079	108			HORSE CK COAL LD 804071	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350738		4700500132	108			HORSE CK COAL LD 804272	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350825		4700500314	108			HORSE CK COAL LD 804624	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350820		4700500337	108			HORSE CK COAL LD 804680	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350819		4700500568	108			HORSE CK COAL LD 805203	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350826		4700500571	108			HORSE CK COAL LD 805208	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350754		4704300410	108			HORSE CK COAL LD 805209	WVA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350750		4704300412	108			HORSE CK COAL LD 805213	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350762		4700500715	108			HORSE CK COAL LD 805683	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350767		4700500634	108			HORSE CK COOL LD #65 805555	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350846		4700500762	108			HORSE CK L & M CO #74 805871	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350538		4700500632	108			HORSE CK L & M CO 801927	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350772		4704300524	108			HORSE CREEK COAL LD #45 805485	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350708		4700500292	108			HORSE CREEK COAL LD 804582	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350507		4700500631	108			HORSE CRK COAL LD 24-801806	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350733		4700500090	108			HORSE CRK COAL LD 41 804221	WVA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350477		4700500614	108			HORSE CRK COAL LD 801760	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350531		4700501204	108			HORSE CRK COAL LD 801961	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350908		4704300437	108			HUNT DEV & GAS CO - 805286	WVA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350618		4709900423	108			HUNT DEV & GAS CO 802383	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350746		4704300387	108			HUNT DEV & GAS CO 805088	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350747		4704300401	108			HUNT DEV & GAS CO 805155	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350755		4704300453	108			HUNT DEV & GAS CO 805219	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350752		4704300419	108			HUNT DEV & GAS CO 805230	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350751		4704300420	108			HUNT DEV & GAS CO 805231	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350777		4704300438	108			HUNT DEV & GAS CO 805287	WVA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350918		4704300466	108			HUNT DEV & GAS CO 805344	W VA FIELD AREA B	15.0	COLUMBIA GAS TRAN
8350895		4704300470	108			HUNT DEV & GAS CO 805352	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350894		4704300475	108			HUNT DEV & GAS CO 805357	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350783		4704300480	108			HUNT DEV & GAS CO 805387	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350789		4704300481	108			HUNT DEV & GAS CO 805388	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350771		4704300539	108			HUNT DEV & GAS CO 805389	WVA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350770		4704300495	108			HUNT DEV & GAS CO 805394	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350900		4704300493	108			HUNT DEV & GAS CO 805396	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350899		4704300496	108			HUNT DEV & GAS CO 805397	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350916		4704300494	108			HUNT DEV & GAS CO 805398	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350935		4709900314	108			HUNT DEV & GAS CO 805421	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350905		4704300526	108			HUNT DEV & GAS CO 805487	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350794		4704300527	108			HUNT DEV & GAS CO 805488	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350933		4709900329	108			HUNT DEV & GAS CO 805492	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350930		4709900332	108			HUNT DEV & GAS CO 805493	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350927		4709900334	108			HUNT DEV & GAS CO 805505	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350923		4704300624	108			HUNT DEV & GAS CO 805676	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350896		4704300710	108			HUNT DEV & GAS CO 805722	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350858		4704300611	108			HUNT DEV & GAS CO 805732	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350897		4704300581	108			HUNT DEV & GAS FEE 805588	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350802		4709900428	108			HUNT DEV & GAS FEE 805773	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350831		4709900448	108			HUNT DEV & GAS FEE 805819	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350910		4704300582	108			HUNT DEV & GAS MIN 805543	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8350785		4704300570	108			HUNT DEV & GAS MIN 805544	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350940		4709900351	108			HUNT DEV & GAS MIN 805547	W VA FIELD AREA B	0.4	COLUMBIA GAS TRAN
8350920		4704300593	108			HUNT DEV & GAS MIN 805604	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350898		4704300594	108			HUNT DEV & GAS MIN 805605	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350922		4704300605	108			HUNT DEV & GAS MIN 805607	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350921		4704300607	108			HUNT DEV & GAS MIN 805625	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350919		4704300608	108			HUNT DEV & GAS MIN 805626	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350934		4709900372	108			HUNT DEV & GAS MIN 805629	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350936		4709900380	108			HUNT DEV & GAS MIN 805638	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350937		4709900381	108			HUNT DEV & GAS MIN 805640	W VA FIELD AREA B	19.0	COLUMBIA GAS TRAN
8350911		4704300690	108			HUNT DEV & GAS MIN 805643	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350913		4704300691	108			HUNT DEV & GAS MIN 805644	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350912		4704300615		108		HUNT DEV & GAS MIN 805658	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350932		4709900386		108		HUNT DEV & GAS MIN 805660	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350904		4704300634		108		HUNT DEV & GAS MIN 805692	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350902		4704300636		108		HUNT DEV & GAS MIN 805693	WVA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350903		4704300631		108		HUNT DEV & GAS MIN 805694	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350782		4704300633		108		HUNT DEV & GAS MIN 805695	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350889		4704300640		108		HUNT DEV & GAS MIN 805696	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350869		4704300647		108		HUNT DEV & GAS MIN 805723	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350828		4709900391		108		HUNT DEV & GAS MIN 805736	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350829		4709900385		108		HUNT DEV & GAS MIN 805737	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350801		4709900421		108		HUNT DEV & GAS MIN 805746	WVA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350837		4709900432		108		HUNT DEV & GAS MIN 805781	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350830		4709900449		108		HUNT DEV & GAS MIN 805822	WEST VIRGINIA FIELD A	0.4	COLUMBIA GAS TRAN
8350809		4704300560		108		HUNTON D & G CO MIN 805500	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350499		4703901880		108		I D & AL ROLLINS 800481	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350863		4707900884		108		J A HODGE - 804120	WEST VIRGINIA FIELD A	7.0	COLUMBIA GAS TRAN
8350839		4707900328		108		J A JOHNSON 804137	W VA FIELD AREA A	13.0	COLUMBIA GAS TRAN
8350436		4703903008		108		J A OSBORNE 801344	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350958		4709900363		108		J B DAVIS 805542	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350617		4704301986		108		J B PULLEN - 802243	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350639		4704300816		108		J B PULLEN - 802244	WVA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350687		4701502093		108		J BELCHER 820396	WEST VIRGINIA FIELD A	8.6	
8350457		4701502094		108		J BELCHER 820398	WEST VIRGINIA FIELD A	8.6	
8350459		4701502095		108		J BELCHER 820400	WEST VIRGINIA FIELD A	8.6	
8350460		4701502096		108		J BELCHER 820404	WEST VIRGINIA FIELD A	8.6	
8350653		4701502097		108		J BELCHER 820405	WEST VIRGINIA FIELD A	8.6	
8350652		4701502098		108		J BELCHER 820407	WEST VIRGINIA FIELD A	8.6	
8350542		4704301958		108		J C BRAGG 802423	W VA FIELD AREA B	0.4	COLUMBIA GAS TRAN
8350726		4703900058		108		J D CAMPBELL 804216	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350723		4703900059		108		J D CAMPBELL 804217	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350556		4703903159		108		J D TAYLOR 803708	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350555		4703903160		108		J D TAYLOR 803725	W VA FIELD AREA A	0.9	COLUMBIA GAS TRAN
8350564		4703903162		108		J D TAYLOR 803753	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350626		4709901644		108		J F FRAZIER - 802084	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350721		4701100050		108		J F GRASS 804365	W VA FIELD AREA B	0.0	COLUMBIA GAS TRAN
8350870		4704301892		108		J F TURLEY 806009	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350571		4708702194		108		J G MALCOLM 802588	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350523		4708702349		108		J H COFENHAVER-800161	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350541		4704302043		108		J J SMITH 802420	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350864		4707900017		108		J L ASHWORTH 804378	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350479		4708702197		108		J M ARMSTEAD 800010	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350709		4703903148		108		J M CYRUS 804110	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350492		4703903132		108		J M STAUNTON 801257	W VA FIELD AREA A	8.0	COLUMBIA GAS TRAN
8350504		4708702351		108		J P YOUNG 801380	W VA FIELD AREA A	0.1	COLUMBIA GAS TRAN
8350647		4701501126		108		J PHILLIPS 820317	WEST VIRGINIA FIELD A	8.6	
8350441		4701501244		108		J PHILLIPS 820378	WEST VIRGINIA FIELD A	8.6	
8350464		4701500016		108		J PHILLIPS 820379	WEST VIRGINIA FIELD A	8.6	
8350465		4701500023		108		J PHILLIPS 820380	WEST VIRGINIA FIELD A	8.6	
8350466		4701501947		108		J PHILLIPS 820381	WEST VIRGINIA FIELD A	8.6	
8350467		4701501946		108		J PHILLIPS 820382	WEST VIRGINIA FIELD A	8.6	
8350593		4701501945		108		J PHILLIPS 820383	WEST VIRGINIA FIELD A	8.6	
8350458		4701500114		108		J PHILLIPS 820384	WEST VIRGINIA FIELD A	8.6	
8350688		4701501240		108		J PHILLIPS 820385	WEST VIRGINIA FIELD A	8.6	
8350472		4708702352		108		J R & M BRISENDINE 800046	W VA FIELD AREA A	0.4	COLUMBIA GAS TRAN
8350743		4707900886		108		J R SWEETLAND 805172	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350866		4707900316		108		J T YOUNG 80-4175	W VA FIELD AREA A	15.0	COLUMBIA GAS TRAN
8350845		4709900237		108		J W BLANKENSHIP 805810	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350728		4703903149		108		J W RUSSELL 804131	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350888		4704301932		108		J W STRICKLER 805979	WEST VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350725		4703903150		108		J WALTER RUSSELL 804128	W VA FIELD AREA A	10.0	COLUMBIA GAS TRAN
8350803		4704301893		108		JACKSON BURNS - 806055	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350521		4705900902		108		JACOB BAACH - 800547	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350796		4704301894		108		JACOB SMITH 806013	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350790		4704301895		108		JACOB SMITH 806014	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350490		4703903119		108		JAMES JARRETT - 801382	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350560		4703903011		108		JAMES JARRETT 802589	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350788		4704301897		108		JAMES MOORE 806024	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350638		4701501904		108		JAMES REED 803814	WEST VIRGINIA FIELD A	8.6	
8350595		4701502078		108		JAMES REED 803823	WEST VIRGINIA FIELD A	8.6	
8350685		4701501584		108		JAMES REED 803835	WEST VIRGINIA FIELD A	8.6	
8350681		4701501949		108		JAMES REED 803868	WEST VIRGINIA FIELD A	8.6	
8350657		4701500024		108		JAMES REED 804065	WEST VIRGINIA FIELD A	8.6	
8350649		4701501109		108		JAMES REED 820314	WEST VIRGINIA FIELD A	8.6	
8350648		4701501110		108		JAMES REED 820315	WEST VIRGINIA FIELD A	8.6	
8350497		4703903012		108		JAS A OSBORNE - 800584	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350494		4703903014		108		JAS CAMPBELL 801188	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350590		4704302014		108		JAS R BRANCH 802152	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350612		4704300551		108		JAS R BRANCH 802155	W VA FIELD AREA B	17.0	COLUMBIA GAS TRAN
8350613		4704301162		108		JENNIE JONES - 802119	W VA FIELD AREA B	18.0	COLUMBIA GAS TRAN
8350614		4704300596		108		JENNIE JONES - 802120	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350514		4708702209		108		JNO T CASEY 800022	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350505		4708702354		108		JOHN GOOD 800129	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350589		4704301995		108		JOHN PULLEN - 802282	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350587		4704301996		108		JOHN PULLEN - 802318	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350795		4704301898		108		JOHN WOODALL 806046	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350759		4704302017		108		L C L A 802115	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350887		4704301899		108		L C L A/WATSON 805999	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350744		4704301960		108		L R SWEETLD ETAL 802435	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350474		4705900904		108		L V SARTAIN - 800112	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350742		4707900888		108		L W BECKETT 805183	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350753		4704300418		108		LEONIDAS HILL ETAL 805229	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350609		4704302867		108		LINCOLN LAND ASSN - 802270	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350582		4704302019		108		LINCOLN LAND ASSN 802440	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350580		4704301906		108		LINCOLN LAND ASSOC - 802431	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350615		4704302048		108		LINCOLN LAND ASSOC 802401	WVA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350558		4704302049		108		LINCOLN LAND ASSOC 802409	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350850		4704302068		108		LINCOLN LAND ASSOC 805938	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350879		4704302069		108		LINCOLN LAND ASSOC 805944	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350786		4704302070		108		LINCOLN LAND ASSOC 805962	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350883		4704300207		108		LINCOLN LAND ASSOC 805965	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350808		4704302072		108		LINCOLN LAND ASSOC 805968	WVA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350789		4704301907		108		LINCOLN LAND ASSOC 806010	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350855		4704300165		108		LOUIS B SWEETLAND 804612	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350856		4704302050		108		LOUISA ATKINS - 804426	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350515		4708702224		108		M F & F H OSBORNE 800051	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350596		4701500394		108		M L BROWN 801552	WEST VIRGINIA FIELD A	8.6	
8350432		4701501580		108		M L BROWN 801781	WEST VIRGINIA FIELD A	8.6	
8350433		4701501581		108		M L BROWN 801782	WEST VIRGINIA FIELD A	8.6	
8350551		4704302020		108		MARY A NIDA 802415	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350530		4709901666		108		MARY A PHELPS - 800580	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350724		4703903151		108		MATTIE WISEMAN 804129	WEST VIRGINIA FIELD A	4.0	COLUMBIA GAS TRAN
8350729		4700501206		108		MOHLER LUMBER CO 801624	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350854		4704300164		108		MOHLER LUMBER CO 804610	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350824		4700500309		108		MOHLER LUMBER CO 804617	W VA FIELD AREA B	13.0	COLUMBIA GAS TRAN
8350735		4700500310		108		MOHLER LUMBER CO 804618	WVA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350736		4703900234		108		MOHLER LUMBER CO 804640	WVA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350719		4700500321		108		MOHLER LUMBER CO 804642	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350714		4703900298		108		MOHLER LUMBER CO 804676	WEST VIRGINIA FIELD A	9.0	COLUMBIA GAS TRAN
8350720		4700500344		108		MOHLER LUMBER CO 804694	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350814		4703900962		108		MOHLER LUMBER CO 805135	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350748		4704300386		108		MOHLER LUMBER CO 805137	WVA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350821		4700500573		108		MOHLER LUMBER CO 805217	W VA FIELD AREA B	11.0	COLUMBIA GAS TRAN
8350512		4700501207		108		MOHLER LUMBER CO-801683	W VA FIELD AREA B	0.5	COLUMBIA GAS TRAN
8350925		4709900364		108		N FORK COAL CO #1 805550	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350929		4709900405		108		N FORK COAL CO #2 805701	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350833		4709900435		108		N FORK COAL CO #4 805765	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350832		4709900446		108		N FORK COAL CO #6 805816	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350931		4709900406		108		N FORK COAL NO #3 805702	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350576		4709901645		108		NANCY A ADKINS ETAL 802586	W VA FIELD AREA B	0.7	COLUMBIA GAS TRAN
8350493		4703903069		108		NELLIE B TOMPKINS - 800907	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350491		4703903070		108		NELLIE B TOMPKINS-801018	W VA FIELD AREA A	0.6	COLUMBIA GAS TRAN
8350857		4705900008		108		NETTIE B WILCOX 804265	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350591		4704301945		108		NOAH TURLEY - 802680	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350706		4703903142		108		NUMA BLOCK COAL CO 803965	W VA FIELD AREA A	16.0	COLUMBIA GAS TRAN
8350716		4703903180		108		NUMA BLOCK COAL CO 803966	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350813		4705901008		108		NUMA BLOCK COAL CO 805221	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350569		4707900890		108		O A HARDIN 803754	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350567		4704301917		108		O C ROBERTS 802402	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350676		4701502067		108		O'DELL 801639	WEST VIRGINIA FIELD A	8.6	
8350697		4701502068		108		O'DELL 801684	WEST VIRGINIA FIELD A	8.6	
8350696		4701502069		108		O'DELL 801687	WEST VIRGINIA FIELD A	8.6	
8350430		4701502072		108		O'DELL 801771	WEST VIRGINIA FIELD A	8.6	
8350431		4701502073		108		O'DELL 801779	WEST VIRGINIA FIELD A	8.6	
8350683		4701502079		108		O'DELL 803864	WEST VIRGINIA FIELD A	8.6	
8350645		4701502084		108		O'DELL 804024	WEST VIRGINIA FIELD A	8.6	
8350525		4708702246		108		ORPHA NAYLOR-800260	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350611		4704302022		108		OSCAR FRANKLIN 802133	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350873		4704301918		108		P A OXLEY 805980	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350797		4704301919		108		P A OXLEY 805981	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350471		4707900891		108		P H YOUNG - 801357	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350810		4704301920		108		P M MCGHEE 805988	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350462		4701500190		108		P M SUMMERS ET AL 801279	WEST VIRGINIA FIELD A	8.6	
8350693		4701500352		108		P M SUMMERS 801334	WEST VIRGINIA FIELD A	8.6	
8350691		4701500357		108		P M SUMMERS 801347	WEST VIRGINIA FIELD A	8.6	
8350598		4701502059		108		P M SUMMERS 801492	WEST VIRGINIA FIELD A	8.6	
8350437		4701501578		108		P M SUMMERS 801834	WEST VIRGINIA FIELD A	8.6	
8350635		4701501579		108		P M SUMMERS 801835	WEST VIRGINIA FIELD A	8.6	
8350638		4701501583		108		P M SUMMERS 801876	WEST VIRGINIA FIELD A	8.6	
8350594		4701502082		108		P M SUMMERS 803905	WEST VIRGINIA FIELD A	8.6	
8350643		4701502085		108		P M SUMMERS 804029	WEST VIRGINIA FIELD A	8.6	
8350656		4701502087		108		P M SUMMERS 804082	WEST VIRGINIA FIELD A	8.6	
8350567		4703901344		108		PAINT CK COAL & LAND #7 805874	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350775		4703901106		108		PAINT CK COAL & LAND 805369	WVA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350434		4703903071		108		PAINT CREEK COAL & LAND 800295	W VA FIELD AREA A	0.5	COLUMBIA GAS TRAN
8350859		4707900892		108		PETER MCCALLISTER 804138	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350812		4704301967		108		PHIL HAGER 805949	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350482		4703903034		108		PRINCE LAND CO 800583	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350559		4703903036		108		QUEEN LAND CO 802510	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350552		4704300378		108		R & ATTIE MILLER 802416	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350860		4707900893		108		R F CARPENTER 804146	W VA FIELD AREA A	12.0	COLUMBIA GAS TRAN
8350793		4704301923		108		R F MCCOLGIN 806025	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350673		4701501966		108		R P PARKER 820425	WEST VIRGINIA FIELD A	8.6	
8350451		4701501965		108		R P PARKER 820426	WEST VIRGINIA FIELD A	8.6	
8350452		4701502103		108		R P PARKER 820427	WEST VIRGINIA FIELD A	8.6	
8350453		4701502104		108		R P PARKER 820428	WEST VIRGINIA FIELD A	8.6	
8350455		4701502105		108		R P PARKER 820429	WEST VIRGINIA FIELD A	8.6	
8350454		4701501967		108		R P PARKER 820430	WEST VIRGINIA FIELD A	8.6	
8350456		4701501968		108		R P PARKER 820431	WEST VIRGINIA FIELD A	8.6	
8350628		4701502106		108		R P PARKER 820432	WEST VIRGINIA FIELD A	8.6	
8350670		4701501964		108		R S KYLE (EAST) 820421	WEST VIRGINIA FIELD A	8.6	
8350671		4701502101		108		R S KYLE (EAST) 820423	WEST VIRGINIA FIELD A	8.6	
8350672		4701502102		108		R S KYLE (EAST) 820424	WEST VIRGINIA FIELD A	8.6	
8350650		4701501133		108		R S KYLE (WEST) 820309	WEST VIRGINIA FIELD A	8.6	
8350658		4701501845		108		R S KYLE (WEST) 820408	WEST VIRGINIA FIELD A	8.6	
8350659		4701502099		108		R S KYLE (WEST) 820411	WEST VIRGINIA FIELD A	8.6	
8350660		4701501859		108		R S KYLE (WEST) 820412	WEST VIRGINIA FIELD A	8.6	
8350661		4701501852		108		R S KYLE (WEST) 820413	WEST VIRGINIA FIELD A	8.6	
8350662		4701501853		108		R S KYLE (WEST) 820414	WEST VIRGINIA FIELD A	8.6	
8350663		4701502100		108		R S KYLE (WEST) 820416	WEST VIRGINIA FIELD A	8.6	
8350664		4701500423		108		R S KYLE (WEST) 820417	WEST VIRGINIA FIELD A	8.6	
8350506		4708702369		108		R W DONOHOE - 800198	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350554		4701501393		108		RALPH SMITH HRS 802527	W VA FIELD AREA A	0.0	COLUMBIA GAS TRAN
8350519		4708702372		108		ROBERT HARPER-800656	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350561		4703903144		108		ROBERTSON & TAYLOR 801535	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350495		4703903073		108		ROBSON & PRITCHARD - 801092	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350816		4703901027		108		ROBSON & PRITCHARD 5 805278	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350566		4704300424		108		S A EGNOR 803897	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350570		4708702255		108		S A HILL 803928	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350874		4704301925		108		S B HALL 806003	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350715		4703500183		108		S L CASEY ETAL 804568	W VA FIELD AREA A	4.0	COLUMBIA GAS TRAN
8350524		4708702259		108		S L CASEY 800019	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350533		4704302055		108		S W OXLEY 802441	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350727		4703903132		108		SAMUEL CASDORPH 804124	W VA FIELD AREA A	9.0	COLUMBIA GAS TRAN
8350553		4701100595		108		SARAH A BERRY 803941	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350478		4708702374		108		SARAH F TAYLOR 801057	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350841		4709900095		108		SARAH SANSON ETAL 804682	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350831		4704302077		108		SIAS YAEGER 805945	WEST VIRGINIA FIELD A	5.0	COLUMBIA GAS TRAN
8350603		4709901647		108		SPRY FARM 802350	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8350689		4703903047	108			STEPHEN TAYLOR 801351	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350798		4704300700	108			SUSAN R SPEARS - 805790	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350513		4700500781	108			T J PRICE - 801662	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350818		4700500570	108			T J PRICE 805284	WEST VIRGINIA FIELD A	10.0	COLUMBIA GAS TRAN
8350817		4700500572	108			T J PRICE 805212	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350775		4703901114	108			TCO FEE TR #4 805423	WVA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350776		4703901169	108			TCO FEE TR #5 805501	WVA FIELD AREA A	14.0	COLUMBIA GAS TRAN
8350498		4703903417	108			TCO FEE 800661	W VA FIELD AREA A	6.0	COLUMBIA GAS TRAN
8350815		4703901015	108			TCO FEE 805237	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350739		4709901649	108			TCO MIN TR #1 802139	WVA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350620		4709901489	108			TCO MIN TR #1 802358	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350607		4709900835	108			TCO MIN TR #1 802376	W VA FIELD AREA B	9.0	COLUMBIA GAS TRAN
8350778		4704300673	108			TCO MIN TR #1 805687	WVA FIELD AREA B	12.0	COLUMBIA GAS TRAN
8350939		4709900483	108			TCO MIN TR #1 805706	W VA FIELD AREA B	16.0	COLUMBIA GAS TRAN
8350806		4704302078	108			TCO MIN TR #1 805969	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350836		4709900472	108			TCO MIN TR #1 806027	W VA FIELD AREA B	8.0	COLUMBIA GAS TRAN
8350835		4709900476	108			TCO MIN TR #1 806058	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350834		4709900478	108			TCO MIN TR #1 806060	W VA FIELD AREA B	2.0	COLUMBIA GAS TRAN
8350610		4704300297	108			TCO MIN TR #11 - 802260	W VA FIELD AREA B	10.0	COLUMBIA GAS TRAN
8350885		4704302333	108			TCO MIN TR #19 805950	W VA FIELD AREA B	7.0	COLUMBIA GAS TRAN
8350827		4709900392	108			TCO MIN TR #6 805738	W VA FIELD AREA B	0.8	COLUMBIA GAS TRAN
8350745		4704302029	108			TCO MIN TR #7 - 802163	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350608		4704301865	108			TCO MIN TR #7 802392	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350876		4704302081	108			TCO MIN TR #7 805947	WEST VIRGINIA FIELD A	10.0	COLUMBIA GAS TRAN
8350884		4704302082	108			TCO MIN TR #7 805948	W VA FIELD AREA B	4.0	COLUMBIA GAS TRAN
8350740		4709901648	108			TCO MIN TR NO 1 802099	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350924		4709900471	108			TCO MINE TR #1 805677	W VA FIELD AREA B	0.3	COLUMBIA GAS TRAN
8350581		4704301928	108			TENNA HUFFMAN 802438	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350544		4704301947	108			V P MCMILLAN 802427	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350478		4705702271	108			W A GEARY 800035	W VA FIELD AREA A	0.8	COLUMBIA GAS TRAN
8350865		4707900102	108			W A WOMACK 805012	W VA FIELD AREA B	5.0	COLUMBIA GAS TRAN
8350488		4703903051	108			W C THOMPSON - 801346	W VA FIELD AREA A	3.0	COLUMBIA GAS TRAN
8350624		4709901650	108			W E JONES - 802202	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350851		4706302059	108			W F BLACK 804936	W VA FIELD AREA B	6.0	COLUMBIA GAS TRAN
8350852		4706302060	108			W F BLACK 804937	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350848		4704300319	108			W G ADKINS 805929	W VA FIELD AREA B	14.0	COLUMBIA GAS TRAN
8350711		4703903153	108			W H TOMPKINS 804119	WEST VIRGINIA FIELD A	6.0	COLUMBIA GAS TRAN
8350585		4704301949	108			W H TURLEY ETUX 802519	W VA FIELD AREA B	0.9	COLUMBIA GAS TRAN
8350629		4701502107	108			W HIVELY 820434	WEST VIRGINIA FIELD A	8.6	
8350787		4704301930	108			W J ASHWORTH 806022	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350562		4703903145	108			W J PA HERSON - 801472	W VA FIELD AREA A	0.3	COLUMBIA GAS TRAN
8350718		4703903154	108			W P BRIGHTWELL 804113	W VA FIELD AREA A	5.0	COLUMBIA GAS TRAN
8350526		4708702364	108			W S LEWIS 800029	W VA FIELD AREA A	1.0	COLUMBIA GAS TRAN
8350527		4708702385	108			W T SMITH-800232	W VA FIELD AREA A	2.0	COLUMBIA GAS TRAN
8350853		4704301934	108			W W RAY 804960	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350565		4704301935	108			WILEY & THOMPSON 803946	W VA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350872		4704301936	108			WM BROWNING 806008	W VA FIELD AREA B	3.0	COLUMBIA GAS TRAN
8350791		4704301938	108			WM BROWNING 806019	W VA FIELD AREA B	0.6	COLUMBIA GAS TRAN
8350738		4709901651	108			Z A SKEEN - 802116	WVA FIELD AREA B	1.0	COLUMBIA GAS TRAN
8350737		4709901652	108			Z A SKEENS-802159	WVA FIELD AREA B	4.0	COLUMBIA GAS TRAN

[FR Doc. 83-24084 Filed 9-7-83; 8:45 am]

BILLING CODE 6717-01-C

federal register

Thursday
September 8, 1983

Part VII

Environmental Protection Agency

Final and Proposed Amendments to National Oil and Hazardous Substances Contingency Plan; National Priorities List

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SWER-FRL 2421-1]

Amendment to National Oil and Hazardous Substance Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. This amendment supplements the NCP with the National Priorities List ("NPL"), which will become Appendix B of the NCP. CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The NPL constitutes this list.

DATES: The promulgation date for this amendment to the NCP shall be September 8, 1983. Under section 305 of CERCLA, amendments to the NCP cannot take effect until Congress has had at least 60 "calendar days of continuous session" from the date of promulgation in which to review the amended Plan. Since the actual length of this review period may be affected by Congressional action, it is not possible at this time to specify a date on which the NPL will become effective. Therefore, EPA will publish a **Federal Register** notice at the end of the review period announcing the effective date of this NPL. EPA notes, however, that the legal effect of a Congressional veto pursuant to section 305 has been placed in question by the recent decision, *Immigration and Naturalization Service* v. *Chadha*, —— U.S. ——, (Docket No. 80–1832, decided June 23, 1983). Nonetheless, the Agency has decided, as a matter of policy, to submit the NPL for Congressional review.

ADDRESSES: The public docket for the NCP will contain Hazard Ranking System (HRS) score sheets for all sites on the NPL, as well as a "Documentation Record" for each site, describing the information used to compute the scores. The main docket is located in Room S325 of Waterside Mall, 401 M Street, S.W., Washington D.C. 20460 and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays. Requests for copies of these documents should be directed to EPA at the above address. The EPA Regional Offices maintain dockets concerning the sites located in their Regions. Addresses for the Regional Office dockets are:

Jennifer Arns, Region I, U.S. EPA Library, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223–5781
Audrey Thomas, Region II, U.S. EPA Library, 26 Federal Plaza, 10th Floor, New York, NY 10278, 212/264–2881
Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597–0580
Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Courtland Street NE, Atlanta, GA 30365, 404/257–4216
Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 512/353–2022
Nita House, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/767–7341
Connie McKenzie, Region VII, U.S. EPA Library, 324 East 11th Street, Kansas City, MO 64106, 816/374–3497
Delores Eddy, Region VIII, U.S. EPA Library, 1860 Lincoln Street, Denver, CO 80295, 303/837–2560
Jean Circiello, Region IX, U.S. EPA Library, 215 Freemont Street, San Francisco, CA 94105, 415/974–8076
Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101, 206/442–1289.

FOR FURTHER INFORMATION CONTACT: Stephen M. Caldwell, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548–E), Environmental Protectioin Agency, 401 M Street SW, Washington, D.C. 20460, Phone (800) 424–9346 or 382–3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601–9657 ("CERCLA" or "the Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "the Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180). Those amendments to the NCP implement the new responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable taking into account the potential urgency of such action, for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA Section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with permanent remedy for a release (CERCLA Section 101(24)). Criteria for determining priorities are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA requires that these criteria be used to prepare a list of national priorities among the known releases or threatened releases throughout the United States, and that to the extent practicable at least 400 sites be designated individually. EPA has included releases on the NPL where CERCLA authorizes Federal response to the release. Under section 104(a) of CERCLA, this response authority is quite broad and extends to releases or threatened releases not only of designated hazardous substances, but of any "pollutant or contaminant" which presents an imminent and substantial danger to the public health or welfare. CERCLA requires that this National Priorities List ("NPL") be included as part of the NCP. Today, the Agency is amending the NCP by adding the NPL as Appendix B. The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

II. Purpose of the NPL

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate

Report No. 96–848, 96th Cong., 2d. Sess. 60 (1980)):

> The priority lists serve primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site in the NPL is intended primarily to guide EPA in determining which sites warrant further investigation designed to assess the nature and extent of the public health and environmental risks associated with the site and to determine what response action, if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake response actions. Moreover, listing does not require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site

In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities, as discussed below. Neither can the HRS itself determine the appropriate remedy for a site. The information collected to develop HRS scores to choose sites for the NPL is not sufficient in itself to determine the appropriate remedy for a particular site. After a site has been included on the NPL, EPA generally will rely on further, more detailed studies conducted at the site to determine what response, if any, is appropriate. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies EPA may conclude that it is not feasible to conduct response action at some sites on the NPL because of more pressing needs at other sites. Given the limited resources available in the Hazardous Substance Response Fund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that no action is needed at the site because the site does not present a problem.

III. Implementation

EPA's policy is to pursue cleanup of hazardous waste sites using all appropriate response and/or enforcement actions which are available to the Agency. Publication of sites on the final NPL will serve as notice to any potentially responsible party that the Agency may initiate Fund-financed response action. The Agency will decide on a site-by-site basis whether to take enforcement action or to proceed directly with Fund-financed response actions and seek recovery of response costs after cleanup. To the extent feasible, once sites are listed on the NPL EPA will determine high priority candidates for Fund-financed response action and enforcement action through State or Federal initiative. The determinations will take into account consideration of which approach is more likely to accomplish cleanup of the site while using the Fund's limited resources as efficiently as possible.

In many situations, it is difficult to determine whether private party response through enforcement measures or Fund-financed response and cost recovery will be the more effective approach in securing site cleanup until studies have been completed indicating the extent of the problem and alternative response actions. Accordingly, the Agency plans to proceed with remedial investigations and feasibility studies at sites as quickly as possible. (See the NCP, 40 CFR 300.68, and the preamble, 47 FR 31180, July 16, 1982, for a more detailed discussion of remedial investigations and feasibility studies.)

Funding of response actions for sites will not necessarily take place in order of the sites' ranking on the NPL. EPA does intend in most cases to set priorities for remedial investigations and feasibility studies largely on the basis of HRS scores and the States' priorities simply because at this early stage these may be the only sources of information regarding the risk presented by a site. Funding for the design and construction of remedial measures is less likely, however, to occur in order of HRS score. State assurance that cost sharing and other State responsibilities will be met are prerequisites for construction of remedial measures. Taking those factors into account, priorities for design and construction will be based on impacts on public health and the environment, as indicated by the HRS scores and other available information, and on a case-by-case evaluation of economic, engineering, and environmental considerations.

The NPL does not determine priorities for removal actions; EPA may take removal actions at any site, whether listed or not, that meets the criteria of sections 300.65–67 of the NCP. Likewise, EPA may take enforcement actions under applicable statutes against responsible parties regardless of whether the site is listed on the NPL.

IV. Process for Establishing the NPL

Section 105(8) of CERCLA contemplates that the bulk of the initial identification of sites for the NPL will be done by the States according to EPA criteria, although EPA also has independent authority to consider sites for listing. For that reason, most of the sites on the NPL were evaluated by the States in accordance with the HRS and submitted to EPA. In some cases, however, EPA Regional Offices also scored sites using the HRS. For all sites considered, EPA reviewed the HRS evaluations and conducted quality assurance audits on a sample of the sites submitted for the NPL. The purpose of these audits was to ensure accuracy and consistency in HRS scoring among the various EPA and States offices.

On December 30, 1982, the proposed list of 418 sites was published in the **Federal Register**. The 418 sites consisted of any site specifically designated by a State as its top priority, and all sites receiving HRS scores of 28.50 or higher. This cutoff score was selected because it would yield an initial NPL of at least 400 sites as suggested by CERCLA, not because of any determination that it represented a threshold in the significance of the risks presented by sites. On March 4, 1983, the Agency also proposed to include the Times Beach, Missouri, site on the NPL, and has considered comments on that site along with those for the other 418 sites. Based on the comments received on the proposed sites, as well as further investigation by EPA and the States, EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to public comments, and an explanation of any score changes made as a result of such comments, are addressed on the NPL in the "Support Document for the National Priorities List." This document is available in the EPA dockets in Washington, D.C. and the Regional Offices.

Some commenters stated that certain specific sites that EPA did not consider in developing the proposed NPL merit inclusion on the NPL. In most such cases EPA did not have sufficient data to score the sites using the HRS. EPA and

the States are in the process of investigating and evaluating those sites, and will propose to include any sites that meet EPA's criteria for listing on the NPL in future updates. In addition, some commenters submitted comments or information supporting the inclusion of sites that EPA had evaluated according to the HRS but had not proposed because the sites scored too low. The Agency is considering those comments, and where new information results in raising the HRS score of a site over 28.50, will propose to include the site on the NPL in a future update.

The Agency considered accepting further comment on the final NPL sites for a second 60 day period following proposal of the first NPL update. This option was considered in order to be as responsive as possible to the concerns of a few commenters who had requested extensions of the original comment period. In fact, in an exercise of its discretion, EPA was able to consider practically all late comments, and believes that this more than adequately accommodated the concerns of the few commenters who had requested more time. Accordingly, EPA has determined that the NPL can now be published in final form and that a second opportunity for comment is not necessary.

V. Contents of the NPL

As noted above, CERCLA requires that the NPL include, if practicable, at least 400 sites. The NPL established today contains 406 individual entries. The December proposal was based on a minimum HRS score of 28.50, and EPA is continuing to use the same minimum score as the basis for including sites on the final NPL. Each entry on the NPL contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. For informational purposes, each entry on the NPL is accompanied by a notation on the current status of response and enforcement activities at the site, as described more fully below.

The sites on the NPL are listed in order of their HRS scores (except where EPA modified the order to reflect top priorities designated by States, as discussed in the following paragraph). The list is presented in groups of 50 sites. EPA has grouped the sites in this manner to emphasize the fact that minor differences in HRS scores do not necessarily represent significantly different levels of risk. Within these groups EPA will consider the sites to have approximately the same priority for response actions.

Section 105(8)(B) of CERCLA requires that, to the extent practicable, the NPL include within the 100 highest priorities at least one facility designated by each State as representing the greatest danger to public health, welfare, or the environment among known facilities in the State. For that reason, EPA included within the 100 highest priority sites each site designated by a State as its top priority. The Agency did not require States to rely exclusively on the HRS in designating their top priority sites, and certain of the sites designated by the States as their top priority were not among the one hundred highest sites accordingly to HRS score. These lower scoring State priority sites are listed at the bottom of the group of 100 highest priority sites. All top priority sites designated by States are indicated by asterisks.

One commenter said that the HRS scores do not represent levels of risk with sufficient precision to allow the Agency to array sites on the NPL sequentially by score. The commenter contended that EPA could not properly distinguish on the basis of score between the risks posed by two sites whose HRS scores differed only slightly. This commenter recommended, therefore, that EPA list sites on the NPL in two groups: The first group would consist of the top 100 sites, while the second would be comprised of all the remaining sites. Both groups would be organized alphabetically by EPA Region.

EPA has decided to list sites sequentially by score because it wants the presentation of the NPL to be simple and easily understood, and because it believes that, at a minimum, large differences in HRS scores between sites can be a meaningful indicator of different levels of risk. Based on its experience with the Interim Priorities List, which was prepared before the formal NPL process began, as well as with the proposed NPL, EPA has found that the public wants to know the relative HRS scores of sites. As EPA discovered with the Interim Priorities List, when sites are listed alphabetically or by some other non-sequential manner the public is still likely to assume that the sites presented high on the list are those presenting the greatest risk to public health. Thus, listing sites other than by scores could result in confusion.

Even if the Agency were to list sites on the NPL on a non-sequential basis, public concern about the relative scores could soon cause the media or members of the public to obtain the HRS scores and compile a list presented sequentially by score. A large number of people requesting copies of the proposed NPL list preferred to receive the list presented sequentially by score.

While EPA agrees that the HRS scoring system is not so precise as to accurately distinguish between the risks presented by two sites whose scores are very close, it was not designed to do so and the Agency has not relied upon it on that basis. The HRS had to be designed for application to a wide variety of sites and to sites where expensive, detailed data on all relevant characteristics are not available; consequently, the HRS can only roughly approximate the risk presented by the various sites. For that reason, presenting the NPL sites sequentially by score simply reports the numerical results of applying this system for approximating risk and does not represent a determination by EPA that any particular site on the NPL necessarily presents a greater risk than all sites listed below or a lesser risk than all sites listed above. EPA is confident, however, that the HRS is an effective tool for approximating risk and that differences of more than a few points in score generally are meaningful in discriminating between sites. For this reason also, therefore, EPA has chosen to list sites sequentially by score to avoid the misapprehension that all sites on the list present an equivalent level of risk even when separated by twenty or thirty points in score.

EPA will continue, whenever possible, to accompany the presentation of the NPL with the caveat that minor differences in score may not be meaningful, and that therefore a given site may not necessarily be "worse" than the site or sites immediately following.

Another commenter recommended establishing a dual list, so that the second list could indicate those sites at which substantial progress in cleanup is being made. The Agency believes that the effort involved in establishing a second list would not be justified. In order to develop a dual list the Agency would have to determine what constitutes "substantial progress" and develop the criteria for making such a determination. This would also require EPA to conduct extensive engineering and evironmental studies of all sites at which cleanup is being done before each publication or update of the NPL. In addition, such a list could result in undue emphasis on partial solutions being implemented at a site rather than on the completion of cleanup to minimize the risks to the public and the environment. Rather than taking the resource-intensive approach suggested, EPA has included in the NPL a notation for each site that summarizes the status of action at the site, based on simple, easily verifiable criteria. Where private parties are taking response actions pursuant to a formal agreement with

EPA, the status of the site is described by notation as "Voluntary or Negotiated Response." EPA also intends to delete sites from the NPL when cleanup has been completed.

The Agency has included in the NPL for informational purposes several such categories of notation reflecting the current status of response and enforcement actions at sites. It should be noted that these notations are based on the Agency's most current information. Because a site's status may change periodically, these notations may become outdated. Site status will be noted in the following categories: Voluntary or Negotiated Response (V); Federal and State Response (R); Federal or State Enforcement (E); and Actions to be Determined (D). Each category is explained below.

Voluntary or Negotiated Response. Sites are included in this category if private parties are taking response actions pursuant to a consent order or agreement to which EPA is a party. Voluntary or negotiated cleanup may include actions taken pursuant to consent orders reached after EPA has commenced an enforcement action. This category of response may include remedial investigations, feasibility studies, and other preliminary work, as well as actual cleanup.

Several commenters were concerned that this category did not adequately reflect voluntary response efforts undertaken without formal agreements with EPA. However, EPA studies have shown that many of the response actions undertaken by private parties outside the sanction of EPA consent agreements have not been successful. Furthermore, some private parties have represented routine maintenance or waste management activities as response actions, thereby leading to the conclusion that only after a thorough technical review can the Agency describe actions by private parties as "responses". Thus, EPA believes that to describe actions taken outside consent orders as "response" would in many instances be misleading to the public as EPA cannot assure the public that the actions are appropriate, adequate, consistent with the NCP, and are being fully implemented. Therefore, the Agency encourages any responsible parties who are undertaking voluntary response actions at NPL sites to contact the Agency to negotiate consent agreements.

This is not intended to preclude responsible parties from taking voluntary response actions outside of a consent agreement. However, in order for the site to be deleted or to be noted in the voluntary or negotiated response category, EPA must still sanction the completed cleanup. If the remedial action is not fully implemented or is not consistent with the NCP, the responsible party may be subject to an enforcement action. Therefore, most responsible parties may find it in their best interest to negotiate a consent agreement.

Federal and State Response. The Federal and State Response category includes sites at which EPA or State agencies have commenced or completed removal or remedial actions under CERCLA, including remedial investigations and feasibility studies (see NCP, § 300.68 (f)–(i), 47 FR 31217, July 16, 1982). For purposes of this categorization, EPA considers the response action to have commenced when EPA has obligated funds. For some of the sites in this category EPA may follow remedial investigations and feasibility studies with enforcement actions, at which time the site status would change to "Federal or State Enforcement."

Federal or State Enforcement. This category includes sites where the United States or the State has filed a civil complaint or issued an administrative order. It also includes sites at which a Federal or State court has mandated some form of non-consensual response action following a judicial proceeding. It may not, however, include all sites at which preliminary enforcement activities are underway. A number of sites on the NPL are the subject of enforcement investigation or have been formally referred to the Department of Justice for enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites have not been included in the enforcement category.

Actions To Be Determined. This category includes all sites not listed in any other category. A wide range of activities may be in progress for sites in this category. The Agency may be considering whether to undertake response action, or may be conducting an enforcement investigation. EPA may have referred a case involving the site to the Department of Justice, prior to formal commencement of enforcement action. Investigations may be underway or needed to determine the source of a release in areas adjacent to or near a Federal facility. Responsible parties may be undertaking cleanup operations that are not covered by consent orders, or corrective action may not be occurring yet.

VI. Eligibility

CERCLA restricts EPA's authority to respond to the release of certain substances into the environment, and explicitly excludes some substances from the definition of release. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases under CERCLA because existing regulatory or other authority under other Federal statutes provides for an appropriate response. Where these other authorities exist, and the Federal government can undertake or enforce cleanup pursuant to a particular, proven program, listing on the NPL to determine the priority or need for response under CERCLA does not appear to be appropriate. EPA has therefore chosen not to consider certain types of sites for inclusion on the NPL even though authority to respond to them may exist under CERCLA. If, however, the Agency later determines that sites which it has not listed as a matter of policy are not being properly responded to, the Agency will consider listing those sites on the NPL.

This section discusses the comments received on these categories of releases and the Agency's decision on how to address them on the NPL.

Releases of Radioactive Materials

Section 101(22) of CERCLA excludes several types of releases of radioactive materials from the statutory definition of "release." These releases are therefore not eligible for CERCLA response actions or inclusion on the NPL. The exclusions apply to 1) releases of source, by-product or special nuclear material from a nuclear incident if these releases are subject to financial protection requirements under section 170 of the Atomic Energy Act, and 2) any release of source, by-product or special nuclear material from any processing site designated under the Uranium Mill Tailings Radiation Control Act of 1978. Accordingly, such radioactive releases have not been considered eligible for inclusion on the NPL. As a policy matter, EPA has also chosen not to list releases of source, by-product, or special nuclear material from any facility with a current license issued by the Nuclear Regulatory Commission (NRC), on the grounds that the NRC has full authority to require cleanup of releases from such facilities. (Formerly licensed facilities whose licenses no longer are in effect will, however, be considered for listing.) Comments generally supported the position.

Some commenters said that EPA should also not list facilities that hold a current license issued by a State pursuant to a delegation of authority from the NRC pursuant to section 274 of the Atomic Energy Act (42 U.S.C. 2021).

EPA has decided, however, that its policy of excluding licensed facilities from the list should extend only to those facilities over which the Federal agency, the NRC, has direct control. When a facility is licensed by a State pursuant to an NRC delegation, the NRC has no authority, short of withdrawing the delegation itself, to enforce conditions of the license or determine that new conditions are necessary. EPA recognizes that the licensing State may be able to ensure cleanup of any release through the license, but has decided to list such sites on the NPL to provide potential Federal authorities if necessary. Since listing on the NPL in no way determines whether actual cleanup actions will be taken, EPA will be able to defer to the licensing State whenever the Agency determines that State efforts are adequate to address the problem.

Some commenters stated that no sites of radioactive releases should be included on the NPL, for several reasons. One point made was that other Federal authorities, such as the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA), provide adequate authority to control releases from such sites. With the exception of certain specified sites (which EPA has not considered for listing on the NPL), however, UMTRCA addresses the problem only by inclusion of conditions in facility licenses and does not authorize any direct response actions. While UMTRCA may prove adequate in some cases, EPA believes that CERCLA provides sufficiently broader authorities to warrant listing in anticipation of the possibility that action under CERCLA may prove necessary or appropriate at some of these sites.

Another point made was that the HRS does not accurately reflect the real hazard presented by radioactive sites because the HRS scores releases of radioactive material even when those releases are within radiation limits established by the Nuclear Regulatory Commission and by EPA pursuant to the Atomic Energy Act. As explained above in discussing the HRS approach to scoring observed releases, this factor is designed to reflect the likelihood that substances can migrate from the site, not that the particular release observed is itself a hazard. In addition, EPA's experience has been that some radioactive releases do exceed these standards, confirming the premise of the HRS that a current observed release in low concentrations may be followed by greater releases leading to higher concentrations.

Releases From Federal Facilities

CERCLA section 111(e)(3) prohibits use of the Fund for remedial actions at Federally owned facilities. In the proposed NPL, EPA did not list any sites where the release resulted solely from a Federal facility, regardless of whether contamination remained onsite or has migrated offsite. EPA did, however, consider eligible for inclusion on the NPL sites where it was unclear whether the Federal facility was the sole source of contamination, on the grounds that if it turned out that some other source were also responsible EPA might be authorized to respond. In these situations, the offsite contaminated area associated with this type of release was considered eligible for inclusion. Sites that are not currently owned by the Federal Government were also considered eligible for the NPL, even if they were previously owned by the Federal Government. Finally, non-Federally owned sites where the Federal Government may have contributed to a release were also eligible for inclusion.

EPA chose not to list releases coming solely from Federal facilities because of the lack of EPA response authority, and because the responsibility for cleanup of these sites rests with the responsible Federal agency, pursuant to Executive Order 12316 (46 FR 42237, Aug. 20, 1981). EPA incorporated this position into the NCP, at section 300.66(e)(2), 47 FR 31215 (July 16, 1982). However, a number of commenters believed that Federal facilities should be listed on the NPL when the HRS score was sufficiently high in order to focus public attention and appropriate resources on the most serious sites even though they are not eligible for Fund-financed remedial action. After consideration of this comment, the Agency believes that it may be appropriate to include Federal facility sites on the NPL when they meet the criteria for inclusion, and has decided to propose a future amendment to the NCP which would permit it to do so. While it was not feasible to consider Federal facilities for inclusion in this final NPL or in the first update, EPA intends to begin considering Federal facilities for inclusion on the NPL, and expects to include qualifying sites in the next feasible NPL update proposal.

EPA will develop working relationships with Federal agencies on the implementation of corrective actions at Federal sites, whether on a future version of the NPL or not. If the sites are owned by the Department of Defense, they will take the appropriate action, as they have response authority under Executive Order 12316. For sites owned by other agencies, EPA will conduct the remedial action with funding provided by the agency that owns the site. In both of these instances, the response action must be in conformity with the NCP, just as all response action performed by private parties must be.

RCRA-Related Sites

Both CERCLA and the Resource Conservation and Recovery Act (RCRA) contain authorities applicable to hazardous waste facilities. These authorities overlap for certain sites. Accordingly, where a site consists of regulated units of a RCRA facility operating pursuant to a permit or interim status, it will not be included on the NPL but will instead be addressed under the authorities of RCRA. The Land Disposal Regulations under RCRA (40 CFR Parts 122, 260, 264, and 265) give EPA and the States authority to control active sites through a broad program which includes monitoring, compliance inspections, penalties for violations, and requirements for post closure plans and financial responsibility. RCRA regulations require a contingency plan for each facility. The regulations also contain Groundwater Protection Standards (40 CFR Part 264 Subpart F) that cover detection monitoring, compliance monitoring (if ground water impacts are identified) and corrective action.

These monitoring and corrective action standards apply to all "regulated units" of RCRA facilities, i.e., any part of the waste treatment, storage, or disposal operation within the boundaries of the facility that accepted waste after January 26, 1983, the effective date of the Land Disposal Regulations (47 FR 32349, July 26, 1982). Even if the unit ceases operation after this time, the unit is still required to be covered by a permit and the monitoring and corrective action requirements will be enforced. Given this alternative authority to ensure cleanup, regulated units of RCRA facilities generally are not included on the NPL. This is true not only of sites subject to EPA-administered hazardous waste programs but also to sites in States that administer programs approved by EPA. Even in the latter instance, close Federal control is ensured by the comprehensiveness of the program elements required of all State programs coupled with EPA's authority to enforce State program requirements directly if the State fails to do so. Only if the facility is abandoned and the RCRA corrective action requirements cannot be enforced will EPA consider listing the site on the NPL for possible response under CERCLA. EPA does, however,

consider eligible for listing on the NPL those RCRA facilities at which a significant portion of the release appears to come from "non-regulated units" of the facility, that is, portions of the facility that ceased operation prior to January 26, 1983.

Releases of Mining Wastes

Some commenters presented the view that CERCLA does not authorize EPA to respond to releases of mining wastes, and that sites involving mining wastes should not be included on the NPL. This view is based on the interpretation that mining wastes are not considered hazardous substances under CERCLA. CERCLA includes in its definition of hazardous substances materials that constitute hazardous wastes under the Resource Conservation and Recovery Act (RCRA). In the 1980 amendments to RCRA, the regulation of mining wastes under Subtitle C of RCRA was temporarily suspended and that suspension is presently in effect. For that reason, the commenters believe that mining wastes should not be considered hazardous substances under CERCLA.

EPA disagrees with the commenters' interpretation. The Agency believes that mining wastes can be considered hazardous substances under CERCLA if it meets any of the other statutory criteria (e.g., if the material is also a hazardous air pollutant listed under section 112 of the Clean Air Act). More importantly, however, EPA's authority to respond to mining waste releases, and the Agency's ability to list mining waste sites on the NPL, does not depend on whether mining wastes are hazardous substances. Section 104(a)(1) of CERCLA authorizes EPA to respond to releases of not only "hazardous substances," but also "any pollutant or contaminant." "Pollutant or contaminant" is defined very broadly in section 104(a)(2) to include essentially any substance that may cause an adverse effect on human health. EPA is convinced that mining wastes can satisfy these minimal criteria, that the Agency therefore has the authority to respond to releases of mining wastes, and that listing of mining waste sites on the NPL is appropriate.

Commenters also presented the view that it is unclear whether CERCLA was intended to address the type of waste problem, characterized by low concentrations and large volumes, associated with mining waste. They argued that the approach taken under RCRA, of preparing a study of mining wastes before determining whether regulation of such wastes is appropriate, should be adopted in the CERCLA program as well. Commenters suggested that as a policy matter, long term permanent remedial actions could be postponed and only removal actions taken at such sites when emergency conditions warrant.

As described above, however, the response authorities of CERCLA are very broad. As long as EPA has the authority to respond, and no other Federal statute provides authority comparable to CERCLA, the Agency has the obligation at least to evaluate the precise extent of the risk and the possible response actions at all sites that upon preliminary investigation appear to present a significant risk. EPA should also remain free at least to consider all types of response actions at all sites in order to determine which is the most appropriate and cost-effective, and should not limit itself to considering only removal actions at a particular class of facilities. Inclusion of the NPL is appropriate in order to begin the process of determining how to address such sites. Since inclusion on the NPL does not determine whether response actions will be taken or what response is appropriate, EPA is free to develop an approach for responding to mining waste sites that takes into account any unique features of such sites.

Comments also presented the view that the HRS is not an appropriate tool to estimate the risk to health and the environment presented by mining waste sites.

They pointed out that the HRS does not consider concentration levels at the point of impact, but rather the mere presence of the substance in the environment. As explained in Part VII below, however, the purpose of scoring for an observed release without taking level of concentration into account is simply to reflect the likelihood that the subject substances will migrate into the environment, which in the case of an observed release is 100 percent. Future releases, or even current releases for which concentration data do not exist, may raise the level of concentration to the point that it presents a greater risk than the release first observed. While releases from mining waste sites may be somewhat less likely than releases of man-made chemical substances to ever reach extremely high concentrations, harmful concentrations can occur from mining waste sites and the distinction is not sufficient to invalidate the HRS as an appropriate model for scoring mining waste sites.

Another comment was that the locations of mining waste sites are generally rural, so that the only sizable target population are far downstream. The comment alleged that these populations are considered in the HRS scoring but in reality may never be affected. This assumption, however, is false. The HRS considers only those persons living within a three mile radius of the site as constituting the target population. If a mining waste site has a high score for this factor, it indicates that despite the fact that the locations of such sites typically are rural, this particular site has a significant number of people within three miles.

Indian Lands

EPA has always considered sites on Indian lands to be eligible for inclusion on the NPL. However, one commenter was concerned that some sites on Indian lands may not have been included in the State evaluation of NPL candidate sites because Indian lands are not subject to State jurisdiction. The Agency recognizes that this may happen. However, EPA Regional Offices may also evaluate sites for inclusion on the NPL. The Agency urges commenters to submit information on any sites which they feel may not have been evaluated during preparation of the NPL for consideration in subsequent updates.

Non-Contiguous Facilities

Section 104(d)(4) of CERCLA authorizes the Federal Government to treat two or more non-contiguous facilities as one for purposes of response, if such facilities are reasonably related on the basis of geography or on the basis of their potential threat to public health, welfare, or the environment. For purposes of the NPL, however, EPA has decided that in most cases such sites should be scored and listed individually because the HRS scores more accurately reflect the hazards associated with a site if the site is scored individually. In other cases, however, the nature of the operation that created the sites and the nature of the probable appropriate response may indicate that two non-contiguous sites should be treated as one for purposes of listing and EPA has done so for some sites on the final NPL.

Factors relevant to such a determination include whether the two sites were part of the same operation. If so, the substances deposited and the means of disposal are likely to be similar, which may imply that a single strategy for cleanup is appropriate. In addition, potentially responsible parties would generally be the same for both sites, indicating that enforcement or cost recovery efforts could be very similar for both sites. Another factor is whether contamination from the two sites are threatening the same ground water or

surface water resource. Finally, EPA will also consider the distance between the non-contiguous sites and whether the target population is essentially the same or substantially overlapping for both sites, bearing in mind that the HRS uses the distance of three miles from the site as the relevant distance for determining target population.

Where the combination of these factors indicates that two non-contiguous locations should be addressed as a single site, the locations will be listed as a single site for purposes of the NPL. While the nature of the listing may be a guide to prospective response actions, it is not determinative: EPA may decide that response efforts, after all, should be distinct and separate for the two locations. Also, EPA may decide to coordinate the response to several sites listed separately on the NPL into a single response action when it appears more cost-effective to do so.

VII. Changes From the Proposed NPL

The Agency received a total of 343 comments on 217 of the sites listed on the proposed NPL. General comments on the NPL are addressed throughout this preamble. Significant comments regarding specific sites are addressed in the Support Document for the National Priorities List, previously cited. A number of the site-specific comments addressed similar issues, and EPA's approaches to those common issues are presented in this section.

A total of 144 HRS score changes have resulted from the Agency's reviews of comments and other information, and these are summarized in Table I. EPA determined that a total of five sites that had been proposed have HRS scores below 28.50 and should not be included on the NPL. For seven sites, the Agency is still considering the comments received concerning those sites and was unable to reach a final decision on listing in time for this publication. EPA will continue to evaluate these sites and make a final decision on them in a future update to the NPL. In one instance, where cleanup actions have adequately addressed the problems, EPA determined that a site should be deleted from the proposal and not included on the final NPL. In addition, two States have revised their designations of top priorities. These items are addressed below.

Waste Quantity. A number of commenters said that the waste quantity values assigned under the HRS were too high, because EPA had included the non-hazardous constituents of the hazardous substances in calculating the quantity of waste located at the facility. This issue was raised and resolved when the Agency adopted the HRS. In the preamble to that publication (47 FR 31190, July 16, 1982), EPA addressed the rationale for including all constituents, including the non-hazardous portions of the materials, in the calculation of the quantity of hazardous waste at a site. Briefly stated, the rationale for the Agency's approach is that detailed information of the portion of the total substances at a site that consist of hazardous constituents is expensive to determine, and therefore, because of the need to use a consistent method of evaluation of this factor at many sites nationwide, cannot be required as an element necessary for HRS scoring. EPA recognizes that most hazardous wastes contain some fractions of non-hazardous substances, and this fact was taken into account when the rating scales for waste quantity were established. In most instances a very small amount of the hazardous substances can have a significant impact on public health, welfare, or the environment. The Agency did not revise waste quantity values in response to comments presenting calculations that excluded the non-hazardous constituents.

Consideration of Flow Gradients. In some instances commenters maintained that, based upon their conclusions regarding prospective movement of contaminants in ground waters, the values assigned by EPA to population served by ground water are too high. The HRS, however, specifies that all the population using the aquifer of concern within a three mile radius of the facility should be included in the calculations of population served by ground water. The Agency's approach is based on the difficulty of predicting precisely the movements of ground water; furthermore, in establishing the rating scales, the Agency took into account the fact that most wells within the three mile radius would not be affected. As was the case with the waste quantity issue, this issue was addressed and resolved in adopting the HRS in July 1982. The rationale for the Agency's approach is further addressed in the preamble to the NCP (47 FR 31190–91, July 16, 1982) and is equally applicable now.

Scoring on the Basis of Current Conditions. Some commenters felt that EPA should take current conditions into account when scoring sites where response actions have reduced the hazards posed by the site. EPA scored sites for inclusion in the NPL based on the hazards that existed before any response actions were initiated. This policy was explained in the preamble to the final revisions to the NCP (47 FR 31187, July 16, 1982). The Agency explained that public agencies might have been discouraged from taking early response if such actions could lower the HRS score and prevent a site from being included on the NPL. This has turned out to be the case, as at least one State and some EPA Regional Offices have actually sought reassurances prior to taking emergency action at sites that a site's HRS score would not be lowered as a result of the response action. Alternatively, some private parties might have only taken action sufficient to lower the score to the point that it would not be listed on the NPL but would not be completely cleaned up. Those types of score manipulations could be accomplished by such actions as temporarily removing wells from service to lower target scores, or removing wastes from a site to lower waste quantity scores while failing to address contaminated ground waters, or by remedying only air discharges where ground or surface water contamination also present a problem. Therefore, EPA was and is concerned that scoring on the basis of the latest conditions at a site could encourage incomplete solutions that might leave significant health threats unaddressed.

Even where the response actions occurred before the listing process began, EPA believes that these actions should not be considered when scoring the site for the NPL. The ability of the HRS to approximate risk at a given site is based on a number of presumed relationships between the various factors considered in calculating the HRS scores. When partial response actions are conducted, the validity of these relationships for the purpose of approximating the risk posed by a site may be affected. For this reason, if the site is rescored taking the response actions into account, the drop in score that may result might not reflect a commensurate reduction in the level of risk presented by a site.

For example, the factor of hazardous waste quantity, when considered with other factors that predict the toxicity of the substances and the likelihood of release, helps predict how extensive the harm from a release can be. For a site that has been in existence for some time, however, hazardous substances may already have begun migration toward ground water or surface water. If the hazardous materials on the surface are then removed, and the site is scored according to conditions existing after removal, the site would be assigned a negligible value for waste quantity, even though substantial amounts of the material may still be under the site and a potential threat to the public health.

Another example is where some of the original population at risk has been provided with alternative drinking water supplies. In such a case, the population at risk factor might be rescored quite low, even where the alternative supplies are temporary, costly, or limited in supply. In addition, rescoring in this situation could penalize residents for securing alternative supplies by lowering the priority of the site or deleting it from the list and thereby precluding completion of proper remedial actions. A final reason is that response action at sites is an ongoing process, and it may become unduly burdensome to continually recalculate scores to reflect such actions.

Where response actions have already been initiated by private parties or another agency, listing such sites will enable EPA to evaluate the need for a more complete response. Inclusion on the NPL therefore does not reflect a judgment that responsible parties are failing to address the problems. The Agency believes, therefore, that this approach is appropriate, and consistent with the purpose of the NPL as stated in the legislative history of CERCLA.

Small Observed Release. Some commenters maintained that EPA incorrectly assigned values for observed releases to ground waters because the measured concentrations of the substances involved were below the regulatory limits specified under the Safe Drinking Water Act. The HRS states:

> If a contaminant is measured (regardless of frequency) in ground water or in a well in the vicinity of a facility at a significantly (in terms of demonstrating that a release has occurred, not in terms of potential effects) higher level than the background level, then . . . a release has been observed (NCP, Appendix A, ¶ 3.1, 47 FR 31224, July 16, 1982).

This scoring instruction is based on the fact that the observed release factor is considered for purpose of estimating the likelihood that substances can migrate from the site. When a release is observed in any quantity, as long as the concentration is above background level, that likelihood is 100 percent, and this factor receives the maximum score of 45. The observed release factor is not intended to reflect the level of hazard presented by the particular release observed. The hazard presented is, rather, approximated by the total score, incorporating the observed release factor indicating the likelihood of migration with other factors such as waste quantity, toxicity, and the persistence of the substance. These combined factors are indicative of the possibility of future releases of much higher amounts. Furthermore, concentrations of substances migrating in the environment tend to show extreme variation through time and space. Given that only periodic sampling is feasible in most instances, requiring contaminants to exceed certain levels before assigning an observed release could exclude many sites from the NPL which may be endangering the public. The rationale for this approach is further discussed in the preamble to the NCP (47 FR 31188 (July 16, 1982)).

Summary of Score Changes. A summary of the 144 sites where EPA's review of comments and new data resulted in a final score that changed from the score as originally proposed is shown in the table below:

BILLING CODE 6560-50-M

NATIONAL PRIORITIES LIST HRS SCORE CHANGES

State	City/County	Site Name	HRS Score Original	HRS Score Revised
EPA Region I				
CT	Southington	Solvents Recovery Systems	37.28	44.93
CT	Canterbury	Yaworski Waste Lagoon	36.70	36.72
MA	Bridgewater	Cannon Engineering	38.19	39.89
MA	Groveland	Groveland Wells	40.06	40.74
MA	East Woburn	Wells G&H	59.20	42.71
MA	Acton	WR Grace Co. (Acton Plant)	59.30	59.31
ME	Washburn	Pinette's Salvage Yard	39.61	33.98
ME	Saco	Saco Tannery Waste Pits	33.40	43.19
ME	Winthrop	Winthrop Landfill	40.47	35.62
NH	Dover	Dover Municipal Landfill	36.90	36.98
NH	Kingston	Ottati and Gross/Kingston Steel Drum	53.40	53.41
NH	Somersworth	Somersworth Sanitary Landfill	65.57	65.56
NH	Nashua	Sylvester	63.26	63.28
NH	Londonderry	Tinkham Garage Site	42.70	43.24
RI	Coventry	Picillo Coventry	67.70	53.63
VT	Burlington	Pine Street Canal	40.40	40.42
EPA Region II				
NJ	Mount Olive Twp.	Combe Fill North Landfill	42.44	47.79
NJ	Dover	Dover Municipal Well 4	42.24	28.90
NJ	Gloucester Township	Gems Landfill	68.88	68.53
NJ	Mantua	Helen Kramer Landfill	70.06	72.66
NJ	Marlboro Township	Imperial Oil/Champion Chem.	42.69	33.87
NJ	Pittman	Lipari Landfill	72.12	75.60
NJ	Pedricktown	N.L. Industries	49.74	52.96
NJ	Rockaway Township	Rockaway Township Wells	44.46	28.90
NJ	Dover Township	Toms River Chemical	45.87	50.33
NY	South Cairo	American Thermostat Co.	48.01	33.61
NY	Batavia	Batavia Landfill	44.16	50.18
NY	South Glens Falls	G.E. Moreau Site	49.83	58.21
NY	Niagara Falls	Hooker-S Area	52.58	51.62
NY	Wellsville	Sinclair Refinery	72.01	53.90
NY	Vestal	Vestal Water Supply	42.24	
		Vestal Water Supply 1-1		37.93
		Vestal Water Supply 4-2		42.24
PR	Juana Diaz	G.E. Wiring Devices	42.40	31.24
PR	Barceloneta	RCA, del Caribe	31.28	31.14
EPA Region III				
DE	New Castle County	Army Creek Landfill	69.96	69.92
DE	New Castle County	New Castle Spill	38.43	38.33
MD	Annapolis	Middletown Road Dump	38.51	29.36
PA	State College Bor.	Centre County Kepone	39.44	45.09
PA	Parker	Craig Farm Drum Site	28.71	28.72
PA	North Whitehall Twp.	Heleva Landfill	41.79	50.23
PA	Kimberton Borough	Kimberton	29.42	29.44
PA	Harrison Township	Lindane Dump	51.50	51.62
PA	McAdoo Borough	McAdoo Associates	65.32	63.03
PA	Grove City	Osborne	58.41	54.60
PA	Palmerton	Palmerton Zinc Pile	46.44	42.93
PA	Erie	Presque Isle	37.20	40.59
PA	Westline	Westline	31.85	31.71
VA	Saltville	Saltville Waste Disposal Ponds	53.23	29.52
WV	Follansbee	Follansbee Sludge Fill	31.89	33.77
EPA Region IV				
FL	Galloway	Alpha Chemical Corporation	55.66	43.24
FL	Pensacola	American Creosote	40.44	58.41
FL	Hialeah	Northwest 58th Street LF	49.27	49.43
FL	Mount Pleasant	Parramore Surplus	34.85	37.61
FL	Jacksonville	Pickettville Road Landfill	58.75	42.94
FL	Tampa	Reeves SE Galvanizing Corp.	51.97	58.75
FL	Clermont	Tower Chemical	38.53	44.03
KY	Calvert City	B. F. Goodrich	31.14	33.01
KY	West Point	Distler Brickyard	37.62	44.77
NC	Swannanoa	Chemtronics, Inc.	30.01	30.16
SC	Cayce	SCRDI Dixiana	40.46	40.70
TN	Chattanooga	Amnicola Dump	30.24	40.91
TN	Gallaway	Gallaway Ponds	30.78	30.77
TN	Lawrenceburg	Murray Ohio Dump	46.43	46.44
TN	Memphis	North Hollywood Dump	6.58	19.46
EPA Region V				
IL	Waukegan	Johns-Manville Corp.	38.82	38.20
IL	LaSalle	LaSalle Electric Utilities	30.98	42.06
IN	Gary	Lake Sandy Jo (M&M Landfill)	38.31	38.21
IN	Gary	Midco I	60.43	46.44
MI	Grand Rapids	Butterworth #2 Landfill	50.30	50.31
MI	Charlevoix	Charlevoix Municipal Well	31.95	37.94
MI	Marquette	Cliff/Dow Dump	34.66	34.50
MI	Dalton Twp.	Duell and Gardner Landfill	34.66	34.68

State	City/County	Site Name	HRS Score Original	HRS Score Revised
EPA Region V (concluded)				
MI	Greilickville	Grand Traverse Overall Supply Co.	40.86	35.53
MI	St. Louis	Gratiot County Landfill Supply	53.60	53.65
MI	Oscoda	Hedblum Industries	31.70	37.29
MI	Ionia	Ionia City Landfill	38.02	31.31
MI	Kentwood	Kentwood Landfill	35.43	35.39
MI	Albien	McGraw Edison Corp.	44.63	33.42
MI	Temperance	Novaco Industries	38.16	38.20
MI	Filer City	Packaging Corp. of America	51.95	51.91
MI	Petoskey	Petoskey Municipal Well Field	35.97	42.68
MI	Muskegon Heights	SCA Indpendent Landfill	36.36	34.75
MI	Mancelona Twp.	Tar Lake	48.50	48.55
MI	St. Louis	Velsicol Michigan	48.78	52.29
MI	Pleasant Plains Twp.	Wash King Laundry	52.05	40.03
MN	Brainerd/Baxton	Burlington Northern	58.41	46.77
MN	Fridley	FMC Corp.	74.16	65.50
MN	Lehillier	Lehillier/Mankato	50.49	42.49
MN	St. Louis Park	NL Industries/Taracorp/Globe	50.95	39.97
OH	Kingsville	Big D Campground	34.78	30.77
OH	Circleville	Bowers Landfill	51.80	50.49
OH	Ironton	E.H. Schilling Landfill	40.37	34.56
OH	Ashtabula	Fields Brook	51.62	44.95
OH	New Lyme	New Lyme Landfill	37.70	31.19
OH	Zanesville	Zanesville	28.98	35.59
EPA Region VI				
AR	Newport	Cecil Lindsey	35.40	35.60
AR	Walnut Ridge	Frit Industries	39.40	39.47
AR	Edmondson	Gurley Pit	38.10	40.13
AR	Ft. Smith	Industrial Waste Control	36.90	30.31
AR	Mena	Mid-South Wood Products	45.43	45.87
AR	Jacksonville	Vertac, Inc.	64.96	65.46
LA	Slidell	Bayou Bonfouca	36.75	29.78
NM	Milan	Homestake Mining Co.	42.29	34.21
NM	Albuquerque	South Valley	35.57	42.24
OK	Ottawa County	Tar Creek	58.20	58.15
TX	Grand Prairie	Bio-Ecology Systems, Inc.	35.10	35.06
TX	Crosby	French, Ltd.	63.30	63.33
TX	Highlands	Highlands Acid Pit	37.66	37.77
TX	LaMarque	Motco	62.70	62.66
TX	Crosby	Sikes Disposal Pits	61.60	61.62
TX	Bridge City	Triangle Chemical Co.	28.74	28.75

State	City/County	Site Name	HRS Score Original	HRS Score Revised
EPA Region VII				
IA	Des Moines	Des Moines TCE	28.91	42.28
KS	Arkansas City	Arkansas City Dump	4.23	5.49
KS	Cherokee County	Tar Creek	66.74	58.15
MO	Verona	Syntex Facility	43.77	43.78
EPA Region VIII				
CO	Leadville	California Gulch	51.94	55.84
CO	Idaho Springs	Central City, Clear Creek	46.50	51.39
CO	Denver	Denver Radium Site	44.00	44.11
CO	Boulder County	Marshall Landfill	41.00	46.52
CO	Commerce City	Sand Creek	37.00	59.65
CO	Commerce City	Woodbury Chemical Co.	45.00	44.87
MT	Anaconda	Anaconda Smelter-Anaconda	58.70	58.71
MT	Libby	Libby Ground Water Contam.	37.70	37.67
MT	Milltown	Milltown Reservoir Sediments	43.80	43.78
MT	Silver Bow/ Deer Lodge	Silver Bow Creek	63.80	63.76
ND	Southeastern	Arsenic Trioxide Site	34.00	34.07
SD	Whitewood	Whitewood Creek	59.50	63.76
UT	Salt Lake City	Rose Park Sludge Pit	7.50	7.46
WY	Laramie	Baxter/Union Pacific Tie Treating	37 00	37.24
EPA Region IX				
AZ	Scottsdale	Indian Bend Wash Area	40.02	42.24
AZ	Globe	Mountain View Mobile Homes Estates	26.46	30.24
CA	Ukiah	Coast Wood Preserving	42.02	44.73
CA	Cloverdale	MDM Brakes	34.52	34.70
CA	Selma	Selma Treating Co.	41.17	48.83
EPA Region X				
OR	Portland	Gould, Inc.	32.84	32.12
OR	Albany	Teledyne Wah Chang	48.15	54.27
WA	Spokane	Colbert Landfill	40.05	41.59
WA	Yakima	FMC Corp. (Yakima)	32.18	38.90
WA	Vancouver	Frontier Hard Chrome	57.92	57.93
WA	Seattle	Harbor Island Lead	41.79	34.60
WA	Mead	Kaiser Mead	41.26	38.07
WA	Lakewood	Lakewood	29.07	42.49
WA	Yakima	Pesticide Lab	33.50	29.33
WA	Kent	Western Processing Co., Inc.	36.30	58.63

BILLING CODE 6560-50-C

Proposed NPL Sites with Scores which Fall Below 28.50. The following sites will not be included on the NPL because EPA has determined that the HRS scores are below 28.50:

State	Site name
Arkansas	Crittenden County Landfill.
Idaho	Flynn Lumber.
Indiana	Parrot Road.
Nebraska	Phillips Chemical.
Ohio	Van Dale Junkyard.

Sites Still Under Consideration. In the case of the following sites, EPA was unable to reach a final decision on whether to include them on the final NPL in time for this publication.

State	Site name
Arizona	Kingman Airport Industrial Area.
Kentucky	Airco.
Louisiana	Bayou Sorrel.
Michigan	Clare Water Supply.
Michigan	Electravoice.
Michigan	Littlefield Township Dump.
Michigan	Whitehall Wells.

EPA will announce its decisions regarding these sites in subsequent NPL updates.

Deletion. The criteria for deletion, which are discussed in Part VIII below, have already been met at the Gratiot County Golf Course site which was included on the proposed NPL. EPA has consulted with the State of Michigan and has determined that the responsible parties have completed cleanup of the site such that no Fund-financed response will be required.

Name Revisions. In some instances EPA has determined that the names of sites should be revised to more accurately reflect the location or nature of the problem. Those name revisions are listed below:

State	Site name for proposed NPL	New site name
MA	Plymouth Harbor/ Cordage.	Plymouth Harbor/Cannon Engineering.
NH	Ottati & Goss	Ottati & Goss/Kingston Steel Drum.
FB	Forestdale	Stamina Mills.
NJ	Imperial Oil	Imperial Oil Co., Inc./Champion Chemicals.
IN	Lake Sandy Jo	Lake Sandy Jo (M&M Landfill).
MN	National Lead Taracorp.	NL Industries/Taracorp/ Golden Auto.
	New Brighton	New Brighton/Arden Hills.
OH	Allied Chemical	Allied Chemicals & Ironton Coke.
	Poplar Oil	Laskin/Poplar Oil.
	Rock Creek/Jack Webb.	Oil Mill.
OK	Criner/Hardage	Hardage/Criner.

In addition, in the case of one site proposed for the NPL, the Vestal Water Supply, the Agency has determined that there are two distinct sites rather than one as was previously believed. Geohydrologic studies have indicated that the ground water contamination is present in two distinct plumes, apparently from two different sources. Thus, the site name has been revised to Vestal Water Supply Well No. 1–1 and Vestal Water Supply Well No. 4–2.

States' Top Priority Sites. The State of Mississippi has informed EPA that the Plastifax site, previously designated as their top priority site, is not the State's highest priority. Since the site does not otherwise meet the criteria for inclusion on the NPL, the Plastifax site has not been listed. Mississippi has designated another site as its top priority, which EPA has proposed for inclusion on the NPL in the proposed update immediately following this final NPL promulgation in today's **Federal Register.** Likewise, the State of Maine has informed EPA that the Winthrop Landfill is no longer considered their top priority site. However, that site has a sufficiently high HRS score to warrant inclusion on the list and has been included. Maine has not yet designated an alternative top priority site.

VIII. Updates and Deletions to the NPL

CERCLA requires that the NPL be revised at least once per year. EPA believes that more frequent revision may be appropriate. Thus, the Agency may revise the NPL more often than is specified in CERCLA. NPL revisions, or "updates," may add new sites to the NPL, and may delete sites from the list. EPA anticipates that each update publication will present proposed additions, proposed deletions, and the current NPL consisting of all sites previously established as part of the list as well as the final listing of sites that were proposed in the preceding update publication. EPA's first NPL update is proposed in today's **Federal Register** immediately following this publication of the final NPL.

In addition to the periodic updates described above, EPA believes it may be appropriate in rare instances to add sites to the NPL individually as the Agency did in the case of the Times Beach site in Missouri.

The Agency plans to identify and consider additional sites for inclusion on NPL updates in the same manner as for sites on the initial NPL. States have the primary responsibility for identifying sites, computing HRS scores, and nominating them for inclusion on the NPL, although EPA Regional Offices may assist in investigation, sampling, monitoring, and scoring, and may in some cases consider candidate sites on their own initiative. EPA will notify the States in advance of each update publication of the closing dates for submission of proposed additions (or deletions, as discussed below) to EPA. EPA will exercise quality control and quality assurance to verify the accuracy and consistency of scoring. The Agency will then publish a proposal of all sites that appear to meet the criteria for listing, and solicit public comment on the proposal. Based on comments, and any further review by EPA, the Agency will determine final scores, and in the next update publication will include on the final NPL any sites that score high enough for listing. For the proposed update immediately following this rulemaking in today's **Federal Register,** the Agency has continued to use the same minimum HRS score of 28.50 that was used to establish eligibility for this final rule.

There is no specific statutory requirement that the NPL be revised to delete sites. However, EPA has decided to consier deleting sites in order to provide incentives for cleanup to private parties and public agencies. Furthermore, establishing a system of deleting sites affords the Agency the opportunity to give notice that the sites have been cleaned up and gives the public an opportunity to comment on those actions. On June 28, 1982, the Agency developed a guidance document which addressed how sites may be deleted from the NPL. This guidance suggested that a site meeting any of the following criteria could be deleted from the NPL:

(1) EPA in consultation with the State has determined that responsible parties have completed cleanup so that no Fund-financed response actions will be required.

(2) All appropriate Fund-financed cleanup action under CERCLA has been completed, and EPA has determined that no further cleanup by responsible parties is appropriate.

(3) EPA, in considering the nature and severity of the problems, the potential costs of cleanup, and available funds, has determined that no remedial actions should be undertaken at the site.

EPA does not consider this guidance to be binding, and may revise it to provide for deletion of sites based on other factors in appropriate cases. EPA will delete sites from the NPL by publishing notices in the **Federal Register** at the time of the updates, naming the sites and providing the reasons for deletion.

EPA expects that updates to the NPL will be solely for the purposes of adding sites to or deleting sites from the NPL. The current EPA position, which will serve as guidance for individual listing and deletion decisions, is that updates will not present any HRS score changes for sites that might alter a site's relative ranking, nor will they delete any sites on the basis of score changes. Once a final HRS score has been calculated for a site, and the site has been included on the NPL, EPA does not plan to conduct any recalculations of HRS scores to affect any site's listing.

Several commenters presented suggestions to the contrary. Some recommended that EPA revise HRS scores periodically to reflect the results of cleanup activities, and suggested deleting any site whose HRS score dropped below the cutoff. Other commenters addressed the possibility that new data gathered on a site might alter previous assumptions in scoring, and suggested continual rescoring to reflect any new data for purposes of adjusting a site's position on the list or deleting the site if the score fell below the cutoff.

While it is not necessary to resolve these issues now, as they will be considered as part of each future update determination, EPA believes that a number of important factors support its current position that sites on the final NPL should not be rescored for future updates. With respect to sites where response actions have been taken, the HRS was not designed to reflect completeness of cleanup, and therefore should not be used as a tool for deleting sites from the list or altering their relative ranking. As discussed in Part VII of this preamble, in explanation of EPA's policy to score sites on the basis of original conditions rather than take cleanup actions into account, the HRS approximates risk on the basis of the original conditions at the site. If response actions are taken into account in scoring, the lower HRS score that results might not reflect a commensurate reduction in the level of risk presented by the site.

Another reason discussed in Part VII is that revision of scores simply because cleanup has been partially completed might encourage partial solutions to potentially serious risks of public health and welfare and environmental harm. Removing a site from the list based on score changes resulting from partial cleanup might give private parties an incentive to design response actions to effect such changes rather than completely remedying the situation at the site.

In addition to the foregoing reasons, other considerations justify the current position not to rescore sites after final listing. These considerations apply not only to cleanup situations but also to situations where a score might be affected by new information about a site or by detection of an error in the original calculations.

The process established by EPA for establishing the NPL is comprehensive, involving initial scoring, public proposal, consideration of public comment, re-examination of data and scores, final score calculation, and inclusion on the final NPL. Given this level of scrutiny, and the time and expense involved in scoring sites, EPA believes it appropriate to consider inclusion of a score on the final NPL to end the scoring process.

Furthermore, as described in Part II of this preamble, the purpose of the NPL is primarily informational, to serve as a tool for EPA to identify sites that appear to present a significant risk to public health or the environment, for purposes of deciding which sites to investigate fully and determine what response, if any, is appropriate. EPA believes that it is most consistent with that statutory purpose to cease the costly and time-consuming efforts of site scoring once the NPL development process on a site is complete. Rather than spend the limited resources of the fund on rescoring efforts, the Agency wants to use all available resources to clean up sites. In addition, because the NPL serves as guidance for possible future action and does not determine liability or whether response actions will be taken, a decision not to recalculate scores will not prejudice any potentially responsible parties. This is especially true since any additional information can be considered at other stages of EPA's investigation and response process.

EPA recognizes that the NPL process cannot be perfect, and it is possible that errors exist or that new data will alter previous assumptions. Once the initial scoring effort is complete, however, the focus of EPA activity must be on investigating sites in detail and determining the appropriate response. New data or errors can be considered in that process. Since HRS scores do not alone determine the priorities for actual response actions, any new data or revealed error that indicate that a site is either more or less a problem than reflected in the HRS score will be taken into account and the priority for response adjusted accordingly. If the new information indicates that the site does not present any significant threat to health or the environment, the site will meet one of the EPA criteria for deletion regardless of any original or revised HRS score.

In conclusion, because the HRS was not designed to reflect reductions in hazard resulting from cleanup; because of the desire not to create the incentive for incomplete cleanup actions; because of the need to conserve resources and focus on further investigation and cleanup; because the NPL serves as guidance to EPA and is not determinative of liability or the need for response; and because any new information can be considered for adjustment of a site response priority or for deletion without recalculating the HRS score, EPA does not currently plan to rescore sites once they have been included on the final NPL. Actual decisions on the appropriate treatment of individual sites, however, will be made on a case-by-case basis, with consideration of this policy and any other appropriate factors.

IX. Regulatory Impact

EPA prepared a Regulatory Impact Analysis pursuant to Executive Order 12291 (46 FR 13193, Feb. 19, 1981) for the revised NCP at the time that it was promulgated. That analysis considered regulatory and economic impact that would result from this amendment to the NCP. The analyses of the NCP are available for inspection at Room S-325, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

X. Regulatory Flexibility Act Analysis

EPA prepared a Regulatory Flexibility Analysis pursuant to the Regulatory Flexibility Act (5 U.S.C. 601-612) for the revised NCP at the time that it was promulgated. The Agency reviewed the impact of the revised NCP on small entities, which are small businesses and small municipalities.

While there could be a substantial effect on a few small disposer firms, it is unlikely that a high percentage of these small firms is at risk from potential enforcement actions, because they probably tend to produce much smaller quantities of waste compared to the large firms in the industry. It may, of course, be the case that a small disposer's hazardous waste site has resulted in serious problems (such as ground water contamination). However, again, to the extent that small disposers operate one or two sites on a small amount of acreage, they run a reduced risk of being responsible for serious hazardous waste site problems.

It remains at EPA's discretion whether or not to proceed with enforcement actions against small entities. Thus, any potentially adverse effects are not automatic results of the NCP revisions, including the NPL, and implementation of the Superfund program. On the basis of this analysis, the Agency has concluded that the final NPL will not result in a significant impact on a substantial number of small entities.

The analyses of the NCP are available for inspection at Room S-325, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Super fund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

Part 300, Title 40 of the Code of Federal Regulations is hereby amended by adding a new Appendix B, to read as follows:

BILLING CODE 6560-50-M

Appendix B—National Priorities List

Group 1

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS	#
02	NJ	LIPARI LANDFILL	PITMAN	V R	E
03	DE	TYBOUTS CORNER LANDFILL *	NEW CASTLE COUNTY	R	E
03	PA	BRUIN LAGOON	BRUIN BOROUGH	R	
02	NJ	HELEN KRAMER LANDFILL	MANTUA TOWNSHIP	R	
01	MA	INDUSTRI-PLEX	WOBURN	V R	E
02	NJ	PRICE LANDFILL *	PLEASANTVILLE	R	E
02	NY	POLLUTION ABATEMENT SERVICES *	OSWEGO	R	E
07	IA	LABOUNTY SITE	CHARLES CITY	V	E
03	DE	ARMY CREEK LANDFILL	NEW CASTLE COUNTY		E
02	NJ	CPS/MADISON INDUSTRIES	OLD BRIDGE TOWNSHIP		E
01	MA	NYANZA CHEMICAL WASTE DUMP	ASSLAND	R	
02	NJ	GEMS LANDFILL	GLOUCESTER TOWNSHIP	R	E
05	WI	BERLIN & FARRO	SWARTZ CREEK	R	
01	MA	BAIRD & MCGUIRE	HOLBROOK	R	E
02	NJ	LONE PINE LANDFILL	FREEHOLD TOWNSHIP	R	E
01	NH	SOMERSWORTH SANITARY LANDFILL	SOMERSWORTH		D
05	MN	PMC CORP.	FRIDLEY	V	E
06	AR	VERTAC, INC.	JACKSONVILLE	V	E
01	NH	ERS - EPPING	EPPING	R	E
08	SD	WHITEWOOD CREEK *	WHITEWOOD	V	
08	MT	SILVER BOW/DEER LODGE	SILVER BOW CREEK		D
06	TX	FRENCH, LTD.	CROSBY	R	
01	NH	SYLVESTER *	NASHUA	R	E
05	MI	LIQUID DISPOSAL INC.	UTICA	R	
03	PA	MCADOO ASSOCIATES *	MCADOO BOROUGH	R	E
06	TX	HOTCO *	LA MARQUE	R	
05	OH	ARCANUM IRON & METAL	DARKE COUNTY		E
06	TX	SIKES DISPOSAL PITS	CROSBY	R	
04	AL	TRIANA TENNESSEE RIVER	LIMESTONE/MORGAN		E
09	CA	STRINGFELLOW *	GLEN AVON HEIGHTS	R	E
01	ME	MCKIN CO.	GRAY	R	
06	TX	CRYSTAL CHEMICAL CO.	HOUSTON	R	E
02	NJ	BRIDGEPORT RENTAL & OIL	BRIDGEPORT	V R	E
08	CO	SAND CREEK	COMMERCE CITY		D
01	MA	W R GRACE CO. (ACTON PLANT)	ACTON	V	E
05	MN	REILLY TAR *	ST. LOUIS PARK	R	E
02	NJ	BURNT FLY BOG	MARLBORO TOWNSHIP	R	E
04	FL	SCHUYLKILL METALS CORP.	PLANT CITY		D
05	MN	NEW BRIGHTON/ARDEN HILLS	NEW BRIGHTON	R	E
02	NY	OLD BETHPAGE LANDFILL	OYSTER BAY		E
04	FL	REEVES SE GALVANIZING CORP.	TAMPA		D
08	MT	ANACONDA SMELTER - ANACONDA	ANACONDA	V	
10	WA	WESTERN PROCESSING CO., INC.	KENT		E
04	FL	AMERICAN CREOSOTE WORKS	PENSACOLA		D
02	NJ	CALDWELL TRUCKING CO.	FAIRFIELD		E
02	NY	GE MOREAU	SOUTH GLENS FALLS		E
05	IN	SEYMOUR RECYCLING CORP. *	SEYMOUR	V R	E
06	OK	TAR CREEK	OTTAWA COUNTY	R	
07	KS	CHEROKEE COUNTY	CHEROKEE COUNTY		D
02	NJ	BRICK TOWNSHIP LANDFILL	BRICK		E

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE; E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 2

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS	#
05	MI	NORTHERNAIRE PLATING	CADILLAC	R	
10	WA	FRONTIER HARD CHROME	VANCOUVER	R	E
04	FL	DAVIE LANDFILL	DAVIE		D
04	FL	GOLD COAST OIL CORP.	MIAMI	V	
09	AZ	TUCSON INT'L AIRPORT	TUCSON	V R	
02	NY	WIDE BEACH DEVELOPMENT	BRANT		D
09	CA	IRON MOUNTAIN MINE	REDDING	R	
02	NJ	SCIENTIFIC CHEMICAL PROCESSING	CARLSTADT		E
08	CO	CALIFORNIA GULCH	LEADVILLE	R	
02	NJ	D'IMPERIO PROPERTY	HAMILTON TOWNSHIP	R	
05	MN	OAKDALE DUMP	OAKDALE	V	E
05	IL	A & F MATERIALS	GREENUP	R	E
03	PA	DOUGLASSVILLE DISPOSAL	DOUGLASSVILLE		D
02	NJ	KRYSOWATY FARM	HILLSBOROUGH	R	
05	MN	KOPPERS COKE	ST. PAUL		D
01	MA	PLYMOUTH HARBOR/CANNON ENG	PLYMOUTH	R	E
10	ID	BUNKER HILL MINING	SMELTERVILLE		E
02	NJ	UNIVERSAL OIL PRODUCTS(CHEM DIV)	EAST RUTHERFORD		E
09	CA	AEROJET GENERAL CORP.	RANCHO CORDOVA		E
10	WA	COM. BAY, S. TACOMA CHANNEL	TACOMA	R	E
03	PA	OSBORNE LANDFILL	GROVE CITY		D
02	NY	SYOSSET LANDFILL	OYSTER BAY		D
09	AZ	NINETEENTH AVENUE LANDFILL	PHOENIX		E
10	OR	TEXTILE MAN CHANG	ALBANY		D
05	MI	GRATIOT COUNTY LANDFILL *	ST. LOUIS	V	E
01	RI	PICILLO FARM *	COVENTRY	R	E
01	MA	NEW BEDFORD *	NEW BEDFORD	V R	E
06	LA	OLD INGER OIL REFINERY *	DARROW	R	
05	OH	CHEM-DYNE *	HAMILTON	V R	E
04	SC	SCRDI BLUFF ROAD *	COLUMBIA	V R	E
01	CT	LAUREL PARK, INC. *	MADDATUCK BOROUGH		E
08	CO	MARSHALL LANDFILL *	BOULDER COUNTY		D
05	IL	OUTBOARD MARINE CORP. *	WAUKEGAN	R	E
06	NM	SOUTH VALLEY *	ALBUQUERQUE		D
01	VT	PINE STREET CANAL *	BURLINGTON		D
03	WV	WEST VIRGINIA ORDNANCE *	POINT PLEASANT	R	
07	MO	ELLISVILLE SITE *	ELLISVILLE	R	
08	ND	ARSENIC TRIOXIDE SITE *	SOUTHEASTERN	R	
09	TT	PCB WASTES *	PACIFIC TRUST TERR.	R	
03	VA	MATTHEWS ELECTROPLATING *	ROANOKE COUNTY	R	
07	IA	AIDEX CORP. *	COUNCIL BLUFFS	R	E
09	AZ	MOUNTAIN VIEW MOBILE HOMES *	GLOBE	R	E
09	AS	TAPUTIMU FARM *	AMERICAN SAMOA		D
04	TN	NORTH HOLLYWOOD DUMP *	MEMPHIS	R	
04	KY	A. L. TAYLOR(VALLEY OF THE DRUMS)	BROOKS	R	E
04	NC	PCB SPILLS *	210 MILES OF ROADS	R	E
09	GU	ORDOT LANDFILL *	GUAM	R	
08	UT	ROSE PARK SLUDGE PIT *	SALT LAKE CITY	V	
07	KS	ARKANSAS CITY DUMP *	ARKANSAS CITY	R	
09	CN	PCB WAREHOUSE *	NORTH MARIANAS	R	

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE; E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 3

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #			
02	NY	SINCLAIR REFINERY	WELLSVILLE		R		
04	AL	MOWBRAY ENGINEERING CO.	GREENVILLE				D
05	MI	SPIEGELBERG LANDFILL	GREEN OAK TOWNSHIP		R		
04	FL	MIAMI DRUM SERVICES	MIAMI		R	E	
02	NJ	REICH FARMS	PLEASANT PLAINS			E	
02	NJ	SOUTH BRUNSWICK LANDFILL	SOUTH BRUNSWICK	V			
04	FL	KASSAUF-KIMERLING BATTERY DISP.	TAMPA			E	
05	IL	MADCONDA SAND & GRAVEL	MADCONDA		R		
01	NH	OTTATI & GOSS/KINGSTON STEEL DRUM	KINGSTON		R	E	
05	MI	OTT/STORY/CORDOVA	DALTON TOWNSHIP		R		
02	NJ	ML INDUSTRIES	FEDRICKTOWN	*		E	
02	NJ	RINGWOOD MINES/LANDFILL	RINGWOOD BOROUGH				D
04	FL	WHITEHOUSE OIL PITS	WHITEHOUSE		R		
05	MI	VELSICOL MICHIGAN	ST. LOUIS	V		E	
05	OH	SUMMIT NATIONAL	DEERFIELD TOWNSHIP	V		E	
02	NY	LOVE CANAL	NIAGARA FALLS		R	E	
05	IN	FISHER CALO	LA PORTE	V		E	
04	FL	PIONEER SAND CO.	WARRINGTON			E	
05	MI	SPRINGFIELD TOWNSHIP DUMP	DAVISBURG		R		
03	PA	HRANICA LANDFILL	BUFFALO TOWNSHIP				D
04	NC	MARTIN MARIETTA,SODYECO	CHARLOTTE				D
04	FL	ZELLWOOD GROUNDWATER CONTAM	ZELLWOOD				D
05	WI	PACKAGING CORP. OF AMERICA	FILER CITY				D
02	NY	HOOKER - S AREA	NIAGARA FALLS			E	
03	PA	LINDANE DUMP	HARRISON TOWNSHIP			E	
08	CO	CENTRAL CITY, CLEAR CREEK	IDABO SPRINGS		R		
04	FL	TAYLOR ROAD LANDFILL	SEFFNER			E	
01	RI	WESTERN SAND & GRAVEL	BURRILLVILLE		R	E	
02	NJ	MAYWOOD CHEMICAL CO.	MAYWOOD/ROCHELLE PK			E	
06	OK	HARDAGE/CRINER	CRINER		R	E	
05	MI	ROSE TOWNSHIP DUMP	ROSE TOWNSHIP		R		
05	MN	WASTE DISPOSAL ENGINEERING	ANDOVER				D
02	NJ	KIN-BOC LANDFILL	EDISON TOWNSHIP	V	R	E	
05	OH	BOWERS LANDFILL	CIRCLEVILLE				D
02	NJ	TOMS RIVER CHEMICAL	TOMS RIVER				D
05	MI	BUTTERWORTH #2 LANDFILL	GRAND RAPIDS			E	
02	NJ	AMERICAN CYANAMID CO.	BOUND BROOK			E	
03	PA	HELEVA LANDFILL	NORTH WHITEHALL TWP				D
02	NY	BATAVIA LANDFILL	BATAVIA				D
01	RI	L & RR, INC.	NORTH SMITHFIELD			E	
04	FL	NW 58TH STREET LANDFILL	HIALEAH			E	
04	FL	SIXTY-SECOND STREET DUMP	TAMPA				D
05	MI	G&H LANDFILL	UTICA		R		
02	NJ	METALTEC/AEROSYSTEMS	FRANKLIN BOROUGH			E	
02	NJ	LANG PROPERTY	PEMBERTON TOWNSHIP				D
02	NJ	SHARKEY LANDFILL	PARSIPPANY, TROY HLS				D
09	CA	SELMA TREATING CO.	SELMA			E	
06	LA	CLEVE REBER	SORRENTO				D
05	IL	VELSICOL ILLINOIS	MARSHALL	V			
05	MI	TAR LAKE	MANCELONA TOWNSHIP		R		

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 4

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #			
02	NJ	COMBE FILL NORTH LANDFILL	MOUNT OLIVE TWP				D
01	MA	RE-SOLVE, INC.	DARTMOUTH		R	E	
02	NJ	GOOSE FARM	PLUMSTEAD TOWNSHIP		R		
04	TN	VELSICOL (HARDEMAN COUNTY)	TOONS	V			
02	NY	YORK OIL CO.	MOIRA		R		
04	FL	SAPP BATTERY SALVAGE	COTTONDALE		R		
07	KS	DOEPKE DISPOSAL, HOLLIDAY	JOHNSON COUNTY				D
01	RI	DAVIS LIQUID WASTE	SMITHFIELD		R	E	
01	MA	CHARLES-GEORGE RECLAMATION	TINGSBOROUGH			E	
02	NJ	KING OF PRUSSIA	WINSLOW TOWNSHIP				D
03	VA	CHISMAN CREEK	YORK COUNTY				D
05	OH	REASE CHEMICAL	SALEM				D
02	NJ	CHEMICAL CONTROL	ELIZABETH		R	E	
05	OH	ALLIED CHEMICAL & IRONTON COKE	IRONTON				D
05	MI	VERONA WELL FIELD	BATTLE CREEK		R		
01	CT	BEACON HEIGHTS LANDFILL	BEACON FALLS				D
05	MN	BURLINGTON NORTHERN	BRAINERD/BAXTER				D
03	PA	MALVERN TCE	MALVERN		R		
02	NY	FACET ENTERPRISES, INC.	ELMIRA	V			
03	DE	DELAWARE SAND & GRAVEL LANDFILL	NEW CASTLE COUNTY				D
04	TN	MURRAY OHIO DUMP	LAWRENCEBURG				D
05	IN	ENVIROCHEM	ZIONSVILLE		R		
05	IN	MIDCO I	GARY		R	E	
04	FL	COLEMAN EVANS WOOD PRESERVING CO.	WHITEHOUSE			E	
04	FL	FLORIDA STEEL CORP.	INDIANTOWN				D
09	AZ	LITCHFIELD AIRPORT AREA	GOODYEAR/AVONDALE				D
02	NJ	SPENCE FARM	PLUMSTEAD TOWNSHIP		R		
06	AR	MID-SOUTH WOOD PRODUCTS	MENA			E	
04	FL	BROWN WOOD PRESERVING	LIVE OAK				D
02	NY	PORT WASHINGTON LANDFILL	PORT WASHINGTON			E	
02	NJ	COMBE FILL SOUTH LANDFILL	CHESTER TOWNSHIP				D
02	NJ	JIS LANDFILL	JAMESBURG/S.BRUNSWIC			E	
03	PA	CENTRE COUNTY KEPONE	STATE COLLEGE BOROUG			E	
05	OH	FIELDS BROOK	ASHTABULA		R		
01	CT	SOLVENTS RECOVERY SERVICE	SOUTHINGTON	V		E	
08	CO	WOODBURY CHEMICAL CO.	COMMERCE CITY		R		
01	MA	HOCOMONCO POND	WESTBOROUGH		R		
04	KY	DISTLER BRICKYARD	WEST POINT		R		
02	NY	RAMAPO LANDFILL	RAMAPO			E	
09	CA	COAST WOOD PRESERVING	UKIAH			E	
02	NY	MERCURY REFINING, INC.	COLONIE			E	
04	FL	HOLLINGSWORTH SOLDERLESS TERMINAL	FORT LAUDERDALE				D
02	NY	OLEAN WELL FIELD	OLEAN		R		
04	FL	VARSOL SPILL	MIAMI	V	R		
08	CO	DENVER RADIUM SITE	DENVER		R		
04	FL	TOWER CHEMICAL CO.	CLERMONT		R	E	
07	MO	SYNTEX FACILITY	VERONA	V		E	
08	MT	MILLTOWN RESERVOIR SEDIMENTS	MILLTOWN		R		
02	NJ	PIJAK FARM	PLUMSTEAD TOWNSHIP		R		
02	NJ	SYNCON RESINS	SOUTH KEARNY	V		E	

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 5

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS	#
09	CA	LIQUID GOLD OIL CORP.	RICHMOND		E
09	CA	PURITY OIL SALES, INC.	MALAGA		D
01	NH	TINKHAM GARAGE	LONDONDERRY	R	
04	FL	ALPHA CHEMICAL CORP.	GALLOWAY		D
02	NJ	BOG CREEK FARM	HOWELL TOWNSHIP	R	
01	ME	SACO TANNERY WASTE PITS	SACO	R	
04	FL	PICKETTVILLE ROAD LANDFILL	JACKSONVILLE		D
03	PA	PALMERTON ZINC PILE	PALMERTON		D
05	IN	NEAL'S LANDFILL	BLOOMINGTON		E
01	MA	SILRESIN CHEMICAL CORP.	LOWELL	R	E
01	MA	WELLS G&H	WOBURN		E
02	NJ	CHEMSOL, INC.	PISCATAWAY		D
05	MI	PETOSKEY MUNICIPAL WELL FIELD	PETOSKEY	R	
02	NJ	FAIR LAWN WELL FIELD	FAIR LAWN		D
05	IN	MAIN STREET WELL FIELD	ELKHART		D
05	MN	LEHILLIER/MANKATO	LEHILLIER	R	
10	WA	LAKEWOOD	LAKEWOOD		E
02	NJ	MONROE TOWNSHIP LANDFILL	MONROE TOWNSHIP		E
02	NJ	ROCKAWAY BOROUGH WELL FIELD	ROCKAWAY TOWNSHIP		D
05	IN	WAYNE WASTE OIL	COLUMBIA CITY	R	E
07	IA	DES MOINES TCE	DES MOINES		D
02	NJ	BEACHWOOD/BERKLEY WELLS	BERKLEY TOWNSHIP		D
02	NY	VESTAL WATER SUPPLY WELL 4-2	VESTAL		E
09	AZ	INDIAN BEND WASH AREA	SCOTTSDALE		D
10	WA	COM. BAY, NEAR SHORE/TIDE FLAT	PIERCE COUNTY	R	E
05	IL	LASALLE ELECTRIC UTILITIES	LA SALLE	R	
05	IL	CROSS BROS/PEMBROKE	PEMBROKE TOWNSHIP	R	
09	CA	MCCOLL	FULLERTON		D
10	WA	COLBERT LANDFILL	SPOKANE	R	
02	PR	FRONTERA CREEK	RIO ABAJO		D
02	PR	BARCELONETA LANDFILL	FLORIDA AFUERA		D
03	MD	SAND, GRAVEL AND STONE	ELKTON		E
05	MI	SPARTAN CHEMICAL CO.	WYOMING		E
02	NJ	ROEBLING STEEL CO.	FLORENCE		D
04	TN	AMNICOLA DUMP	CHATTANOOGA		D
02	NJ	VINELAND STATE SCHOOL	VINELAND		D
03	PA	ENTERPRISE AVENUE	PHILADELPHIA		D
01	MA	GROVELAND WELLS	GROVELAND	R	
04	SC	SCRDI DIXIANA	CAYCE		E
07	MO	FULBRIGHT LANDFILL	SPRINGFIELD		D
03	PA	PRESQUE ISLE	ERIE		D
02	NJ	WILLIAMS PROPERTY	SWAINTON	R	
02	NJ	RENORA, INC.	EDISON TOWNSHIP		D
02	NJ	DENZER & SCHAFER X-RAY CO.	BAYVILLE		E
02	NJ	HERCULES, INC. (GIBBSTOWN)	GIBBSTOWN		D
05	IN	NINTH AVE. DUMP	GARY	V	E
06	AR	GURLEY PIT	EDMONDSEN		D
01	RI	PETERSON/PURITAN, INC.	LINCOLN/CUMBERLAND	V	
07	MO	TIMES BEACH	TIMES BEACH	R	
05	MI	WASH KING LAUNDRY	PLEASANT PLAINS TWP		D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE; E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 6

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS	#
05	MN	NL INDUSTRIES/TARACORP/GOLDEN	ST. LOUIS PARK	V	
01	MA	CANNON ENGINEERING CORP. (CBC)	BRIDGEWATER	R	E
02	NY	NIAGARA COUNTY REFUSE	WHEATFIELD		D
04	FL	SHERWOOD MEDICAL INDUSTRIES	DELAND		D
05	MI	SOUTHWEST OTTAWA LANDFILL	PARK TOWNSHIP		E
02	NY	KENTUCKY AVE. WELL FIELD	BORSEHEADS		D
02	NJ	ASBESTOS DUMP	MILLINGTON		D
04	KY	LEE'S LANE LANDFILL	LOUISVILLE		D
06	AR	FRIT INDUSTRIES	WALNUT RIDGE	V	E
05	OH	FULTZ LANDFILL	JACKSON TOWNSHIP		D
05	OH	COSHOCTON LANDFILL	FRANKLIN TOWNSHIP		D
03	PA	LORD-SHOPE LANDFILL	GIRARD TOWNSHIP		E
10	WA	FMC CORP. (YAKIMA)	YAKIMA	V	
01	MA	PSC RESOURCES	PALMER	V	
05	MI	FOREST WASTE PRODUCTS	OTISVILLE	R	
03	PA	DRAKE CHEMICAL	LOCK HAVEN	R	
03	PA	HAVERTOWN PCP	HAVERFORD		E
03	DE	NEW CASTLE SPILL	NEW CASTLE COUNTY		D
05	IN	LAKE SANDY JO (H&H LANDFILL)	GARY		D
05	IL	JOHNS-MANVILLE CORP.	WAUKEGAN		D
05	MI	CHEM CENTRAL	WYOMING TOWNSHIP		D
05	MI	NOVACO INDUSTRIES	TEMPERANCE		D
02	NJ	JACKSON TOWNSHIP LANDFILL	JACKSON TOWNSHIP		E
05	MI	K & L AVENUE LANDFILL	OSHTEMO TOWNSHIP	R	
10	WA	KAISER MEAD	MEAD		D
05	MI	CHARLEVOIX MUNICIPAL WELL	CHARLEVOIX		D
02	NJ	MONTGOMERY TOWNSHIP HOUSING DEV	MONTGOMERY TOWNSHIP		D
02	NJ	ROCKY HILL MUNICIPAL WELL	ROCKY HILL BOROUGH		D
02	NY	BREWSTER WELL FIELD	PUTNAM COUNTY		D
02	NY	VESTAL WATER SUPPLY WELL 1-1	VESTAL		E
02	NJ	U.S. RADIUM CORP.	ORANGE		D
06	TX	HIGHLANDS ACID PIT	HIGHLANDS	R	
03	PA	RESIN DISPOSAL	JEFFERSON BOROUGH		E
08	MT	LIBBY GROUND WATER CONTAMINATION	LIBBY		D
04	KY	NEWPORT DUMP	NEWPORT		E
03	PA	MOYERS LANDFILL	EAGLEVILLE		E
04	FL	PARRAMORE SURPLUS	MOUNT PLEASANT	V	
05	MI	SEIDLUM INDUSTRIES	OSCODA		D
08	WY	BAXTER/UNION PACIFIC TIE TREATING	LARAMIE		D
02	NJ	SAYREVILLE LANDFILL	SAYREVILLE		D
01	NH	DOVER MUNICIPAL LANDFILL	DOVER		D
02	NY	LUDLOW SAND & GRAVEL	CLAYVILLE		D
07	MO	MINKER/STOUT/ROMAINE CREEK	IMPERIAL	R	
01	CT	YAWORSKI WASTE LAGOON	CANTERBURY		E
03	WV	LEETOWN PESTICIDE	LEETOWN		D
02	NJ	EVOR PHILLIPS LEASING	OLD BRIDGE TOWNSHIP		D
03	PA	WADE (ABM)	CHESTER	R	E
03	PA	LACKAWANNA REFUSE	OLD FORGE BOROUGH		E
02	NJ	MANNHEIM AVENUE DUMP	GALLOWAY TOWNSHIP		D
02	NY	FULTON TERMINALS	FULTON	V	

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE; E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 7

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
01	NH	AUBURN ROAD LANDFILL	LONDONDERRY	E
03	WV	FIKE CHEMICAL, INC.	NITRO	V
05	OH	LASKIN/POPLAR OIL CO.	JEFFERSON TOWNSHIP	R E
05	OH	OLD MILL	ROCK CREEK	R
07	KS	JOHNS' SLUDGE POND	WICHITA	V E
02	NJ	SWOPE OIL & CHEMICAL CO.	PENNSAUKEN	D
01	ME	WINTHROP LANDFILL	WINTHROP	R
06	AR	CECIL LINDSEY	NEWPORT	D
05	OH	ZANESVILLE WELL FIELD	ZANESVILLE	D
05	MI	GRAND TRAVERSE OVERALL SUPPLY CO.	GREILICKVILLE	D
05	MN	SOUTH ANDOVER SITE	ANDOVER	D
05	MI	KENTWOOD LANDFILL	KENTWOOD	R
05	IN	MARION (BRAGG) DUMP	MARION	D
05	OH	PRISTINE, INC.	READING	E
05	OH	BUCKEYE RECLAMATION	ST. CLAIRSVILLE	D
06	TX	BIO-ECOLOGY SYSTEMS, INC.	GRAND PRAIRIE	R
01	VT	OLD SPRINGFIELD LANDFILL	SPRINGFIELD	D
02	NY	SOLVENT SAVERS	LINCKLAEN	E
03	VA	U.S. TITANIUM	PINEY RIVER	E
05	IL	GALESBURG/KOPPERS	GALESBURG	D
02	NY	BOOKER - HYDE PARK	NIAGARA FALLS	V E
05	MI	SCA INDEPENDENT LANDFILL	MUSKEGON HEIGHTS	E
09	CA	MGM BRAKES	CLOVERDALE	E
05	MI	DUELL & GARDNER LANDFILL	DALTON TOWNSHIP	R
02	NJ	ELLIS PROPERTY	EVESHAM TOWNSHIP	R
04	KY	DISTLER FARM	JEFFERSON COUNTY	R
10	WA	HARBOR ISLAND LEAD	SEATTLE	D
05	OH	E.H. SCHILLING LANDFILL	HAMILTON TOWNSHIP	D
05	MI	CLIFF/DOW DUMP	MARQUETTE	E D
06	NM	HOMESTAKE MINING CO.	MILAN	V E
05	MI	MASON COUNTY LANDFILL	PERE MARQUETTE TWP	E
05	MI	CEMETERY DUMP	ROSE CENTER	R
01	RI	STAMINA MILLS, INC.	NORTH SMITHFIELD	R E
01	ME	PINETTE'S SALVAGE YARD	WASHBURN	D
06	TX	HARRIS (FARLEY ST)	HOUSTON	V E
03	PA	OLD CITY OF YORK LANDFILL	SEVEN VALLEYS	E
05	IL	BYRON SALVAGE YARD	BYRON	R
03	PA	STANLEY KESSLER	KING OF PRUSSIA	E
02	NJ	FRIEDMAN PROPERTY	UPPER FREEHOLD TWP	R
02	NJ	IMPERIAL OIL/CHAMPION CHEMICALS	MORGANVILLE	E
02	NJ	MYERS PROPERTY	FRANKLIN TOWNSHIP	D
02	NJ	PEPE FIELD	BOONTON	D
05	MI	OSSINEKE GROUND WATER CONTAM	OSSINEKE	R
03	WV	FOLLANSBEE	FOLLANSBEE	D
05	MI	U.S. AVIEX	HOWARD TOWNSHIP	E
06	NM	AT & SF / CLOVIS	CLOVIS	D
02	NY	AMERICAN THERMOSTAT CO.	SOUTH CAIRO	E
04	TN	LEWISBURG DUMP	LEWISBURG	D
05	MI	MCGRAW EDISON CORP.	ALBION	E
03	PA	METAL BANKS	PHILADELPHIA	E

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

[FR Doc. 83-24838 Filed 9-7-83; 8:45 am]

BILLING CODE 6560-50-C

Group 8

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
04	KY	B.F. GOODRICH	CALVERT CITY	D
05	MI	ORGANIC CHEMICALS, INC.	GRANDVILLE	E
02	PR	JUNCOS LANDFILL	JUNCOS	D
04	FL	MUNISPORT LANDFILL	NORTH MIAMI	D
02	NJ	M&T DELISA LANDFILL	ASBURY PARK	D
10	OR	GOULD, INC.	PORTLAND	E
05	MI	AUTO ION CHEMICALS, INC.	KALAMAZOO	R
04	SC	CAROLAWN, INC.	FORT LAWN	R E
05	MI	SPARTA LANDFILL	SPARTA TOWNSHIP	E
05	IL	ACME SOLVENT/MORRISTOWN	MORRISTOWN	R
01	ME	O'CONNOR	AUGUSTA	D
05	MI	RASMUSSEN'S DUMP	BRIGHTON	R
03	PA	WESTLINE	WESTLINE	D
05	MI	IONIA CITY LANDFILL	IONIA	R
05	IN	WEDGES INC	LEBANON	E
02	PR	GE WIRING DEVICES	JUANA DIAZ	D
05	OH	NEW LYME LANDFILL	NEW LYME	D
02	PR	RCA DEL CARIBE	BARCELONETA	D
03	PA	BRODHEAD CREEK	STROUDSBURG	R
05	MI	ANDERSON DEVELOPMENT CO.	ADRIAN	E
05	MI	SHIAWASSEE RIVER	HOWELL	R
03	DE	HARVEY & KNOTT DRUM, INC.	KIRKWOOD	R
04	TN	GALLAWAY PITS	GALLAWAY	E
05	OH	BIG D CAMPGROUND	KINGSVILLE	D
03	DE	WILDCAT LANDFILL	DOVER	D
03	PA	BLOSENSKI LANDFILL	WEST CALN TOWNSHIP	E
03	DE	DELAWARE CITY PVC PLANT	DELAWARE CITY	D
03	MD	LIMESTONE ROAD	CUMBERLAND	E
02	NY	BOOKER - 102ND STREET	NIAGARA FALLS	E
03	DE	NEW CASTLE STEEL	NEW CASTLE COUNTY	D
06	NM	UNITED NUCLEAR CORP.	CHURCH ROCK	D
06	AR	INDUSTRIAL WASTE CONTROL	FT. SMITH	D
09	CA	CELTOR CHEMICAL WORKS	HOOPA	R D
04	AL	PERDIDO GROUND WATER CONTAM	PERDIDO	D
02	NY	MARATHON BATTERY CORP.	COLD SPRINGS	D
03	PA	LEHIGH ELECTRIC & ENG. CO.	OLD FORGE BOROUGH	R E
05	OH	SKINNER LANDFILL	WEST CHESTER	D
04	NC	CHEMTRONICS, INC.	SWANNANOA	D
07	MO	SHENANDOAH STABLES	MOSCOW MILLS	E
06	LA	BAYOU SORFOUCA	SLIDELL	D
03	VA	SALTVILLE WASTE DISPOSAL PONDS	SALTVILLE	D
03	PA	KIMBERTON	KIMBERTON BOROUGH	D
03	MD	MIDDLETOWN ROAD DUMP	ANNAPOLIS	E
10	WA	PESTICIDE LAB	YAKIMA	D
05	IN	LEMON LANE LANDFILL	BLOOMINGTON	D
10	ID	ARRCOM (DREXLER ENTERPRISES)	RATHDRUM	D
03	PA	FISCHER & PORTER CO.	WARMINSTER	E
09	CA	JIBBOOM JUNKYARD	SACRAMENTO	D
02	NJ	A. O. POLYMER	SPARTA TOWNSHIP	R
02	NJ	DOVER MUNICIPAL WELL 4	DOVER	D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

Group 9

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
02	NJ	ROCKAWAY TOWNSHIP WELLS	ROCKAWAY	D
06	TX	TRIANGLE CHEMICAL CO.	BRIDGE CITY	R E
02	NJ	PJP LANDFILL	JERSEY CITY	D
03	PA	CRAIG FARM DRUM	PARKER	D
03	PA	VOORTMAN FARM	UPPER SAUCON TWP	D
05	IL	BELVIDERE MUNICIPAL LANDFILL	BELVIDERE	D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[S WER-FRL 2421-2]

Amendment to National Oil and Hazardous Substances Contingency Plan; National Priorities List

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is proposing the first update to the National Priorities List ("NPL") which is promulgated today as Appendix B of the National Oil and Hazardous Substances Contingency Plan ("NCP"), pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") and Executive Order 12316. CERCLA requires that the NPL be revised at least annually, and today's notice proposes the first such revision.

DATES: Comments may be submitted on or before November 7, 1983.

ADDRESSES: Comments may be mailed to Russell H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The public docket for the update to the NCP will contain Hazard Ranking System score sheets for all sites on the proposed update, as well as a "Documentation Record" for each site describing the information used to compute the scores. The main docket is located in Room S-325 of Waterside Mall, 401 M Street, S.W., Washington, D.C., and is available for viewing from 9.00 a.m. to p.m., Monday through Friday, excluding holidays. Requests for copies of these documents should be directed to EPA Headquarters, although the same documents will be available for viewing in the EPA Regional Offices. In addition, the background data relied upon by the Agency in calculating or evaluating HRS scores are retained in the Regional Offices. Any such data in EPA files may be obtained upon request. An informal written request, rather than a formal request under the Freedom of Information Act, should be the ordinary procedure for requesting these data sources. Addresses for the Regional Office dockets are:

Jenifer Arns, Region I, U.S. EPA Library, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/223-5791

Audrey Thomas, Region II, U.S. EPA Library, 10th Floor, New York, NY 10278, 212/264-2881

Diane McCreary, Region III, U.S. EPA Library, Curtis Building, 6th & Walnut Streets, Philadelphia, PA 19106, 215/597-0580

Carolyn Mitchell, Region IV, U.S. EPA Library, 345 Courtland Street NE., 404/257-4216

Lou Tilly, Region V, U.S. EPA Library, 230 South Dearborn Street, Chicago, IL 60604, 512/353-2022

Nita House, Region VI, U.S. EPA Library, First International Building, 1201 Elm Street, Dallas, TX 75270, 214/767-7341

Connier McKenzie, Region VII, U.S. EPA Library, Kansas City, MO 64106, 816/374-3497

Delores Eddy, Region VIII, U.S. EPA Library 1860 Lincoln Street, Denver, CO 80295, 303/837-2560

Jean Circiello, Region IX, U.S. EPA Library, 215 Fremont Street, San Francisco, CA 94105, 415/974-8076

Julie Sears, Region X, U.S. EPA Library, 1200 6th Avenue, Seattle, WA 98101, 206/442-1289.

FOR FURTHER INFORMATION CONTACT: C. Scott Parrish, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH-548E), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, D.C., metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. NPL Update Process and Schedule

Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. §§ 9601-9657, EPA is required to establish, as part of the National Contingency Plan (NCP) for responding to releases of hazardous substances, a National Priorities List (NPL) of sites of such releases. The NPL serves as guidance to EPA in setting priorities among sites for further investigation and possible response actions. After proposing over 400 sites for inclusion on the NPL on December 30, 1982 (47 FR 58476), EPA has established a final NPL, which is being published in today's **Federal Register** immediately preceding this update proposal. The preamble to that final list explains in more detail the purpose of the NPL, the criteria used to develop the list, and how it will be administered and revised. The purpose of this notice is to propose the addition of 133 new sites to the NPL.

CERCLA requires that the NPL be revised at least once per year, and today's notice proposes the first such revision. EPA believes, however, that it may be desirable to update the list on a more frequent basis. Thus, the Agency may revise the NPL more often than is specified in CERCLA. For each revision, EPA will inform the States of the closing dates for submission of candidate sites to EPA. In addition to these periodic updates, EPA believes it may be desirable in rare instances to propose separately the addition of individual sites on the NPL as the Agency did in the case of the Times Beach, Missouri, site.

As with the establishment of the initial NPL, States have the primary responsibility for selecting and scoring sites that are condidates for inclusion on the NPL using the Hazard Ranking System (HRS) and submitting the candidates to the EPA Regional Offices. The regional Offices then conduct a quality control review of the States' candidate sites. After conducting this review, the EPA Regional Offices submit condidate sites to EPA Headquarters. The Regions may include candidate sites in addition to those submitted by States. In reviewing these submissions, EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring.

EPA anticipates that each update publication will list sites in three categories: the "Current List;" "Proposed Additions;" and "Proposed Deletions". Sites on the "Current List" are those which have previously been proposed for listing, either in the initial NPL process or in any subsequent update proposal, and for which final scores have been established based on public comment and further investigation by EPA. In today's proposal, the "Current List" consists of the final NPL published immediately preceding this proposed update notice. As explained more fully in the preamble to the final NPL published today, once a site appears on the final "Current List," EPA does not expect to recalculate its HRS score. Although EPA does not plan to consider additional information on such sites for purposes of rescroing, the Agency always welcomes information on a site that may be useful in determining more precisely the nature of the release and what response actions may be appropriate.

"Proposed Additions" consist of sites not currently on the NPL that the Agency is proposing to add to the NPL. The "Proposed Additions" for this update are those contained in the list immediately following this preamble discussion. The Agency is requesting public comment on whether it is appropriate to add these sites to the final NPL, and may recalculate site scores based on comments received during the comment period.

"Proposed Deletions" will consist of sites on the current NPL that EPA proposes to delete because listing of the site no longer is appropriate. EPA is not today proposing to delete any sites from the NPL. The Agency will consider deleting sites on a case by case basis, according to internal EPA guidance currently being developed. Deletions may be based on such circumstances as the fact that the site has been cleaned up by EPA or the responsible party, or a determination that no fund-financed cleanup is appropriate. EPA does not anticipate, however, that deletions will be based on recalculations of a site's HRS score. The criteria for deletion under consideration by EPA are discussed more fully in the preamble to the final NPL.

II. Contents of the Proposed Update

Each entry on the final NPL, as well as proposed additions and deletions, contains the name of the facility, the State and city or county in which it is located, and the corresponding EPA Region. Each site EPA is proposing to add is placed by score in a group corresponding to the groups of 50 sites presented on the final NPL. Thus, the sites in group 1 of the proposed update have scores that fall within the range of scores covered by the first 50 sites on the final NPL. Each entry on the proposed update, as well as those on the final NPL, is accompanied by one or more notations on the status of response and enforcement activities at the site at the time the list was prepared or updated. These status categories are described briefly below.

Voluntary or Negotiated Response (V). Sites are included in this category if private parties are taking response actions pursuant to a consent order or agreement to which EPA is a party. Voluntary or negotiated cleanup may include actions taken pursuant to agreements reached after enforcement action had commenced. This category of response may include remedial investigations, feasibility studies, and other preliminary work, as well as actual cleanup.

Even though response actions qualify for notation in this category only if sanctioned by a formal agreement, this is not intended to preclude responsible parties from taking voluntary response actions outside of such an agreement. However, in order for the site to be deleted, or to be noted in the Voluntary or Negotiated Response category, EPA must still sanction the complete cleanup. If the remedial action is not fully implemented or is not consistent with the NCP, the responsible party may be subject to an enforcement action. Therefore, most responsible parties may find it in their best interest to negotiate a consent agreement.

Federal and State Response (R). The Federal and State Response category includes sites at which EPA or State agencies have commenced or completed removal or remedial actions under CERCLA, including remedial investigations and feasibility studies (see NCP section 300.68(f)(i)). For purposes of this categorization, EPA considers the response action to have begun when LPA has obligated funds. For some of the sites in this category, remedial investigations and feasibility studies may be followed by EPA enforcement actions, at which time the site status will change to "Federal or State Enforcement."

Federal or State Enforcement (E). This category includes sites where the United States or the State has filed a civil complaint or issued an administrative order. It also includes sites at which a Federal or State court has mandated some form of no-consensual response action following a judicial proceeding. It may not, however, include all sites at which preliminary enforcement activities are underway. A number of sites that EPA is proposing to add to the NPL are the subject of enforcement investigation or have been formally referred to the Department of Justice for enforcement action. EPA's policy is not to release information concerning a possible enforcement action until a lawsuit has been filed. Accordingly, these sites have not been included in the enforcement category.

Actions to be Determined (D). This category includes all sites not listed in any other category. A wide range of activities may be in progress for sites in this category. The Agency may be considering a response action, or may be conducting an enforcement investigation. EPA may have referred a case involving a site to the Department of Justice, but no lawsuit has yet been filed. Investigations may be underway or needed to determine the source of a release in areas adjacent to or near a Federal facility. Responsible parties may be undertaking cleanup operations that are unknown to the Federal or State government, or corrective action may not be occurring yet.

EPA requests public comment on each of the sites it is proposing to add to the NPL, and will accept such comments for 60 days following the date of this notice. A "Documentation Record" and HRS scoring sheets for all proposed sites are available for inspection and copying in the NPL docket located in Washington, D.C. These documents are also available in the EPA Regional Offices, as are background data referred to in the Documentation Records and relied on for scoring. In some instances, where States calculated site scores and EPA review and quality control checking did not require direct inspection of background data, these data may be available only from the State that conducted the original scoring. After considering the relevant comments received during the comment period and determining the final score for each proposed site, the Agency will add to the current NPL at the time of the next update all sites that meet EPA's criteria for listing.

III. Additional Criteria for Listing

The preamble to the proposed NPL (47 FR 58476, December 30, 1982) stated that the more than 400 sites on the proposed list were included based primarily on total scores ("migration" or "S_m" scores) calculated according to the HRS. For the proposed NPL, all sites (with the exception of some sites designated by States as "top priority" sites) scored 28.50 or higher according to the HRS.

EPA has found that the HRS scoring factors provide a good estimate of the relative hazards at sites for purpose of establishing a list of national priorities for further investigation and possible remedial action. As explained in the preamble to the proposed NPL (47 FR 58479, December 30, 1982) and the preamble to the NCP which discusses the HRS (47 FR 31187–88, July 16, 1982), the HRS total score used for the NPL is designed to take into account a standard set of factors related to risks from migration of substances through ground water, surface water, and the air. Although the HRS also does provide an approximation of risk from direct contact with substances and from the possibility of fire and explosion, these pathway scores are not considered in computing the HRS "total score" of a site for purposes of listing. Rather, scores from the direct contact and fire and explosion pathways are used as guidance in determining the need for immediate removal action at a site.

EPA has found, however, that in certain instances EPA's authority to

conduct an immediate removal action may not be sufficient to address completely the direct contact risks at a site, and that remedial action may therefore be warranted. For example, where relocation of residents is the appropriate remedy, the Agency's removal authority extends only to evacuation of threatened residents, whereas its remedial authority may include permanent relocation of those residents. Although EPA can take removal actions, including temporary relocation of residents, irrespective of whether a site appears on the NPL, the NCP (40 CFR 300.68(a)) provides that remedial actins may be taken only at sites on the NPL.

Since the "direct contact" scores are not included in calculating the HRS total score for purposes of listing sites on the NPL, some of the sites involving direct contact to residents where remedial action, rather than immediate removal action, appears necessary to address the problem completely may not receive a sufficiently high HRS total score to be listed on the NPL. This situation has led EPA to believe that in limited circumstances it may be appropriate to consider other criteria than simply a sufficiently high HRS total score for purposes of listing sites on the NPL to make them eligible for remedial action.

Quail Run Mobile Manor, Gray Summit, Missouri, is an example of a site that presents a significant risk to the public that may warrant remedial action, although its HRS total score is too low for the site to be included on the NPL. During the winter of 1982–1983, the EPA conducted environmental sampling at Quail Run as part of its investigation of a number of sites in the State of Missouri that were potentially contaminated with dioxin. The investigation of the Quail Run site revealed widespread dioxin contamination of yards, roadsides, and garden areas, as well as high concentrations under the road pavement and presence in at least one residence.

In the case of Quail Run, EPA believes that a number of factors suggest that it may be appropriate to consider including the site on the NPL even though its HRS total score is less than 28.50. First, based on EPA's sampling, the Centers for Disease Control (CDC) on May 11, 1983 issued a public health advisory for the trailer park. This advisory was based on the risk to residents posed by direct contact with the contaminated areas. Second the Federal Emergency Management Agency determined that temporary relocation of the residents was necessary to protect public health, based on the CDC avisory and its determination that the possible human exposure would continue unless the residents left their homes. Finally, EPA's current assessment is that some type of remedial action—as opposed to an immediate removal action—may be the most health-protective and cost-effective response.

Therefore, EPA is proposing to add the Quail Run site to the NPL. Including the Quail Run site on the NPL will permit EPA to consider the broadest possible range of response actions, including remedial actions, that will protect the public health and environment and provide the most cost-effective response.

EPA recognizes, however, that the sole criterion in the NCP for listing sites on the NPL is a sufficiently high HRS total score (or designation by a State as its top priority site). Before EPA includes the Quail Run site on the NPL, therefore, the Agency intends to amend the NCP to authorize consideration of limited criteria other than the HRS total score for purposes of including sites on the NPL. These alternative criteria would take into account circumstances such as those existing at the Quail Run site.

In preparing a proposed amendment to the NCP, EPA will consider the advisability of relying in part on health assessments or advisories such as those issued by the newly formed Agency for Toxic Substances and Disease Registry (ATSDR) or special information from the Federal Emergency Management Agency. Such information could serve as the technical basis for an EPA advisory committee review and subsequent administrative decision on the relative risk of the site. A related approach, for situations where persons at different locations are affected by the risks of direct contact from common substances (such as dioxin), might be to group such sites by geography or political subdivision on the NPL. For example, EPA might develop some process whereby many of the locations in Missouri involving direct contact risks from dioxin could be grouped into a single listing on the NPL if a suitable health assessment or advisory had been issued by an agency such as ATSDR with respect to those locations. Of course, this approach could also apply to similar dioxin risks in other States or territories.

EPA anticipates, however, that any alternative criteria it may develop will apply only to a limited number and type of sites. With rare exception, the HRS has proven to be an effective tool for approximating the risk posed by sites, and will remain the principal criterion for listing. EPA invites comments on the general issue of considering alternative criteria for listing on the NPL and on approaches such as those discussed above, as well as on the inclusion of the Quail Run site.

IV. Regulatory Impact Analysis

The EPA has conducted a preliminary analysis of the economic implications of today's amendment to the NCP. The EPA belives that the direction of the economic effects of this revision is generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA.[1] Nevertheless, the Agency intends to go beyond this earlier characterization of possible effects with a more extensive analysis of the combined economic impact of this update proposal and other amendments to the NCP that EPA may propose in the near future. The analysis will accompany publication of future major amendments to the NCP. A more comprehensive examination, together with more than 2 years of experience with the Superfund program, will allow better estimates of the economic impact of this and other proposed amendments. In the meantime, the Agency belives the anticipated economic effects of adding 133 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis.

Costs

The costs associated with revising the NCP that were estimated in the 1982 RIA included costs to States of meeting cost-share requirements; costs to industries and individual firms of financing remedies at NPL sites as a result either of enforcement or cost recovery action or of voluntary response; and macroeconomic costs resulting from effects on industries and State governments. Each of these types of costs is discussed below.

Costs to States associated with today's amendment arise from the statutory State cost-share requirement of 10 percent of remedial action costs at privately-owned sites. Using the assumptions developed in the 1982 RIA, we can assume that 90 percent of the 133 sites proposed for listing in this amendment will involve a 10 percent State cost share, and 10 percent will

[1] TCF Incorporated, Regulatory Impact Analysis of the Revisions to the National Oil and Hazardous Substances Contingency Plan, February 16, 1982. The analysis is available for inspection at the U.S. Environmental Protection Agency, 401 M Street, S. W., Washington, D.C. 20460.

involve a 50 percent cost share at publicly-owned sites. Estimating the average costs of a remedial action at $6.5 million, the cost to all States of undertaking Federal remedial actions at all 133 sites would be $121 million.

Cost to industry could result from required financing of remedies at sites on the NPL under enforcement or cost recovery action. Firms could also be induced to respond to sites for which they are responsible as a prudent business action to avoid possible enforcement actions and to prevent adverse publicity if they are linked to hazardous waste sites that are now national priority targets. Precise estimates must await the full analysis to be conducted; however, the range of costs would extend from zero (if none of the 133 sites is addressed) to a maximum of $865 million (if the 133 sites are privately-owned and each remedial action costs an average of $6.5 million). The EPA cannot identify at this time which firms may be threatened with specific portions of response costs. The act of adding a hazardous waste site to the NPL does not itself cause firms responsible for that site to bear these costs. Instead, listing acts only as a potential trigger for subsequent enforcement, cost recovery, or voluntary remedial efforts. Moreover, it remains at EPA's discretion whether or not to proceed with enforcement actions against firms which may be adversely affected by such actions.

Economy-wide effects of this amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

Associated with the costs are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that each dollar expended for a response puts someone to work directly or indirectly (through purchased materials).

The real benefits associated with today's amendment come in the form of increased health and environmental protection as a result of additional response actions at hazardous waste sites. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, torts, and/or enforcement action. Listing sites as national priority targets may also give States increased support for funding responses at particular sites.

As a result of the additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate. As an example of a rough calculation, the 1982 RIA estimated that the population potentially at risk from contamination of ground water, soil, and air would be reduced by approximately 1.8 million, 600,000, and 97,000 respectively, if remdial actions were taken at 170 NPL sites. Assuming an average estimate per NPL site of 10,000 people at risk of exposure to contaminated ground water, response actions at the 133 sites to be listed by this revision could result in a reduced risk of exposure to ground water contamination for up to 1.3 million people.

V. Regulatory Flexibility Act Analysis

As required by the Regulatory Flexibility Act of 1980, the Agency has reviewed the impact of this revision to the NCP on small entities. The EPA certifies that the revision will not have a significant impact on a substantial number of small entities.

While modifications to the NPL are considered revisions to the NCP, they are not typical regulation changes since the change does not automatically impose across-the-board costs. As a consequence, it is hard to predict effects. The Agency does expect that certain industries and firms within industries that have caused a proportionally high percentage of waste site problems will possibly be significantly affected by CERCLA actions. Being included on the NPL will increase the likelihood that these effects will occur. The costs, when imposed to these affected firms and industries, are justified because of the public health and environmental problems they have caused. Adverse effects are not expected to affect a substantial number of small businesses, as a class.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

PART 300—[AMENDED]

It is proposed to amend Appendix B of 40 CFR Part 300 by adding the following sites to the National Priorities List:

BILLING CODE 6560-50-M

Appendix B—National Priorities List

Group 1

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
03	PA	TYSONS DUMP	UPPER MERION TWP		R	
08	MT	EAST HELENA SMELTER	EAST HELENA			D
06	TX	GENEVA INDUSTRIES (FUHRMANN)	HOUSTON		R	E
02	NJ	VINELAND CHEMICAL CO.	VINELAND	V		E
02	NJ	FLORENCE LAND RECONTOURING LF	FLORENCE TOWNSHIP	V		E
02	NJ	SHIELDALLOY CORP.	NEWFIELD BOROUGH			E
05	WI	OMEGA HILLS NORTH LANDFILL	GERMANTOWN	V		E
05	OH	UNITED SCRAP LEAD CO.,INC.	TROY			D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 2

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #		
05	WI	JANESVILLE OLD LANDFILL	JANESVILLE			D
04	SC	INDEPENDENT NAIL CO.	BEAUFORT			D
04	SC	KALAMA SPECIALTY CHEMICALS	BEAUFORT		E	
05	WI	JANESVILLE ASH BEDS	JANESVILLE			D
05	OH	MIAMI COUNTY INCINERATOR	TROY			D
05	WI	WHEELER PIT	LA PRAIRIE TOWNSHIP			D
02	NY	HUDSON RIVER PCBS	HUDSON RIVER			D
01	CT	OLD SOUTHINGTON LANDFILL	SOUTHINGTON	V	E	
04	MS	FLOWOOD *	FLOWOOD			D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 3

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
10	ID	UNION PACIFIC RAILROAD CO.	POCATELLO	E
04	AL	CIBA-GEIGY CORP. (MCINTOSH PLANT)	MCINTOSH	D
05	MN	ST. REGIS PAPER CO.	CASS LAKE	V
04	GA	HERCULES 009 LANDFILL	BRUNSWICK	D
05	MN	MACGILLIS & GIBBS/BELL & POLE	NEW BRIGHTON	D
05	WI	MUSKEGO SANITARY LANDFILL	MUSKEGO	D
02	NJ	VENTRON/VELSICOL	WOODRIDGE BOROUGH	E
04	SC	KOPPERS CO.,INC. (FLORENCE PLANT)	FLORENCE	E
02	NJ	NASCOLITE CORP.	MILLVILLE	E
05	MN	BOISE CASCADE/ONAN/MEDTRONICS	FRIDLEY	D
02	NJ	DELILAH ROAD	EGG HARBOR TOWNSHIP	E
03	PA	MILL CREEK DUMP	ERIE	R
05	WI	SCHMALZ DUMP	HARRISON	D
08	CO	LOWRY LANDFILL	ARAPAHOE COUNTY	E

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 4

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
04	SC	WAMCHEM, INC.	BURTON	D
02	NJ	CHEMICAL LEAMAN TANK LINERS, INC.	BRIDGEPORT	E
05	WI	MASTER DISPOSAL SERVICE LANDFILL	BROOKFIELD	E
02	NJ	W. R. GRACE CO. (WAYNE PLANT)	WAYNE TOWNSHIP	D
04	SC	LEONARD CHEMICAL CO.,INC.	ROCK HILL	V
04	AL	STAUFFER CHEM. (COLD CREEK PLANT)	BUCKS	D
04	GA	OLIN CORP. (AREAS 1,2 & 4)	AUGUSTA	V
05	OH	SOUTH POINT PLANT	SOUTH POINT	D
03	PA	DORNEY ROAD LANDFILL	UPPER MACUNGIE TWP	D
05	IN	NORTHSIDE SANITARY LANDFILL	ZIONSVILLE	E
09	CA	ATLAS ASBESTOS MINE	FRESNO COUNTY	E
09	CA	COALINGA ASBESTOS MINE	COALINGA	D
02	NJ	EWAN PROPERTY	SHAMONG TOWNSHIP	D
10	ID	PACIFIC HIDE & FUR RECYCLING CO.	POCATELLO	R E
05	MN	JOSLYN MFG. & SUPPLY CO.	BROOKLYN CENTER	D
05	MN	ARROWHEAD REFINERY CO.	HERMANTOWN	D
05	WI	MOSS-AMERICAN(KERR-MCGEE OIL CO.)	MILWAUKEE	D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 5

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
01	MA	IRON HORSE PARK	BILLERICA	D
05	WI	KOHLER CO. LANDFILL	SHEBOYGAN	D
05	IN	REILLY TAR & CHEMICAL CORP.	INDIANAPOLIS	D
05	WI	LAUER I SANITARY LANDFILL	MENOMONEE FALLS	E
05	MN	UNION SCRAP	MINNEAPOLIS	D
02	NJ	RADIATION TECHNOLOGY, INC.	ROCKAWAY TOWNSHIP	E
05	WI	ONALASKA MUNICIPAL LANDFILL	ONALASKA	D
05	MN	NUTTING TRUCK & CASTER CO.	FARIBAULT	D
02	PR	VEGA ALTA PUBLIC SUPPLY WELLS	VEGA ALTA	D
05	MI	STURGIS MUNICIPAL WELLS	STURGIS	D
05	MN	WASHINGTON COUNTY LANDFILL	LAKE ELMO	R
09	CA	SAN GABRIEL AREA 1	EL MONTE	D
09	CA	SAN GABRIEL AREA 2	BALDWIN PARK AREA	D
06	TX	PIG ROAD	NEW WAVERLY	D
02	PR	UPJOHN FACILITY	BARCELONETA	V
03	PA	HENDERSON ROAD	UPPER MERION TWP	D
06	LA	PETRO-PROCESSORS	SCOTLANDVILLE	E
03	PA	INDUSTRIAL LANE LANDFILL	WILLIAMS TOWNSHIP	D
03	PA	EAST MOUNT ZION	SPRINGETTSBURY TWP	D
02	NY	GENERAL MOTORS-CENT. FOUNDRY DIV.	MASSENA	D
03	DE	OLD BRINE SLUDGE LANDFILL	DELAWARE CITY	D
05	MN	WHITTAKER CORP.	MINNEAPOLIS	D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 6

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
01	CT	KELLOGG-DEERING WELL FIELD	NORWALK	V E
04	AL	OLIN CORP. (MCINTOSH PLANT)	MCINTOSH	V
04	FL	TRI-CITY OIL CONSERVATIONIST, INC.	TEMPLE TERRACE	D
05	WI	NORTHERN ENGRAVING CO.	SPARTA	D
01	NH	KEARSAGE METALLURGICAL CORP.	CONWAY	V E
04	SC	PALMETTO WOOD PRESERVING	DIXIANNA	E
05	MN	MORRIS ARSENIC DUMP	MORRIS	D
05	MN	PERHAM ARSENIC	PERHAM	D
01	NH	SAVAGE MUNICIPAL WATER SUPPLY	MILFORD	D
05	IN	POER FARM	HANCOCK COUNTY	R
06	TX	UNITED CREOSOTING CO.	CONROE	D
05	WI	CITY DISPOSAL CORP. LANDFILL	DUNN	D
02	NJ	TABERNACLE DRUM DUMP	TABERNACLE TWP	D
02	NJ	COOPER ROAD	VOORHEES TOWNSHIP	D
04	FL	CABOT-KOPPERS	GAINESVILLE	D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 7

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #
05	MN	GENERAL MILLS/HENKEL CORP.	MINNEAPOLIS	R
09	CA	DEL NORTE PESTICIDE STORAGE	CRESCENT CITY	D
02	NJ	DE REWAL CHEMICAL CO.	KINGWOOD TOWNSHIP	D
04	GA	MONSANTO CORP. (AUGUSTA PLANT)	AUGUSTA	D
01	NH	SOUTH MUNICIPAL WATER SUPPLY WELL	PETERSBOROUGH	D
05	WI	EAU CLAIRE MUNCIPAL WELL FIELD	EAU CLAIRE CITY	D
04	GA	POWERSVILLE	PEACH COUNTY	D
05	MI	METAMORA LANDFILL	METAMORA	D
02	NJ	DIAMOND ALKALI CO.	NEWARK	R
02	PR	FIBERS PUBLIC SUPPLY WELLS	JOBOS	D
05	WI	MID-STATE DISPOSAL, INC.,LANDFILL	CLEVELAND TOWNSHIP	E
08	CO	BRODERICK WOOD PRODUCTS	DENVER	D
02	NJ	WOODLAND ROUTE 532 DUMP	WOODLAND TOWNSHIP	D
05	IN	AMERICAN CHEMICAL SERVICE	GRIFFITH	D
05	WI	LEMBERGER TRANSPORT & RECYCLING	FRANKLIN TOWNSHIP	E
10	WA	QUEEN CITY FARMS	MAPLE VALLEY	D
05	WI	SCRAP PROCESSING CO., INC.	MEDFORD	D
02	NJ	HOPKINS FARM	PLUMSTEAD TOWNSHIP	D
02	NJ	WILSON FARM	PLUMSTEAD TOWNSHIP	R
06	OK	COMPASS INDUSTRIES	TULSA	R
09	CA	KOPPERS CO.,INC. (OROVILLE PLANT)	OROVILLE	E
03	PA	WALSH LANDFILL	HONEYBROOK TWP	D
02	NJ	UPPER DEERFIELD TOWNSHIP SLF	UPPER DEERFIELD TWP	E

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 8

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #			
01	MA	SULLIVAN'S LEDGE	NEW BEDFORD				D
05	IN	BENNETT STONE QUARRY	BLOOMINGTON		R		
04	AL	STAUFFER CHEM. (LE MOYNE PLANT)	AXIS				D
04	SC	GEIGER (C&M OIL)	RANTOULES				D
05	WI	WASTE RESEARCH & RECLAMATION CO.	EAU CLAIRE	V		E	
04	FL	PEPPER STEEL & ALLOYS, INC.	MEDLEY	V	R	E	
05	MN	ST. LOUIS RIVER	ST. LOUIS COUNTY				D
03	PA	BERKS SAND PIT	LONGSWAMP TOWNSHIP				D
04	FL	HIPPS ROAD LANDFILL	DUVAL COUNTY		R		
05	WI	OCONOMOWOC ELECTROPLATING CO.	ASHIPPIN			E	
08	CO	LINCOLN PARK	CANON CITY				D
02	NJ	WOODLAND ROUTE 72 DUMP	WOODLAND TOWNSHIP				D
10	OR	UNITED CHROME PRODUCTS, INC.	CORVALLIS				D
02	NJ	LANDFILL & DEVELOPMENT CO.	MOUNT HOLLY	V		E	
03	PA	TAYLOR BOROUGH DUMP	TAYLOR BOROUGH				D
05	OH	POWELL ROAD LANDFILL	DAYTON				D
05	MI	BURROWS SANITATION	HARTFORD		R		
10	WA	ROSCH PROPERTY	ROY				D

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

Group 9

EPA REG	ST	SITE NAME *	CITY/COUNTY	RESPONSE STATUS #			
05	WI	DELAVAN MUNICIPAL WELL #4	DELAVAN				D
09	CA	SAN GABRIEL AREA 3	ALHAMBRA				D
09	CA	SAN GABRIEL AREA 4	LA PUENTE				D
10	WA	AMERICAN LAKE GARDENS	TACOMA		R		
10	WA	GREENACRES LANDFILL	SPOKANE COUNTY				D
06	OK	SAND SPRINGS PETROCHEMICAL	SAND SPRINGS		R		
07	MO	QUAIL RUN MOBILE MANOR	GRAY SUMMIT		R		

#: V = VOLUNTARY OR NEGOTIATED RESPONSE; R = FEDERAL AND STATE RESPONSE;
E = FEDERAL AND STATE ENFORCEMENT; D = ACTIONS TO BE DETERMINED.
* = STATES' DESIGNATED TOP PRIORITY SITES;
NOTE: GROUP REFERS TO THE NPL GROUP WITH SIMILAR HRS SCORES;

[FR Doc. 83-24539 Filed 9-7-83; 8:45 am]
BILLING CODE 6560-50-C

federal register

Thursday
September 8, 1983

Part VIII

Department of Transportation

Office of the Secretary

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From the Department of Transportation

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Part 27

[Docket No. 56b; Notice No. 83-14]

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From the Department of Transportation

AGENCY: Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." The Department is currently implementing this statute in the mass transit area through an interim final rule. This proposal would replace the interim final rule with a new regulation consistent with section 317(c) of the Surface Transportation Assistance Act of 1982. The proposed regulation would establish minimum criteria for the provision of transportation services to handicapped and elderly persons, provide for public participation in the establishment of such services, and create a mechanism through which the Department can monitor the compliance with the regulation of transit providers receiving financial assistance form the Department.

DATE: Comments should be received in the Department by November 7, 1983.

ADDRESS: Comments should be addressed to Docket Clerk, Docket 56b, Department of Transportation, Room 10105, 400 7th Street, SW., Washington D.C., 20590. Comments will be available for review by the public at this address from 9:00 a.m. through 5:30 p.m., Monday through Friday. Commenters wishing acknowledgement of their comments should include a stamped, self-addressed postcard with their comment. The Docket Clerk will time and date stamp the card and return it to the commenter.

FOR FURTHER INFORMATION CONTACT: Robert C. Ashby, Office of Assistance General Counsel for Regulation and Enforcement, U.S. Department of Transportation, Room 10105, 400 7th Street, SW., Washington, D.C. 20590. 202/426-4723. Hearing-impaired persons may contact Mr. Ashby by using TTY (202) 755-7687. The NPRM has been taped for the use of visually-impaired persons.

SUPPLEMENTARY INFORMATION:

Background

Section 504 of the Rehabilitation Act of 1973 provides that "no otherwise qualified handicapped individual . . . shall, solely by reason of his handicap, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance . . . ." The Department's existing regulation appears in 49 CFR Part 27, and implements this statute, section 16(a) of the Urban Mass Transportation Act of 1964 and section 165(b) of the Federal-Aid Highway act of 1973. This regulation, originally published in 1979, prescribed various planning and other administrative requirements and prohibited employment discrimination on the basis of handicap. It also imposed general requirements for the accessibility of DOT-assisted programs and activities to handicapped persons and specific accessibility requirements for Federally aided highways, airports, intercity rail service, and mass transit.

The 1979 regulations, as they applied to mass transit, were very costly and controversial. The American Public Transit Association (APTA) and several of its members sued the Department in June 1979, alleging that the mass transit requirements of the 1979 rule exceeded the Department's authority and were arbitrary and capricious. The U.S. District Court of the District of Columbia upheld the rule, but the Court of Appeals for the District of Columbia Circuit reversed the District Court's decision (*American Public Transit Association v. Lewis*, 556 F.2d 1271 (D.C. Cir., 1981)). The Court of Appeals held that, under section 504, a transit authority might be required to take "modest, affirmative steps to accommodate handicapped persons" in order to avoid the discrimination that section 504 prohibits. In the Court's view, however, the regulation required extensive and costly affirmative action efforts to modify existing systems and, therefore, exceeded the Department's authority under the statute.

While the court decision was pending, the Presidential Task Force on Regulatory Relief determined that the regulation deserved priority review. As a result of this review, the Department established a clear policy concerning mass transit for handicapped persons. The Department believes that recipients of Federal assistance for mass transit must provide transportation that handicapped persons can use but that local communities have the major responsibility for deciding how this transportation should be provided.

Following the establishment of this policy and the Court decision, the Department issued an interim final rule in July 1981, which deleted the mass transit requirements of the original regulation and substituted a new section. The new section requires recipients to certify that special efforts are being made in their service area to provide transportation that handicapped persons can use. The interim final rule was designed as a temporary measure to remain in effect only until a permanent regulation could be adopted. This NPRM proposes a replacement for the interim final rule.

As required by Executive Order 11914, the Department's 1979 regulation was consistent with government-wide guidelines promulgated by the Department of Health, Education, and Welfare (HEW). These guidelines included a specific requirement that each mode of mass transit be made accessible to handicapped persons. Following the dissolution of HEW, Executive Order 12250 transferred responsibility of the guidelines to the Department of Justice (DOJ). In August 1981, in response to the APTA decision, DOJ suspended the application of the guidelines to mass transit. Both the interim final rule and this NPRM were approved by DOJ pursuant to Executive Order 12250.

Comments on the Interim Final Rule

The Department received approximately 300 comments in response to the interim final rule. Of these, 141 were from persons identifying themselves as handicapped individuals or from groups representing them. Thirty were from transit operators or groups representing them, 56 from various state and local agencies, 18 from metropolitan planning organizations or other regional associations of governments, and 54 were from people or organizations not falling into any of these categories.

Most handicapped persons and organizations commenting on the interim final rule opposed its provisions. Many of the 115 commenters in this category who opposed the interim final rule favored retaining the accessibility requirements of the Department's original section 504 rule or requiring that transit authorities that provide special services be required to meet service criteria. The service criteria would be designed to ensure comparable service for handicapped persons. The criteria commenters mentioned included same

geographic service area, same hours of service, comparable fares, no restrictions or priorities based on trip purpose, and reasonable wait time. Thirteen commenters in the handicapped person and group category favored the interim final rule and the local option/special services approach to providing transportation for handicapped persons. The rest of the comments could not be classified as either for or against the interim final rule.

Thirty transit authorities commented on the interim final rule; a majority of them (23) favored the interim final rule's approach. They also endorsed local option and special services as the best way to provide transportation services for handicapped persons. Most metropolitan planning organizations and other regional associations of governments also favored local option and special services. Fourteen of these favored the interim final rule, and the other 4 commented without expressing support or opposition. On the other hand, state and local government agencies or organizations gave mixed responses. In this category, 28 favored the interim final rule, 16 were opposed (most of whom favored an accessibility or service criteria approach) and 12 commented but did not indicate a position for or against. The mixed nature in this category is attributable, in part, to the fact that the category includes both state and local agencies concerned principally with transportation matters, such as state Departments of Transportation, and agencies concerned with providing services to handicapped persons, such as state vocational rehabilitation agencies. Many of the agencies in this category also favored a service criteria approach to providing transit services for handicapped persons.

Of the remaining commenters, 33 opposed the interim final rule, 14 favored it, and 7 did not express an opinion for or against. Many opponents in this category supported retaining accessibility requirements or requiring service criteria.

Two issues in the regulation received numerous comments from a variety of commenters. First, there was broad support for retaining or strengthening public participation requirements in the planning of transportation services for handicapped persons, including requirements for the participation of handicapped persons in the process. Second, commenters expressed substantial concern about the financial level of effort criterion (3.5 percent of section 5 funds) in the interim final rule. Many commenters thought that this criterion was too vague or too low. In addition, many pointed out that the criterion did not provide a sound basis for determining an appropriate financial level of effort over the long term because, under Administration legislative proposals, operating assistance funds under section 5 would be phased out.

Section 317(c) of the Surface Transportation Assistance Act of 1982

Section 317(c) of the Surface Transportation Assistance Act of 1982 directly affects the content of this proposed rule. It provides as follows:

> In carrying our subsection (a) of this section [section 16 (a) of the Urban Mass Transportation Act of 1964, as amended] section 165(b) of the Federal-Aid Highway Act of 1973, and section 504 of the Rehabilitation Act of 1973 (consistent with any applicable government-wide standards for the implementation of such section 504), the Secretary shall, not later than 90 days after the date of enactment of this subsection, publish in the **Federal Register** for public comment, proposed regulations and, not later than 180 days after the date of such enactment, promulgate final regulations, establishing (1) minimum criteria for the provision of transportation services to handicapped and elderly individuals by recipients of Federal financial assistance under this Act or any provision of law referred to in section 165(b) of the Federal-Aid Highway Act of 1973, and (2) Procedures for the Secretary to monitor recipients' compliance with such criteria. Such regulations shall include provisions ensuring that organizations and groups representing such individuals are given adequate notice of and opportunity to comment on the proposed activities of recipients for the purpose of achieving compliance with such regulations.

This provision was sponsored by Senators Cranston and Riegle. The sponsors' floor statements expressed concern that the Department's interim rule did not ensure adequate service for handicapped persons. For example, Senator Cranston, in his discussion of a General Accounting Office survey of transportation systems, referred to "widespread deficiencies" in paratransit services for handicapped persons, such as waiting lists, long advance notice requirements, priorities based on trip purpose, shorter hours and fewer days of service, denials of requests for service, smaller geographical area of service, and inaccessibility of paratransit vehicles. He and Senator Riegle also cited the survey as evidence that some transit authorities had stopped or slowed programs to make their buses accessible. In addition, the Senators believed that procedural problems—the absence of requirements for public participation in the formulation of transportation services for handicapped persons and a mechanism enabling the Department to know whether recipients were complying with section 504 requirements—also impeded the provision of adequate service for handicapped persons.

To address these problems, which Congress believed stemmed from the interim final rule, section 317(c) directs the Department to change its approach to implementing section 504 both substantively and procedurally. Substantively, the statute requires that DOT's new regulation include "minimum criteria for the provision of transportation services" to handicapped persons. Procedurally, the statute calls for explicit regulatory provisions concerning the participation of handicapped persons in the establishment of transportation services for their use and for monitoring by the Department of recipients' compliance with section 504 requirements. This proposed rule includes provisions carrying out these new substantive and procedural requirements of the statute.

The version of section 317(c) that the Senate originally passed was stronger than the language the Congress eventually enacted, requiring "minimum criteria for each recipient . . . to provide handicapped and elderly individuals with transportation services that such individuals can use *and that are the same as or comparable to those which the recipient provides to the general public*" (emphasis added). Of the two requirements that this version imposed—minimum criteria for the provision of service and "same or comparable" service—the final version of the section retained only the former. The "same or comparable" formulation was dropped by the Conference Committee. It is reasonable to interpret this deletion to mean that the "minimum criteria" required by the final version of the section do not have to result in service for handicapped persons that is the same as or comparable to that provided the general public.

Section 317(c) is the latest and most definitive instruction by Congress to the Department concerning the regulatory requirements the Department much impose with respect to mass transit services for handicapped and elderly individuals. The proposed rule is intended to implement this Congressional instruction. Section 317(c) does not amend section 504 or diminish the nondiscrimination obligation of recipients under section 504. As coordinator of section 504 enforcement

pursuant to Executive Order 12250, DOJ has approved the proposed rule.

Section-by-Section Analysis

Section 27.77(a) Certification

Subparagraph (1) provides that, as under the interim final rule, each recipient of Federal financial assistance for capital or operating expenses of urban mass transportation systems (under sections 3, 5, 9, and 9A of the Urban Mass Transportation Act; recipients of funds only under section 18 would be treated separately) would be required to certify to the Urban Mass Transportation Administration (UMTA) that it is complying with the rule. In this case, compliance means having in effect a program for the provision of transportation services to handicapped and elderly individuals. The certification acceptance approach is designed to reduce administrative burdens and delays associated with a requirement for prior approval of a program by the Department. The certification must state that the recipient has met all procedural and substantive requirements set forth in the rest of this section.

Subparagraph (2) states the certification requirement for recipients only of section 18 funds. This requirement would be the same as under the existing regulation. The Department is proposing to retain this relatively less burdensome requirement because section 18 recipients tend to be small entitites—small cities and rural jurisdictions. Consistent with the policies of the Regulatory Flexibility Act, the Department believes it appropriate, in this situation, to impose fewer substantive and procedural burdens on these recipients. In addition, many section 18 recipients are likely to be called upon to serve only a few handicapped persons.

Section 18 recipients have an obligation under this subparagraph to provide service for handicapped persons, but, given the nature of small cities and rural areas, it is probable that they can provide this service on an informal basis without the more elaborate substantive and procedural requirements imposed on larger urban areas. Section 18 certifications would be sent to the Federal Highway Administrator rather than the UMTA Administrator because the Secretary has delegated primary responsibility for administering the section 18 program to the Federal Highway Administration. The Department seeks comment on whether this approach to section 18 recipients is appropriate. We request that commenters favoring a different approach make suggestions concerning how the Department can be responsive to the situation of small recipients.

Subparagraph (3) provides that the certification would stand for compliance with section 504, section 16(a), and section 165(b). While the Department would regularly monitor compliance with the requirements, and the Department could "look behind" the recipient's certification to ensure that it is delivering the promised services and following the appropriate procedures, a recipient with a valid certification would normally be regarded by the Department as meeting statutory requirements with respect to the provision of transportation services to handicapped persons.

Section 27.77(b) Types of Service

The Department is fully committed to the policy of allowing each local area to determine the kind of transportation service for handicapped persons that best fits its circumstances. The department is aware that no one kind of service is right for all areas. At the same time, section 317(c) requires minimum criteria for the provision of service to handicapped persons. In this paragraph, the Department proposes three alternative ways that recipients can meet their obligation to provide transportation services for handicapped persons. Whatever choice a recipient made, it would have to ensure, subject to the cost limit of paragraph (d), that the service it provided met the service criteria of paragraph (c).

Subaragraph (1) permits recipients to choose to make 50 percent of its fixed route bus service accessible. To meet this requirement, a recipient would have to ensure that half of the buses it has on the street during both peak (i.e., rush hour) and non-peak periods are lift-equipped or otherwise accessible to wheelchair users and semiambulatory persons. In order to maintain the 50 percent "on the street" level of service, the recipient would probably have to have a sufficient number of accessible buses in its reserve fleet to substitute for accessible buses that were in the shop at a given time. The relationship of accessible bus service to the service criteria is discussed further in the last paragraph of the discussion of paragraph (c) below.

One difficult problem that has arisen in the past is the use of lift-equipped buses by semiambulatory persons (e.g., persons who can walk with walkers or crutches but who are not wheelchair users). Some transit authorities permit such persons to use bus lifts. Others, citing potential safety and legal liability problems, permit only wheelchair users to use the lifts. The Department's policy has been to let transit authorities make this decision based on their own evaluation of the risks involved. The Department seeks comment on this issue and on whether the final regulation should impose any requirements or standards with respect to the use of bus lifts by semiambulatory persons.

Subparagraph (2) permits recipients to establish a paratransit or special services system to provide transportation for handicapped and elderly persons. Such a system would provide demand-responsive service by means such as accessible vans operated by the recipient or subsidized taxi vouchers.

Recipients are required to regard as eligible for special service under this subparagraph or subparagraph (3) all handicapped and elderly persons who, because of their handicap or age, are unable to use the recipient's service for the general public. This requirement has two important implications. First, the service may not be restricted to one or more types of handicapped persons (e.g., wheelchair users), with other types of handicapped persons (e.g., blind or mentally retarded persons) categorically excluded. The question is whether a given individual can use the recipient's service for the general public. If not, then he or she must be regarded as eligible for the special service.

Second, being elderly (i.e., over a certain age) does not, by itself, confer eligibility for the special service. The key is whether or not a particular elderly person can use the service for the general public. If, because of age, an individual is unable to use the regular service—even if that individual does not not have a specific, identifiable physical handicap—that individual is eligible for the special service. For example, some 80 year old individuals may be able to use the service for the general public, and some 65 year old individuals may be unable to do so.

The Department seeks comment on whether it is appropriate to require recipients to regard elderly and handicapped persons not having identifiable mobility handicaps (e.g., mentally handicapped persons whose inability to find their way around a city using the regular bus system, rather than any physical mobility handicap, prevents their using the transportation service for the general public) as eligible to use a paratransit service. The rationale for not having such a requirement could be that in a system being used to its capacity, use of the system by handicapped persons without mobility handicaps could restrict the system's use by mobility handicapped

persons. However, section 504 makes no distinction among different types of handicapped persons. In this context, we would point out that it would be consistent with the intent of the proposed rule for a recipient to provide a combination of different kinds of special services designed to fit the needs of people with different sorts of handicaps.

Subparagraph (3) permits recipients to choose a mix of fixed route accessibility and special service paratransit. For example, a recipient could make 15 percent of its buses accessible limiting their use to two or three important corridors. The recipient could then establish a paratransit system to cover other areas of the service area. Another example of a mixed system would be a "dial-a-bus" program, in which a recipient has a number of accessible buses which it assigns to certain trips on a demand-responsive basis. The accessible fixed route and special service components of the system, taken together, would have to meet the service criteria of paragraph (c).

While all handicapped or elderly individuals who could not use the recipient's service for the general public would be eligible to use the paratransit component of a mixed service, a recipient would not be required to provide duplicate service. If fixed route accessible bus service were provided between point A and point B, the recipient would not have to provide paratransit service between these same points. The recipient, consistent with the service criteria, would have to provide service between Point A or Point B and other points in the general service area not served by accessible bus service, however. The Department seeks comments on whether, in a mixed system, there could be problems with inconvenience caused by multiple transfers between different components of the system. If so, should the final regulation impose limits on transfers or use another mechanism for dealing with the problem?

To understand how this paragraph would work in practice, one needs to understand that its requirements are "subject to the cost limit of paragraph (d) of this section" (the calculation of this cost limit is discussed in the portion of this preamble that explains paragraph (d)). That cost limit is not a minimum expenditure requirement. If the recipient can meet the requirements of paragraph (b) while spending less than the cost limit, the recipient is not required to spend more. Nor is the cost limit a ceiling on the amount of funds a recipient may spend on transportation services for handicapped persons. The recipient always has the choice to spend more. Rather, the cost limit is a ceiling on the amount of funds the recipient is required to spend to comply with the requirements of this paragraph. The recipient would not be required to achieve full compliance with paragraph (b) in a given year to the extent that it could not do so without exceeding the cost limit. Within the cost limit, the Department expects recipients to meet their obligations to provide transportation to handicapped persons in the most cost-effective way possible.

A few hypothetical examples may explain how the cost limit would affect the requirements of paragraph (b). The Hypothetical Area Transit System (HATS) is an imaginary UMTA recipient. For fiscal year (FY) 1984, its cost limit is $319,500. At the present time, HATS has no accessible buses among its fleet of 150 buses (all of which are in use during the area's hypothetical rush hour) and does not operate a paratransit service.

Under subparagraph (1), HATS could choose to make 50 percent of its buses accessible. In FY 1984, HATS is planning to buy 30 new buses to replace an equal number of older vehicles. It costs HATS an additional $12,000 to have the manufacturer add a lift to each bus. If HATS decides to order lifts for all its new buses, the cost will come to $360,000. The incremental cost of maintaining a lift-equipped bus for year is $1,000. Therefore, the cost of buying and maintaining 30 lift-equipped bused for FY 1984 would be $390,000. This figure exceeds the cost limit by $70,500. HATS is not required to spend this $70,500 in FY 1984.

HATS could voluntarily spend the entire $390,000. However, it also has the option (among others) of buying lifts on only 24 of the 30 new buses, thereby saving $78,000. If it did so, its total expenditures for the year would be $312,000. Since HATS does not yet have 50 percent of its buses accessible, it would be required to use the $7,500 to ensure that it would meet, as closely as possible, the service criteria with its existing bused or on other expenditures allowable under paragraph (e) of the regulation (e.g., marketing for the accessible service, training for drivers) relating to the provision of accessible service.

Of course, HATS could choose, subject to the public participation requirements of paragraph (g) of the regulation, to buy fewer buses and spend more on marketing, training, and other allowable administrative costs. The Department stresses, however, that recipients' efforts should be directed toward "on the street service." While training, marketing and other administrative activities are important, recipients should not overemphasize them at the expense of actually providing accessible transportation services. The Department would examine the balance between administrative expenses and service provision in programs submitted to the Department under paragraph (g).

The Department seeks comment on one possible variation to this scheme. The rule could permit recipients to take credit for their expenditures above the cost limit in the following two or three-year period. In the above example, HATS could order lifts on all 30 of the buses it buys in FY 1984, adding the amount in excess of its cost limit for that year to its allowable expenditures for FY 1985. HATS would not, however, be permitted to spend less than its cost limit in FY 1984 (because it has not yet reached 50 percent accessibility) and compensate by higher expenditures in subsequent years. Is this idea consistent with the "prevention of undue hardship" rationale for the cost limit? Is it or some other averaging scheme workable? If such provision is adopted, should the Department set limits on the degree of averaging that should occur, in order to prevent undue fluctuations in levels of support for service?

HATS would be required to make expenditures up to its cost limit every year until the 50 percent accessibility level was reached. Once having reached that level (e.g., 75 buses) HATS would only be required to spend the funds needed to maintain the lifts (e.g., $75,000 per year), administer the system (e.g., marketing or training related to the accessible bus service) plus whatever amount was needed to replace worn-out-lift-equipped buses with new lift-equipped buses on a one-for-one basis. The fact that this amount was substantially below the cost limit for any year would not mean that HATS would have to spend more.

During the years before HATS reached the 50 percent level, it would be required to provide service to handicapped persons with the buses it had. HATS would design this service in consultation with handicapped persons and organizations representing them as part of the public participation process required by subparagraphs (g)(1)-(4) of this section. One of the issues the recipient should discuss as part of this consultation process is the tradeoff between immediate provision of usable transportation and the buildup of the final accessible system. For example, a

recipient could buy fewer accessible buses each year (resulting in a longer period of time before the 50 percent level was reached) and spend some of its funds on a transitional special services system which would provide, during the early years of the system, more rides to handicapped individuals. The Department seeks comment on whether the final rule should include any provisions governing this kind of trade-off.

Under subparagraph (2), HATS could choose to establish a special service system, the Hypothetical Area Paratransit Service (HAPS). For FY 1984, the capital and operating costs of HAPS—assuming it met all service criteria—would be $400,000. But HATS is required to spend only $319,500. HATS could voluntarily spend the entire $400,000. If it does not choose to do so, HATS could make trade-offs among the various service criteria to the point where the combined capital and operating costs of HAPS fell to $319,500. For example, if HAPS did not operate on evenings and weekends, established some restrictions on trip purpose, and charged fares a dollar higher than regular bus service, HAPS could reduce capital and operating outlays by $80,500. HATS would use the public participation process to obtain the views of handicapped persons and their groups concerning these trade-offs. On the other hand, if HAPS could meet all service criteria for $250,000, HAPS would not have to spend another $69,500 to come up to the cost limit.

Under subparagraph (3), HATS could use accessible buses on two major routes and use HAPS to cover the remainder of the service area. If HATS bought eight lift-equipped buses toward this end in FY 1984, it would spend $104,000 (including maintenance) on the accessible bus portion of its mixed service. HATS would not be required to spend more than $215,500 on its HAPS paratransit service in this case. If the cost of meeting all service criteria for the HAPS service exceeded $215,500, HATS could again make trade-offs among the service criteria to bring costs down to this level. In deciding on the service and resource allocation mixes between accessible bus and HAPS service, as well as in deciding the service criteria trade-offs in the HAPS component of the mix, HATS would obtain the views of handicapped persons and their organizations through the public participation process.

This portion of the rule speaks in terms of bus and special services. Where accessible rail systems exist, it would make sense for recipients to integrate their accessible bus or paratransit service with the accessible rail service. As pointed out in the discussion of the cost limit, however, costs of accessibility modifications to rail systems required by the Architectural Barriers Act of 1968 could not be counted toward the cost limit.

In addition, the three alternatives for meeting section 504 requirements proposed in this paragraph do not directly address one situation that may exist in some parts of the country. The Department seeks comment on what, if anything, the regulation should provide with respect to commuter rail operations that extend beyond normal mass transit service areas and that, in some cases, may not be operated by agencies that have regular mass transit systems. For example, Maryland DOT operates a commuter rail service between Brunswick, Maryland and Washington, D.C. This service extends far beyond the service areas for the Washington Metropolitan Area Transit Authority's bus and rapid rail systems.

If a special provision for commuter rail operations is included in the final rule, it could take a number of different forms. For example, it could require certain rail vehicles and key stations to be made accessible (similar to the commuter rail provision of the Department's 1979 rule). It could require special service (e.g., accessible vans) running along commuter rail routes during morning and evening rush hours. It could allow commuter rail operators to choose among these or other options. The Department's regulatory impact analysis discusses the potential costs of some of these options.

Section 27.77(c) Service Criteria

This paragraph lists six service criteria which special service systems under subparagraphs (b) (2) and (3) are required to meet. As mentioned in the discussion of paragraph (b), the requirement to meet these criteria is subject to the cost limit of paragraph (d). Recipients have a responsibility to meet these criteria in a sensible manner that maximizes the utility of transportation services to their users. The UMTA Administrator would not accept a certification of a program that, while technically meeting the criteria, was not compatible with the objectives of this regulation (e.g., a system that met all criteria for only eight months out of the year and did not operate during the rest of the year).

The first criterion is that the service shall be available to handicapped persons throughout the same general service area as the recipient's service for the general public. Generally speaking, if a member of the public can get to a given location by fixed route service, the special service should take a handicapped user there.

The Department seeks comments on how the regulation should treat service that extends substantially beyond the normal urban service area. For example, Baltimore's regular bus service covers the City of Baltimore and Baltimore County, which surrounds the city. However, there are extended commuter bus runs to locations such as Annapolis, about 40 miles away from downtown Baltimore. Under the proposed rule, the recipient would cover these routes if it could do so within the cost cap. If not, the coverage of these routes could be one of the factors involved in a tradeoff with other demands on resources. Should the final rule include any special provision concerning this situation?

The second criterion is that the special service be available on the same days and during the same hours as the recipient's service for the general public. If the recipient's regular bus service, for example, runs evenings and weekends, so should the special service.

The third criterion is that the fare for a handicapped person using the special service be comparable to the fare for a member of the general public using the recipient's regular service. These comparable fares can vary, as do the fares for the general public, with the length of the trip and time of day (e.g., rush hour vs. non-peak). By saying "comparable" fares, the Department does not mean "identical" fares. Any variance between special service and regular service fares should be relatively small, however, and be justifiable in terms of actual differences between the two kinds of service provided by the recipient.

In existing special service systems, it is common for transportation to be restricted to certain purposes, such as medical treatment or commuting to work. Travel for other purposes is not provided or is provided only after all demand for trips for the priority purposes is satisfied. These restrictions or priorities do not apply to the general public's use of the recipient's regular service. The fourth criterion prohibits the establishment of such restrictions or priorities based on trip purpose.

One of the major inconveniences of using many existing demand-responsive systems is the long period of time that elapses between a request for service and the arrival of a vehicle. This waiting period—which can be 48 or 72 hours in some cases—is far longer than a member of the general public must wait for public transportation. The fifth

criterion would limit this waiting period to a "reasonable time." This reasonable advance notification time would be determined by the recipient, after obtaining the views of handicapped persons and their organizations through the public participation process. Since shorter response times cost the system more, the precise length of the maximum response time is one of the "trade-offs" that recipients and handicapped users should discuss as recipients establish their programs. The Department seeks comment on whether there should be a regulatory maximum waiting period and, if so, what it should be.

The sixth criterion prohibits the use of waiting lists. Some systems limit the availability of service to a certain number of users. All other eligible potential users are placed on a waiting list, and receive no service at all. This criterion would require the special service system to have sufficient capacity to serve all eligible users.

The context of this discussion of service criteria has been a special services system. However, the service criteria also apply to the other options recipients can choose. An accessible fixed route bus system, for example, would meet some criteria (e.g., comparable fares, no waiting lists) almost automatically. On the other hand, buses could be assigned to various routes and trips in a way that might not result in accessible service that covered the same service area as the recipient's service to the general public or operated during the same hours on all routes. Accessible buses could be scheduled on routes in a way that would result in long waiting periods for handicapped users (the waiting time criterion would refer to scheduling intervals rather than advance notification in an accessible bus system).

Accessible bus service would have to be designed to meet the criteria that were not met automatically, subject to the cost limit. The Department seeks comment on the relationship of the service criteria to accessible fixed route bus service, particularly with respect to the recipient's obligations in situations in which its accessible bus service (either before or after the 50 percent accessibility level were reached) did not meet all service criteria.

Section 27.77(d) Limitation on Costs to Recipients

In *APTA* v. *Lewis*, the Court while suggesting that the Department could require recipients to take modest affirmative steps to meet the needs of handicapped persons, said that the Department's 1979 rule exceeded the Department's authority under section 504. The primary reason for this conclusion was that the 1979 rule imposed, in the Court's view, extremely high financial burdens on recipients.

The Court relied on the Supreme Court's holding in *Southeastern Community College v. Davis*, 442 U.S. 397 (1979), that section 504 does not require program modifications that result in a fundamental alteration in the nature of a program, the Supreme Court also stated in this case that section 504 does not require modifications that would result in "undue financial and administrative burdens."

Paragraph (d) is intended to apply the principles stated in these cases to the Department's section 504 regulation. The paragraph is intended to ensure that compliance with the regulation does not necessitate fundamental alteration to recipients' programs or impose undue financial or administrative burdens. A fundamental alteration of recipients' programs, and the related undue finacial burdens, are not required to comply with the nondiscrimination mandate of section 504, the absence of a provision of this kind could cause the regulation or enforcement action under the regulation to be subject to successful legal challenge. Such a result, and the consequent uncertainty about the duties of recipients, would benefit no one.

It should be emphasized that this provision is not intended to judge the value of handicapped persons or weigh the cost of an accommodation to a recipient against the benefit to a handicapped person. The Department proposes this provision in recognition of the boundaries to the section 504 obligations of recipients articulated in the *Davis* and *APTA* cases. In the Department's view, it is a reasonable administrative mechanism for ensuring the recipients' obligations under the rule do not go beyond those boundaries.

The Department makes two alternative proposals for this cost limit. Both these proposals are based on a review by the Department of a special services program operated in Milwaukee, Wisconsin. The Department also looked at special service systems in other areas, and decided to use the Milwaukee system as a model because it appeared to meet many (though not all) of the service criteria proposed in the rule at a cost that did not impose an undue financial hardship. The percentages discussed in the two alternative cost limit proposals are approximately the percentages of UMTA assistance to Milwaukee and the Milwaukee transit provider's operating budget, repectively, expended on Milwaukee's special service system.

The Department recognizes that Malwaukees's experience may not necessarily be representative of that of other transit authorities. The cost of providing service in other cities could differ. The Department would like to receive comments and cost information from other areas in connection with establishing a cost limit that will be as widely applicable as possible. The Department believes that it is important to have as broad and deep a set of data as possible to help us make a decision on the appropriate cost limit (if this concept is retained for the final rule) and the relationship of expenditure levels to the adequacy of services. Consequently, we are interested in receiving as much comment and information as possible on this matter.

The first alternative is to limit each recipient's obligation to make expenditures in a given fiscal year to 7.1 percent of the annual average amount of Federal financial assistance it has received for mass transportation purposes over the current and the previous two fiscal years. By tying the cost limit to Federal financial assistance, this approach would respond to concerns about the equity of Federal requirements for expenditures that are not proportional to actual assistance received. This consideration may be especially important in light of current Federal budget limitations.

The second alternative is to limit a recipient's costs to 3.0 percent of the recipient's average operating budgets, from whatever source derived, over the current and previous two fiscal years. Since operating budgets may fluctuate less than Federal assistance, this approach might provide more stability in funding levels for the recipient's program of transportation services for handicapped persons.

In addition to soliciting comments on the relative merits of these two alternative approaches, we also request that commenters provide suggestions, based on their own experience if possible, of what an appropriate percentage level for either approach would be. We also seek suggestions for cost limit approaches other than the two set forth here. Combinations of cost limit approaches might also be possible (e.g., the greater, or lesser, amount derived by applying the two criteria discussed above).

The Department also seeks comments on whether greater specification of the bases (UMTA financial assistance, operating budget) from which the cost limits would be calculated would be desirable. For example, are there a standard set of items which should be

regarded as part of a recipient's operating budget? Are there some UMTA funding sources that should not go into the calculation? Should there be a specified way of handling unusual funding situations (e.g., and unusually heavy infusion of Federal funds connected with the construction of a new rail system) that could distort the funding base for transportation for handicapped persons?

The following example illustrates how the cost limit calculations would turn out, beginning with FY 1984. The table shows imaginary operating budget and DOT financial assistance figures for HATS. The right-hand columns show the HATS cost limits calculated according to Alternative 1 (7.1 percent of DOT financial assistance) and Alternative 2 (3.0 percent of operating budget).

Fiscal year	HATS operating budget (Million)	DOT financial assistance (Million)	Cost Limit	
			Alternative 1	Alternative 2
1982	$11	$4		
1983	12	4.5		
1984	13	5	319,500	360,000
1985	14	5.5	355,000	390,000
1986	15	6	390,500	420,000

The cost limits were calculated by averaging the operating budget or financial assistance figures for the fiscal year in question and the two previous fiscal years and taking the appropriate percentage of the result. For example, the alternative 2 cost limit for FY 1984 was 3.0 percent of $12 million, the average of the HATS operating budgets for FY 1982–1984.

In this example, the alternative 2 cost limit always turned out higher than the alternative 1 cost limit. This was because of the relationship between the hypothetical HATS operating budget and DOT assistance amounts. This relationship may not be at all typical of real transit authority situations (it is not the same as the situation in Milwaukee, for instance). The Department requests that recipients commenting on the proposed rule inform the Department of the relationship between the two figures in their cases.

The cost limits under either alternative would be higher in the example if one took the appropriate percentage of the operating budget or financial assistance for the current fiscal year alone, rather than of the average of the current fiscal year with the two previous fiscal years (though there are conceivable circumstances in which this would not be true). The averaging approach, however, allows for greater predictability and, particularly with respect to the Federal assistance approach, greater stability. The Department seeks comments from interested parties making detailed recommendations on how these caluclations can best be made.

Section 27.77(e) Eligible Project Expenses

Paragraph (e) describes the types of expenditures which may or may not be counted toward calculating the cost limit effort criterion. The eligible and ineligible expense categories are taken, with minor modifications, from Appendix A of the current interim final rule. The Department seeks comments on these eligible and ineligible expenses.

The Department calls the public's attention to three provisions of this paragraph in particular. Subparagraph (e)(1)(i) permits the recipient to count the incremental costs of operating accessible rolling stock. Subparagraph (e)(1)(iii) allows the incremental capital costs of accessible rolling stock. In most cases, the accessible rolling stock in question will be lift-equipped buses. However, for recipients who have accessible rail systems, the incremental costs of buying and operating accessible rail vehicles could also be counted. For purposes of this subparagraph, rail vehicles would not be regarded as accessible unless they formed part of an accessible rail system that handicapped persons could use. We emphasize that the allowable costs are the *incremental* costs of buying and operating accessible vehicles (i.e., the cost of equipping a bus with a lift, not the whole cost of the bus). Only costs which could be specifically identified and reasonably attributed to accessibility would be allowable.

Subparagraph (e)(2)(i) provides that the cost of constructing or modifying fixed facilities in order to comply with a requirement of the Department's regulation or a requirement unde the Architectural Barriers Act of 1968 are not eligible expenses, unless the construction or modification relates directly to the provision of transportation services that handicapped persons can use.

One difference between this paragraph and Appendix A results from the fact that Appendix A dealt with a minimum expenditure criterion. To meet this criterion, expenditures by parties other than the recipient could be counted. However, the purpose of the cost limit is to prevent the recipient itself from having to make unreasonably large expenditures. Therefore, only expenditures by the recipient itself count in calculating the cost limit.

Section 27.77(f) Provision of Service

Paragraph (f) is an important statement of the recipient's responsibility to provide actual transportation service to handicapped persons. To fulfill its committment to provide transportation service according to its program, the recipient cannot avoid its responsibility by planning service on paper and failing to provided it in the streets. If a recipient certifies that it has a program for providing transportation services, but does not maintain and deploy accessible vehicles, train drivers and other personnel, and administer its program (e.g., provide information and assistance to handicapped persons and establish usable means of communications with respect ot using the service) so that the service is actually provided as the program promises, then the recipient is not in compliance with this regulation. for example, a recipient that chose to comply with the regulation by making 50 percent of its buses accessible would not be in compliance with this paragraph if, after buying lift-equipped buses, it failed to maintain them in operating condition.

Section 27.77(g) Procedural requirements

Paragraph (g) sets forth several procedural requirements. One of these is that there be consultation with handicapped individuals and groups representing them as part of a public participation process for developing the program for transporting the handicapped persons. Handicapped people, public and private health and welfare agencies, and groups representing handicapped persons should be meaningfully involved in planning efforts to meet recipients' requirements under this proposed rule. Otherwise, effective project development is unlikely.

At least one public hearing would be required as part of this process. This public hearing would not necessarily need to be a special hearing called just to consider the recipient's program. As long as the concerns of the public

(especially handicapped persons) about the program could be fully addressed, the Department would not object to combining this hearing with any other timely UMTA-required hearing (e.g., the public comment and hearing process required under section 9(f) of the Urban Mass Transportation Act of 1964, as amended). In order to permit handicapped persons to participate as required by section 23.67 of the Department's existing section 54 regulation, recipients must schedule hearings in accessible facilities and publicized the hearings in a way to reach persons with hearing and vision impairments (e.g., large print notices, radio advertisements, etc. for visually impaired persons; notices sent to organizations representing or serving people with vision or hearing impairments). In addition, a sign language interpreter for hearing-impaired persons should be provided at a hearing if one has been requested or if it is reasonable to expect that hearing-impaired persons will attend.

In addition to the public hearing, there must be notice (again, a notice that reaches hearing and vision imaired persons) and an opportunity for written comment on the recipient's program proposal. Under the proposal, the public would be given 60 days to submit written comments on the recipient's proposed program. There would have to be at least 30 days advance notice of the public hearing, which would take place sometime during the second half of the 60-day public comment period. The local Metropolitan Planning Organization (MPO), where one exists, must also have the opportunity to comment on the proposed program.

One of the subjects which the Department believes it is relevant for transit authorities to discuss as part of the public participation process is the effect of changes in service patterns on handicapped or elderly users of existing service. For example, if a recipient which currently has a paratransit system decides to comply with this regulation by making 50 percent of its buses accessible, some current users of the paratransit system might have difficulty adapting to the new system. The recipient should seek ways of making the transition between the old and new service that would mitigate hardship to current users.

The recipient would be required to make efforts to accommodate, to the extent reasonable and consistent with overall program objectives, significant comments it receives from the MPO, the public, and handicapped persons and organizations representing handicapped persons. The recipient is not required to accommodate every comment, or even a majority of such comments. However, it is required to make available to the public a written explanation of its reasons for not accommodating comments. This is intended to ensure that recipients are responsive to significant comments, even those that they do not agree with. This "accommodate or explain" requirement parallels the obligation of Federal agencies, under Executive Order 12372, to respond to concerns from state and local governments on proposed Federal actions.

The recipient would have to complete its program planning process and submit required materials to UMTA within nine months after the effective date of a final regulation. The Department seeks comment on whether nine months is an appropriate length of time for the planning public participation process. There is no requirement that the recipient obtain prior approval of the program from UMTA; sending in the certification and program description are sufficient. After reviewing the description and certification, UMTA could, however, require changes to be made in the program. The agency could also reject the program as inconsistent with the requirements of this part.

UMTA would review recipients' submissions as expeditiously as possible, and would respond to recipients as soon as possible within the 90-day period if problems are discovered. Any certification that is not rejected or required to be changed within 90 days of its receipt by UMTA would be considered accepted. If the recipient did not hear from UMTA within this time, it could assume that UMTA had accepted the submission. The Administrator could extend this 90-day review period, if necessary. It is not intended that such an extension would be open-ended. The letter notifying the recipient of the extension—the purpose of which is simply to give the Administrator sufficient time to make a thorough evaluation of the recipient's program—would set a particular length of time (e.g., 30 additional days) for the extension. During any such extension, the recipient would not be subject to a finding of noncompliance based on the inadequacy of its program.

Subparagraph (g)(8) proposes that the recipient's program must actually go into effect (i.e., money must begin to be spent and transportation made available as provided in the program) on the first day of the fiscal year (the recipient's fiscal year, not the Federal fiscal year) next following the date on which the recipient's certification is due (i.e., a date nine months from the effective date of the final regulation). If the Administrator's 90-day (or extended) review period had not ended before the first day of the fiscal year in question, the recipient would not be required to begin implementing its program until the review period had ended.

This provision for the date on which the program actually goes into effect is proposed for two reasons. First, it gives recipients what should be an adequate start-up or transition period for its transportation service. Second, it avoids budgeting problems that recipients might have if they had to begin a new expenditure program in the middle of a fiscal year, particularly given the uncertainty that would result if the Administrator required changes in the recipient's program. Between the effective date of the regulation and the effective date of the recipient's program, the certification provided by the recipient under the present interim final rule (and the transportation provided by the recipient pursuant to the existing certification) would remain in effect.

The Department seeks comment on whether this method of determining the effective date is appropriate, or whether other alternatives would be better. We are interested in devising a provision that avoids undue delay for the beginning of service as well as budget and planning difficulties for recipients. For example, the Department might use the Federal fiscal year instead of the recipient's fiscal year to calculate the starting point, or determine that recipients should start to implement their programs a stated time after submission, even if that fell in the middle of a fiscal year.

The Department also generally seeks comments on ways of minimizing administrative burdens resulting from the statutorily-required public participation mechanism, particularly with respect to small entities.

Section 27.77(h) Monitoring of Program Implementation

This paragraph would require recipients to send UMTA an annual report detailing the services provided to handicapped persons under its program. The contents of the program are self-explanatory. UMTA would designate a date each year on which the report of a given recipient would be due. (The date would be the same each year for the recipient; however, the due dates would be staggered so that UMTA did not have to review all reports at the same time). This paragraph is intended to comply

with the monitoring requirement of section 317(c).

The annual report is intended to be a public document, which the recipient would make available to anyone who requested it. In addition, the Department seeks commments on whether the recipient should be required to seek and respond to comments concerning the annual report (a requirement analogous to the comment and response requirement for the recipient's original program submission).

Section 9 recipients are required to submit independently conducted annual audits. In addition, the Department must perform a full evaluation or review of section 9 recipient's programs every three years. The Department invites comment on whether it would be practical to combine this monitoring provision with these audit requirements, and, if so, how such a combined system would work. The Department also seeks comments on whether, when a recipient reports significant changes in its program as part of its annual report, it should also be required to submit a new certification pertaining to its altered program.

The Department generally seeks suggestions on ways of minimizing the administrative burdens involved in the statutorily required monitoring process, especially as regards smaller transit authorities and smaller local governments.

Section 27.77(i) Disparate Treatment

This paragraph is identical to section 27.77(c) of the existing interim final rule. It is intended to make explicit that this section does not permit the recipient to engage in disparate treatment to the disadvantage of a handicapped person with respect to transportation on the recipient's regular mass transit system. If a handicapped person is capable of using the recipient's regular service provided to the general public, then the transit operator cannot deny service to the handicapped person on the ground of handicap. This means, for example, that a recipient must permit a person using means of assistance such as guide dogs or crutches to use its vehicles and services.

Disparate treatment contrary to this paragraph is encompassed by § 27.7, the general nondiscrimination section of 49 CFR Part 27. However, under this proposal, a recipient's certification will constitute compliance with section 504 as it relates to the transportation of handicapped persons. Therefore, the Department believes that it is useful to make this prohibition specific, so that it is clear that, notwithstanding the certification, the recipient may not engage in disparate treatment.

Section 27.77(j) Noncompliance

This paragraph would make explicit the kinds of conduct that would place a recipient in jeopardy of enforcement action under Subpart F of 49 CFR Part 27. A recipient could be in noncompliance if it failed to make the appropriate certification under paragraph (a), had its certification rejected under paragraph (g) and did not correct the deficiencies that led to the rejection in a timely manner, failed to provide service as required by paragraph (f) or to put its program into effect in the time required by subparagraph (g)(8), failed to use public participation procedures required by paragraph (g), or failed to provide a report under paragraph (h). This list is not intended to be exhaustive or to limit the Department's discretion with respect to enforcement of section 504. For example, violation of the general requirements of Subparts A and B of Part 27 would also subject the recipient to the procedures of Subpart F.

Executive Orders 12250 and 12291, Regulatory Flexibility Act, and Paperwork Reduction Act

Under Executive Order 12250, the Department of Justice is required to review Federal agency regulations implementing section 504. This NPRM has been reviewed and approved by the Department of Justice under this Executive Order.

Under the criteria of Executive Order 12291, this NPRM proposes a major rule. The Department has concluded that the proposal could have an annual cost impact exceeding $100 million. The Department has prepared a preliminary regulatory impact analysis to accompany this proposal, which is available for public review in the rulemaking docket. The proposal also constitutes a significant regulation under the Department to Transportation's Regulatory Policies and Procedures. This is the case both because of its cost impact and because it deals with subject matter that has always been controversial.

This proposal includes information collection requirements (the certification and program materials submission requirement of subparagraphs (g) (5) and (6) and the reporting requiremnent of paragraph (h)). The Office of Management and Budget must review and approve such requirements under the Paperwork Reduction Act. These provisions, if included in a final regulation, would not go in effect until approved by OMB.

The rule proposed by this notice could have a significant economic impact on a substantial number of small entities. That is, the proposed requirements could impose cost and administrative burdens on relatively small transit authorities, local governments, and businesses. The Department has consequently incorporated a preliminary regulatory flexibility analysis into its regulatory impact analysis. The Department seeks comments on ways of mitigating the potential effects of the proposed rule on small entities.

List of Subjects in 49 CFR Part 27

Handicapped, Mass transportation.

Issued at Washington, D.C., this first day of September, 1983

Jim Burnley,

Acting Secretary of Transportation.

PART 27—[AMENDED]

For the reasons set forth in the preamble, the Department of Transportation proposes to amend Part 27 of Title 49, Code of Federal Regulations, by revising § 27.77 thereof to read as follows:

§ 27.77 Urban mass transportation.

(a) *Certification.* (1) Except as provided in paragraph (a)(2) of this section, each recipent of Federal financial assistance from the Urban Mass Transportation Administration (UMTA) under sections 3, 5, 9, or 9A of the Urban Mass Transportation Act of 1964, as amended, shall certify that it has in effect a program for providing transportation services to handicapped and elderly persons. The certification shall state that the program meets all substantive and procedural requirements of this section.

(2) In lieu of certifying as required by paragraph (a)(1) of this Section, recipients who receive funds only under section 18 of the Urban Mass Transportation Act, as amended (small urban and rural transportation programs), shall certify to the FHWA Division Administrator through the designated section 18 state agency that special efforts are being made in their service areas to provide transportation that handicapped persons, including wheelchair users and semiambulatory persons, can use. This transportation service shall be reasonable in comparison to the service provided to the general public and shall meet a significant fraction of the actual transportation needs of such persons within a reasonable time. Recipients of section 18 funds who have already

provided such a certification are not required to recertify.

(3) Acceptance of the recipient's certification by the UMTA or FHWA Administrator, and compliance by the recipient with all other applicable requirements of this Part, shall be deemed by the Department to constitute compliance with section 504 of the Rehabilitation Act of 1973, sections 16 (a) and (c) of the Urban Mass Transportation Act, and section 165(b) of the Federal-aid Highway Act of 1973, insofar as these statutes relate to the provision of mass transportation services for handicapped persons.

(b) *Types of Service.* Subject to the cost limit of paragraph (d) of this section, each recipient's program shall provide for making transportation services meeting the service criteria of paragraph (c) of this section available to handicapped and elderly through one of the following methods:

(1) Making 50 percent of fixed route bus service accessible to handicapped and elderly persons. Fifty percent of fixed route bus service shall be deemed to be accessible when half the buses the recipient uses during both peak and non-peak hours are accessible.

(2) Providing paratransit or special services for handicapped and elderly persons. All handicapped and elderly persons in the recipient's service area who are unable, by reason or their handicap or age, to use the recipient's service for the general public shall be eligible to use the service; or

(3) Providing a mix of accessible fixed route service and paratransit or special services. All persons eligible to use a special services or paratransit system under paragraph (b)(2) of this section shall be eligible to use the special services or paratransit component of the mixed system.

(c) *Service Criteria.* The following minimum criteria for the provision of transportation services to handicapped and elderly individuals apply to any means of providing such services selected by the recipient under paragraph (b) of this section:

(1) The service shall be available throughout the same service area as the recipient's service for the general public.

(2) The service shall be available on the same days and during the same hours as the recipient's service for the general public.

(3) The cost of a trip on the service to each user shall be comparable to the cost of a trip of similar length, at a similar time of day, to a user of the recipient's service for the general public.

(4) Use of the service shall not be restricted by priorities or conditions related to trip purpose.

(5) Users of the service shall not be required to wait for the service more than a reasonable time.

(6) There shall not be a waiting list for the provision of service to eligible users.

(d) *Limitation on Costs to Recipients.* No recipient shall be required, in order to meet the requirements of paragraph (b), to expend in any fiscal year an amount exceeding [Alternative 1–7.1 percent of the average annual amount of Federal financial assistance for mass transportation it expects to receive over the current fiscal year and has received over the two previous two fiscal years] or [Alternative 2–3.0 percent of the average of the recipient's operating budgets for the current fiscal year and the previous two fiscal years]

(e) *Eligible Project Expenses.* (1) Project expenses eligible to be counted in determining whether a recipient has reached the cost limitation of paragraph (d) of this section include the following:

(i) Payment of current incremental operating costs for accessible rolling stock;

(ii) Operating costs of special service system;

(iii) Capital costs for special services systems components, incremental capital costs of acquiring accessible rolling stock;

(iv) Payment of expenses of indirect methods of providing services;

(v) Administrative costs directly attributable to coordinating services (including those receiving funds under the UMTA section 16(b)(2) program) for handicapped persons;

(vi) Incremental costs directly attributable to training the recipient's personnel to provide services to handicapped persons;

(2) Project expenses ineligible to be counted in determining whether the cost limit of paragraph (d) of this section has been reached include the following:

(i) Costs of construction of or structural changes to fixed facilities required by the Architectural Barriers Act of 1968 that do not directly relate to the actual provision of transportation service that handicapped persons can use, as required by this section and set forth in the recipient's program; and

(ii) Administrative costs of compliance with this Part not specifically allowed by paragraph (e)(1) of this section.

(3) With respect to transportation that serves both handicapped persons and other persons, only that part of the service that serves handicapped persons may be counted toward eligible project expenses for purposes of this section.

(f) *Provision of Service.* Each recipient shall ensure that service is provided to handicapped and elderly persons as set forth in the recipient's program. The recipient shall ensure that equipment is maintained, personnel are properly trained and supervised, and program administration is carried out in a manner that does not permit actual service to handicapped and elderly persons to fall below the level set forth in the recipient's program.

(g) Procedural Requirements (1) The recipient shall develop the program required by this section through a public participation process that includes consultation with handicapped individuals and/or groups representing them, an opportunity for written public comment, and at least one public hearing. Any subsequent significant changes to the program shall also be developed through such a public participation process.

(2) The recipient's public participation process shall include a period of at least 60 days for comment on the recipient's proposed program for providing transportation services to handicapped and elderly persons. The public hearing shall take place during this comment period, and notice of the hearing shall be given at least 30 days before the date of the hearing. All notices and materials pertaining to the proposed program, comment period, and public hearing shall be made available by means that will reach persons with hearing and vision impairments.

(3) The recipient shall also submit its proposed program to the local metropolitan planning organization (MPO), if any, for comment.

(4) The recipient shall make efforts to accommodate significant comments from the MPO and the public (including handicapped individuals and groups representing handicapped individuals). With respect to such comments that the recipient did not accommodate, the recipient shall make available to the public a written statement of its reasons for not accommodating them. The program and associated materials, including comments and recommendations from the MPO and the public, a transcript of the hearing, and the recipient's explanation of instances of non-accommodation, shall be kept available to the public for review for three years.

(5) The recipient shall submit copies of the following materials to the UMTA Administrator at the time it submits its certification:

(i) A copy of its program;

(ii) The recipient's projected cost limit for the first fiscal year in which the program will be in effect and the amount of funds the recipient will expend to implement the program in that year;

(iii) The comments of the public (including handicapped persons and groups representing them) and the MPO on the recipient's program, or a summary of these comments; and

(iv) The recipient's responses to these comments, or a summary of the recipient's responses.

(6) The recipient shall complete the program planning process and submit its certification and program materials to the UMTA Administrator by [a date nine months from the effective date of the revised regulation].

(7) Based on the information contained in the program materials and other relevant information gathered by the Administrator, the Administrator may reject the certification or require the recipient to make changes in its program. Any certification that the Administrator does not reject or require to be changed within 90 days of its receipt is deemed to be accepted. The Administrator may, at his or her discretion, extend this review period for a reasonable time.

(8) The recipient's program shall go into effect no later than the first day of the next fiscal year of the recipient which begins after the date the recipient is required to submit its certification to the Administrator. Provided, that in no case shall a recipient's program be required to go into effect before the conclusion of the review period established by paragraph (g)(7) of this section. In the interim between the effective date of this section and the date the recipient's program goes into effect, the certification submitted by the recipient in response to the Department's July 20, 1981 interim final rule (46 FR 34788) shall remain in effect.

(h) *Monitoring of Program Implementation.* Each recipient shall send an annual report to the UMTA Administrator on or before a date designated for the recipient by the Administrator. The report, which shall be available to the public, shall contain the following information:

(1) A description of the transportation services provided to handicapped persons in the year covered by the report, with specific reference to the service criteria listed in paragraph (c) of this section;

(2) If the recipient was unable to meet all the service criteria listed in paragraph (c) of this section because doing so would cause the recipient to exceed the cost limitation of paragraph (d) of this section, the recipient's cost limit and a summarized account of the recipient's eligible project expenses;

(3) If the recipient has not attained the level of service which its program ultimately projects, the recipient's progress toward that level during the completed reporting year and an estimate of the progress expected to be made toward that level during the next reporting year;

(4) Any significant changes in the program made during the completed reporting year; and

(5) A description of any significant changes in the transportation service provided to handicapped persons or the resources available for such services expected in the next reporting year.

(i) *Disparate Treatment.* Notwithstanding the recipient's certification under paragraph (a) of this section, the recipient shall not on the basis of handicap deny transportation service on the recipient's system of mass transportation for the general public to any handicapped person capable of using such service, or otherwise discriminate against such person in connection with such service.

(j) *Noncompliance.* The following conduct on the part of a recipient constitutes noncompliance with this section and makes the recipient liable to enforcement action under Subpart F of this Part. This list of noncomplying conduct is not necessarily exhaustive.

(1) Failure to make a certification required by paragraph (a) of this section in the time provided in paragraph (g)(6);

(2) After rejection of a certification by the UMTA Administrator under paragraph (g)(7), failure to correct in a timely manner the deficiencies that resulted in the rejection, sufficient to allow the Adminstrator to accept the certification;

(3) Failure to put the program into effect at the time required by paragraph (g)(8);

(4) Failure to provide service as required by paragraph (f) of this section

(5) Failure to follow public participation procedures set forth in paragraphs (g) (1)–(4); and

(6) Failure to provide program materials required by paragraphs (g)(5)–(6) or reports required by paragraph (h) of this section at the times required by paragraphs (g) and (h) of this section, respectively.

(Sec 504 of the Rehabilitation Act of 1973; 29 U.S.C. 794; Sec. 317(c) of the Surface Transportation Act of 1982; 49 U.S.C 1612(c))

[FR Doc 83-23689 Filed 9-7-83; 8:45 am]

BILLING CODE 4910-62-M

Reader Aids

Federal Register

Vol. 48, No. 175

Thursday, September 8, 1983

INFORMATION AND ASSISTANCE

PUBLICATIONS

Code of Federal Regulations

CFR Unit	202-523-3419 523-3517
General information, index, and finding aids	523-5227
Incorporation by reference	523-4534
Printing schedules and pricing information	523-3419

Federal Register

Corrections	523-5237
Daily Issue Unit	523-5237
General information, index, and finding aids	523-5227
Privacy Act	523-4534
Public Inspection Desk	523-5215
Scheduling of documents	523-3187

Laws

Indexes	523-5282
Law numbers and dates	523-5282 523-5266
Slip law orders (GPO)	275-3030

Presidential Documents

Executive orders and proclamations	523-5233
Public Papers of the President	523-5235
Weekly Compilation of Presidential Documents	523-5235

United States Government Manual 523-5230

SERVICES

Agency services	523-5237
Automation	523-3408
Library	523-4986
Magnetic tapes of FR issues and CFR volumes (GPO)	275-2867
Public Inspection Desk	523-5215
Special Projects	523-4534
Subscription orders (GPO)	783-3238
Subscription problems (GPO)	275-3054
TTY for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, SEPTEMBER

39595-39910.....1
39911-40186.....2
40187-40364.....6
40365-40496.....7
40497-40694.....8

CFR PARTS AFFECTED DURING SEPTEMBER

At the end of each month, the Office of the Federal Register publishes separately a list of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Executive Orders:
6854 (Amended by PLO 6458).....40232

Proclamations:
5085.....39595
5086.....40187
5087.....40497
5088.....40499
5089.....40501
5090.....40503
5091.....40505
5092.....40507

4 CFR

Proposed Rules:
83.....39632

5 CFR

2422.....40189
2426.....40189
2429.....40189

7 CFR

29.....40365
51.....40509
210.....40194
220.....40194
226.....40197
301.....39597, 40198
421.....39911
725.....40638
726.....40644
760.....40366
908.....39602, 40510
910.....39912
981.....40367
1076.....39603
1079.....40511
1865.....40202
1944.....40202
1945.....40202
1951.....40202

Proposed Rules:
278.....40263
279.....40263
631.....40522
660.....40389
658.....39944
1126.....39643

8 CFR

109.....40209
231.....40209
238.....40210

9 CFR

75.....40512

10 CFR

61.....40512

Proposed Rules:
1017.....40265

12 CFR

217.....39604
525.....39912
531.....39912

Proposed Rules:
563.....39944

13 CFR

101.....40513

14 CFR

39.....40210-40212
71.....39913, 40213
75.....40214
97.....39913

Proposed Rules:
39.....40266
71.....40267, 40270, 40525
221.....40389

15 CFR

369.....40368

16 CFR

Proposed Rules:
13.....39950

17 CFR

240.....39604
249.....39604

19 CFR

Proposed Rules:
101.....40526
159.....40527

20 CFR

655.....40168
404.....40514

Proposed Rules:
225.....40390
226.....40390
227.....40390

21 CFR

145.....39916
175.....40515
442.....40516
520.....40516
524.....39607
561.....40369

Proposed Rules:
Subch. H.....40272
882.....40273

23 CFR

Proposed Rules:
Ch. I.....39953

24 CFR

203.....39608
213.....39608
234.....39608
570.....40517

26 CFR

1.....40214, 40370, 40371
25.....40371
31.....40518
48.....40217
301.....40371, 40376
Proposed Rules:
1.....39953, 40528
51.....39953

27 CFR

9.....40377

29 CFR

553.....40518

30 CFR

251.....40380
700.....40622
701.....39892, 40140, 40622
772.....40622
776.....40622
785.....39892
815.....40622
816.....39892, 40140
817.....39892, 40140
824.....39892
938.....40223
Proposed Rules:
75.....40165
935.....39645, 40396
938.....39645

32 CFR

286g.....39917
634.....39919
730.....40224

33 CFR

100.....39609
165.....39609, 39610, 40380
401.....39934
Proposed Rules:
117.....39646

34 CFR

668.....40380
Proposed Rules:
366.....39647

36 CFR

219.....40381

38 CFR

21.....40224
36.....40226
Proposed Rules:
36.....40402

39 CFR

10.....39610
601.....40232
Proposed Rules:
111.....39647, 39648

40 CFR

17.....39934
122.....39611
123.....39611
124.....39611
144.....39611
145.....39611
180.....40384
233.....39611
270.....39611
271.....39611, 39623
300.....40658
410.....39624
Proposed Rules:
52.....39653
65.....40278
81.....39655
124.....40098
144.....40098
146.....40098
147.....40098
300.....40674
721.....40282
799.....39656

41 CFR

Ch. 1.....40385
Ch. 7.....40385

42 CFR

405.....39740, 39752
409.....39752
435.....39624
436.....39624
489.....39752
Proposed Rules:
435.....39959
436.....39959

43 CFR

Public Land Orders:
1707 (Amended by PLO 6458).....40232
6457.....39939
6458.....40232

46 CFR

153.....39629
154.....39629

47 CFR

2.....40519
25.....40233, 40256
Proposed Rules:
68.....39656

49 CFR

1.....40519
179.....39630
571.....39908, 39939, 40260
1042.....39630
1160.....39630, 40387
1161.....39630
1162.....39630, 40520
1165.....39630
1168.....39630, 40387
1181.....39630
1307.....40520
Proposed Rules:
27.....40684
213.....39965
571.....40282, 40286
821.....39657
1157.....40287

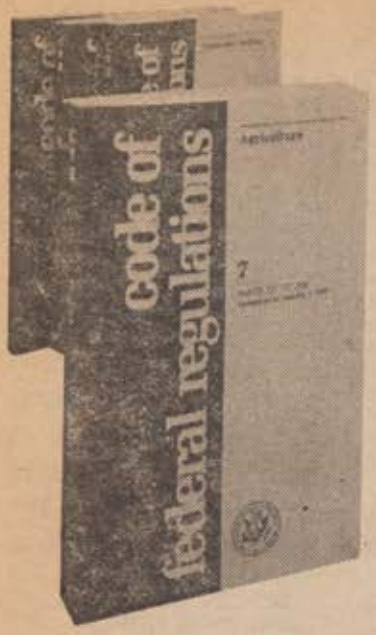
50 CFR

17.....39941, 40178
661.....40521
Proposed Rules:
17.....40288, 40404, 40407
26.....39661
32.....40411
33.....40411
655.....39967
681.....39665

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing August 31, 1983



Just Released

Code of Federal Regulations

Revised as of July 1, 1983

Quantity	Volume	Price	Amount
_____	Title 41—Public Contracts and Property Management Chapter 1 (Parts 1-1 to 1-10) (Stock No. 022-003-95227-6)	$7.00	$_____
_____	Chapter 8 (Stock No. 022-003-95231-4)	$4.75	_____
_____	Chapter 102 to End (Stock No. 022-003-95239-0)	$6.50	_____
		Total Order	$_____

A cumulative checklist of CFR issuances for 1982-83 appears in the back of the first issue of the Federal Register each month in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐-☐

Order No._____

VISA*

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		