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Friday
September 30, 1983

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Coast Guard
Federal Trade Commission
Interstate Commerce Commission

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Civil Aeronautics Board

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Presidential Documents

Title 3—

The President

Proclamation 5108 of September 27, 1983

National Employ the Handicapped Week, 1983

By the President of the United States of America

A Proclamation

Our Nation's history is rooted in the struggle to attain independence: the right of free choice by free citizens in a society that honors the efforts of individuals. The movement of disabled people to full participation in our society, with all its benefits and responsibilities, is an ideal whose time has surely come.

All across this Nation, disabled people are striving to obtain more control over their lives through choices that minimize their reliance and dependence on others. They are taking charge of their own lives and becoming responsible for their own affairs. They are participating in the day-to-day life of the community and fulfilling the whole range of social roles possible in our society.

Since World War II, the United States has set aside one week each year to emphasize ways in which more people with disabilities can be assisted in their efforts to become independent through gainful employment. Despite past and present efforts of employers to hire people with disabilities, the unemployment level of disabled people continues to be unnecessarily high. To solve this problem, we must plan and develop strategies to demonstrate that disabled people are a valuable resource to our economy and our society.

The Congress, by joint resolution of August 11, 1945, as amended (36 U.S.C. 155), has called for the designation of the first full week in October of each year as National Employ the Handicapped Week. During this week, let us renew our commitments to expand the opportunities for disabled citizens and help them to attain their personal goals.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 2, 1983, as National Employ the Handicapped Week.

I urge all governors, mayors, other public officials, leaders in business and labor, private citizens, and especially the disabled citizens of this great Nation to help meet the challenge of the day. Let us all work together to fulfill the dreams of our disabled citizens: full participation in our expanding economy.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th. 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. 83-26911
Filed 9-28-83; 2:39 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5109 of September 27, 1983

National High School Activities Week, 1983

By the President of the United States of America

A Proclamation

Extracurricular activities in the high schools of this country provide our students with valuable opportunities to discover and develop talents in areas other than those covered within the classroom. Extracurricular activities also build school spirit and demonstrate the importance of promoting common goals.

Through such programs as student government, athletics, music, drama, debate, journalism, community service, and many others, students gain key insights into the roles which competition and cooperation play in our society. Moreover, these experiences help students to learn to set and achieve goals, to organize their time effectively, and to enhance the social skills that are needed to enjoy and succeed in life.

In recognition of the significant place extracurricular opportunities have in the growth of our high school students, the Congress of the United States, by Senate Joint Resolution 101, has authorized and requested the President to proclaim the week of October 17 through October 23, 1983 as National High School Activities Week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning October 17, 1983 as National High School Activities Week, and I call upon the people of the United States to observe this period with appropriate programs, ceremonies, and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this 27th 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. 83-28912
Filed 9-28-83; 2:40 pm]
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Presidential Documents

Executive Order 12443 of September 27, 1983

Central Intelligence Agency Retirement and Disability System

By the authority vested in me as President of the United States of America by Section 292 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), and in order to conform further the Central Intelligence Agency Retirement and Disability System to certain amendments in the Civil Service Retirement and Disability System pursuant to Public Laws 97–253, 97–346, and 97–377, it is hereby ordered as follows:

Section 1. Section 231(b)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(b)(2) If the annuitant receiving disability retirement annuity is restored to earning capacity, before becoming sixty years of age, payment of the annuity terminates on reemployment by the Government or 180 days after the end of the calendar year in which earning capacity is restored, whichever is earlier. Earning capacity is restored if in any calendar year the income of the annuitant from wages or self-employment or both equals at least 80 per centum of the current rate of pay of the position occupied at the time of retirement.".

Sec. 2. Section 5 of Executive Order No. 12326 of September 30, 1981, which previously amended the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"Sec. 5. For the purpose of ensuring the accuracy of information used in the administration of the Central Intelligence Agency Retirement and Disability System, the Director of Central Intelligence may request, from the Secretaries of Defense, Health and Human Services, and Labor, and the Administrator of Veterans Affairs, such information as the Director deems necessary. To the extent permitted by law:

"(a) the Secretary of Defense or the Secretary's designee shall provide information on retired or retainer pay provided under Title 10 of the United States Code;

"(b) The Administrator of Veterans Affairs shall provide information on pensions or compensation provided under Title 38 of the United States Code;

"(c) The Secretary of Health and Human Services or the Secretary's designee shall provide information contained in the records of the Social Security Administration; and

"(d) The Secretary of Labor or the Secretary's designee shall provide information on benefits paid under subchapter I of Chapter 81 of Title 5 of the United States Code.

"The Director, in consultation with the officials from whom information is requested, shall ensure that information made available under this Section is used only for the purposes authorized.".

Sec. 3. Section 281(a) of the Central Intelligence Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting after "at 3 per centum per annum" the following: "through December 31, 1984,

and thereafter at the rate computed under Section 8334(e) of Title 5 of the United States Code."

Sec. 4. Section 221(k) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(k) For the purpose of an annuity computed under this section, the total service of any participant shall not include any period of civilian service on or after October 1, 1982, for which retirement deductions or deposits have not been made under section 252(b), unless the participant makes a deposit for such period as provided in section 252, or no deposit is required for such service as provided under Section 8334(g) of Title 5 of the United States Code, or under any statute.".

Sec. 5. Section 241(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(a) Whenever a participant becomes separated from the Agency, or is transferred to a position in which he is not subject to this Act, for at least thirty-one consecutive days without becoming eligible for an annuity in accordance with the provisions of this Act, the total amount of contributions from his salary with interest thereon at 4 percent per year to December 31, 1947, and 3 percent per year thereafter compounded annually to December 31, 1956, except as provided in section 281, shall, upon application, be returned to him. The return of contributions shall be made only if the participant is not reemployed in a position in which he is subject to this Act at the time he files the application for refund and will not become eligible for an annuity within thirty-one days after filing such application. The receipt of the payment of the lump-sum credit by the participant voids all annuity rights under the Act based on the service on which the lump-sum credit is based, until the participant is reemployed in the service subject to the Act. The payment of the lump-sum credit shall include amounts deposited by a participant covering earlier service as well as any amounts deposited under section 252(h)"."

Sec. 6. Section 291(f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by striking out "fixed at the nearest" and inserting "rounded to the next lowest" in lieu thereof.

Sec. 7. Section 221(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding the following at the end thereof:

"Each annuity shall be stated as an annual amount, one twelfth of which, rounded to the next lowest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.".

Sec. 8. Section 221(i) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended to read as follows:

"(i) Except as otherwise provided, the annuity of a participant shall commence on the first day of the month after separation from the service, or on the first day of the month after pay ceases and the service and age requirements for title to an annuity are met. With respect to those participants who serve three days or less in the month of retirement, the annuity will commence on the day after separation or the day after pay ceases and the service and age requirements for title to an annuity are met. The annuity of a participant involuntarily separated from the service, except for removal for cause on charges of misconduct or delinquency, or of a participant retiring due to a disability shall commence on the day after separation from the service or the day after pay ceases and the service and age or disability requirements for title to an annuity are met. Any other annuity payable from the Fund shall commence on

the first day of the month after the occurrence of the event on which payment thereof is based.".

Sec. 9. Section 252(e) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting "(1)" before the first sentence thereof, by inserting "(2)" before the second sentence thereof and by striking out "chapter 11" and inserting "section 301" in lieu thereof, by deleting the last sentence thereof and by adding the following paragraph (3):

"(3) Except as provided in paragraphs (1) and (2) of this subsection, the service of an individual who first becomes a Federal employee before October 1, 1982 shall include credit for each period of military service performed before the date of the separation on which the entitlement to an annuity under this subsection is based, subject to section 252(f); and the service of an individual who first becomes a Federal employee on or after October 1, 1982 shall include credit for:

"(i) each period of military service performed before January 1, 1957, and

"(ii) each period of military service performed after December 31, 1956, and before separation on which the entitlement to annuity under this section is based, only if a deposit (with interest, if any) is made with respect to that period as provided in subsection (h) of this section.".

Sec. 10. Section 252(f) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by inserting "(1)" after "(f)" and adding new paragraphs (2) and (3) as follows:

"(2) The provisions of paragraph (1) above relating to credit for military service shall not apply to—

"(A) any period of military service of a participant with respect to which he or she has made a deposit with interest, if any, under section 252(e) of this Act; or

"(B) the military service of any participant who has been awarded retired pay on account of a service-connected disability caused by an instrumentality of war and incurred in the line of duty during a period of war as that term is defined in section 301 of Title 38 of the United States Code.".

"(3) The annuity recomputation required by paragraph (1) above shall not apply to any individual who was entitled to an annuity under this section on or before September 8, 1982. Instead of an annuity recomputation, the annuities of such individuals shall be reduced at age 62 by an amount equal to a fraction of their Social Security benefit. This reduction shall be computed by multiplying their monthly Social Security benefit by a fraction, the numerator of which is their total military wages that were subject to Social Security deductions and the denominator of which is their total lifetime wages, including military wages, that were subject to Social Security deductions. The reductions so computed shall not be permitted to be greater than the reductions that will be required by paragraph (1) if that paragraph applied to the individual for that period. The new formula shall be applicable to all annuity payments payable after October 1, 1982, including annuity payments to those individuals who had previously reached age 62 and whose annuities had already been recomputed.".

Sec. 11. Section 252 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding a new subsection (h) as follows:

"(h)(1) Each participant who has performed military service before the date of separation on which the entitlement to any annuity under this section is based may pay, in accordance with rules issued by the Director, to the Agency an amount equal to 7 percent of the amount of basic pay paid under section 204 of Title 37 of the United States Code to the participant for each period of military service after December 1956. The amount of such payments shall be based on such evidence of basic pay for military service as the participant may provide.

or if the Director or his designee determines sufficient evidence has not been provided to adequately determine basic pay for military service, such payment shall be based upon estimates of such basic pay provided to the Director under paragraph (4).".

"(2) Any deposit made under paragraph (1) of this subsection more than two years after the later of—

(A) October 1, 1982; or

(B) the date on which the participant making the deposit first becomes an employee of the Federal government—shall include interest on such amount computed and compounded annually beginning on the date of expiration of the two-year period. The interest rate that is applicable in computing interest in any year under this paragraph shall be equal to the interest rate that is applicable for such year under subsection (b) of this section.".

"(3) Any payment received by the Agency under this subsection shall be immediately remitted to the Office of Finance for deposit in the Treasury of the United States to the Credit of the CIARDS Fund.

"(4) The Secretary of Defense, the Secretary of Transportation, the Secretary of Commerce, or the Secretary of Health and Human Services, as appropriate, shall furnish such information to the Director as the Director may determine to be necessary for the administration of this subsection.".

Sec. 12. Section 261(d)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding after the words "allowed for military service" the following: ", less an amount determined by the Director to be appropriate to reflect the value of the deposits made to the credit of the Fund under section 252(e), and".

Sec. 13. Section 235(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by deleting the final sentence thereof and substituting the following wording:

"A participant who is separated involuntarily from service, except by removal for cause on charges of misconduct or delinquency, is entitled to an annuity only if the participant has not declined a reasonable offer of another position for which he or she is qualified, which is not lower than two grades below his or her current position and which is in the same commuting area. Voluntary early retirements will be permitted only if a major reorganization, reduction in force, or transfer of function will result in a significant number of participants being separated or immediately reduced in pay. Participants retired under this subsection shall receive retirement benefits in accordance with the provisions of section 221.".

Sec. 14. Section 291 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by adding a new subsection (g) as follows:

"(g)(1) An annuity shall not be increased by reason of an adjustment under this section to an amount which exceeds the greater of—

"(A) the maximum pay payable for GS–15 thirty days before the effective date of the adjustment under this section; or

"(B) the final pay (or average pay, if higher) of the participant with respect to whom the annuity is paid, increased by the overall annual average percentage adjustments (compounded) in rates of pay of the General Schedule under subchapter I of chapter 53 of title 5 of the United States Code during the period—

(i) beginning on the date the annuity commenced (or, in the case of a survivor of the participant, the date of the participant's annuity commenced), and

(ii) ending on the effective date of the adjustment under this section.

"(2) For the purposes of paragraph (1) of this subsection, 'pay' means the rate of salary or basic pay as payable under any provision of law, including any provision of law limiting the expenditure of appropriated funds.".

Sec. 15. Section 252(g) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, shall be deemed to be amended by deleting "paragraph (b)" and inserting "paragraphs (b), (c)(4), and (h)" in lieu thereof.

Sec. 16. The amendments made by this Order shall be effective as follows:

(a) Sections 2, 5, 9, 19, 12 and 13 shall be effective October 1, 1982.

(b) Section 1 shall be effective October 1, 1982 but shall apply only with respect to income earned after December 31, 1982.

(c) Section 3 shall apply with respect to deposits for service performed on or after October 1, 1982, and with respect to funds for which application is received on or after such date. The provisions of section 252, as in effect on September 7, 1982, shall continue to apply with respect to periods of service and refunds for which application was received on or before September 30, 1982.

(d) Section 4 shall apply with respect to deposits for military service performed on or after October 1, 1982 and military service performed on or after January 1, 1957 and with respect to refunds for which applications are received by the Agency on or after October 1, 1982. The provisions of section 221(k), as in effect on September 7, 1982 shall continue to apply with respect to periods of civilian service occurring before October 1, 1982.

(e) Section 6 and Section 7 shall apply with respect to any annuity commencing on or after October 1, 1982, and with respect to any adjustment or redetermination of any annuity made on or after such date.

(f) Section 8 shall apply to annuities which commence on or after January 1, 1983.

(g) Section 11 shall take effect October 1, 1982 except that any participant who retired after September 8, 1982 and before October 1, 1983, or is entitled to an annuity under the CIA Retirement Act of 1964 for Certain Employees, as amended, based on a separation from service occurring during such period, or a survivor of such individual, may make a payment under section 252(h).

(h) Section 14 shall not cause any annuity to be reduced below the rate that is payable on September 8, 1982 but shall apply to any adjustment occurring on or after this date under section 291, or to any annuity payable from the Central Intelligence Agency Retirement and Disability Fund, whether such annuity has a commencing date before, on, or after September 8, 1982.

(i) Section 15 shall be effective as of September 8, 1982.

Ronald Reagan

THE WHITE HOUSE,
September 27, 1983.

[FR Doc. 83-26913
Filed 9-28-83; 2:41 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
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Friday, September 30, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 431]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 240,457 cartons during the period October 2–8, 1983. Such action is needed to provide for orderly marketing of fresh lemons for the period due to the marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 2, 1983.

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

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

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

This action is consistent with the marketing policy currently in effect. The committee met publicly on September 27, 1983, at Los Angeles, California, to consider the current and prospective conditions of supply and demand and recommended a quantity of lemons deemed advisable to be handled during the specified week. The committee reports the demand for all grades of lemons is good on larger sizes and easier on smaller sizes.

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

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

Section 910.731 is added as follows:

§ 910.731 Lemon regulation 431.

The quantity of lemons grown in California and Arizona which may be handled during the period October 2, 1983, through October 8, 1983, is established at 240,457 cartons.

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

Dated: September 29, 1983.

Russell L. Hanes,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 83–26907 Filed 9–29–83; 11:56 am]

BILLING CODE 3410–02–M

Farmers Home Administration

7 CFR Part 1942

Community Programs Selection Criteria

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: This action amends Farmers Home Administration (FmHA) regulations to establish a more formal Community Programs project selection system that will be used to assist both State and National Office program managers to priorities eligible project preapplications. Currently, Community Programs regulations provide for several criteria to be considered when establishing priority among applications for funds. Many of those criteria were adopted over a period of years as the Community Programs were implemented and are not presented in an organized format. As a result, interpretation and implementation of the criteria sometimes varies. The intended effects of this revision are to improve the uniformity of the selection process and to insure that FmHA resources continue to be focused on lower income applicants and on projects that the best serve community needs.

EFFECTIVE DATE: The effective date for this rule is September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Wayne Stansbery, Loan Specialist, Community Facilities Division, Farmers Home Administration, Room 6310, South Agriculture Building, Washington, D.C. 20250, telephone: (202) 382–1490, or Donna Roderick, Loan Specialist, Water and Waste Disposal Loan Division, Farmers Home Administration, Room 6328, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382–9589.

SUPPLEMENTARY INFORMATION:

Classification: This action has been reviewed under USDA procedures established in Secretary's Memorandum No. 1512–1 which implements Executive

Order 12291 and has been determined to be nonmajor. The rule will not result in the following:

(a) An annual effect on the economy of $100 million or more; or

(b) A major increase in costs or prices for consumers, individual industries, Federal, state, or local government agencies, or geographic regions; or

(c) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign-based enterprises in domestic or export markets.

Regulatory Flexibility Analysis: Charles W. Shuman, Administrator, has determined that this action will not have a significant economic impact on a substantial number of small entities. The rule establishes criteria for selecting projects to receive Community Program funding. The formal establishment of these criteria will make the selection process more uniform and will insure that assistance is directed to the most deserving projects.

Intergovernmental Consultation: The FmHA programs and projects which are affected by this instruction are subject to the provisions contained in Executive Order 12372, "Intergovernmental Review of Federal Programs".

Environmental Impact: This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements".

It is the determination of FmHA that this final action does not constitute a major Federal action signficantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Programs affected: Catalog of Federal Domestic Assistance (CFDA) Nos. 10.418, Water and Waste Disposal Systems for Rural Communities; and 10.423, Community Facilities Loans.

Background

Community Programs provide assistance to a broad range of applicants for several kinds of projects some of which are more crucial than others in terms of meeting basic human and rural community needs. The majority of this assistance is provided through a network of State Offices that are responsible for project selection and development. The balance, held as a reserve for contingencies, is provided through a National Office which is also responsible for overall supervision of the State Offices. The present selection system relies heavily on the individual judgments of program managers and is subject to variations in interpretation and implementation between States and from manager to manager. The objective of this change is to develop a more uniform selection process and to insure the effective allocation of Community Programs resources to the most deserving projects and applicants.

FmHA believes this change maximizes the net benefit to society at the lowest net cost.

Comments

A proposed rule was published in the **Federal Register** dated October 15, 1982, page 46105 with a 60-day comment period. Fifty-eight letters were received in response to that rule prior to the deadline. An additional 100 letters were received afterwards, making a total of 158 letters that have been considered in the development of this final rule.

The letters were divided into two large categories: Those of a general nature that commented on the proposed rule as a whole and those that addressed specific sections of the rule. In each case the comments in the letters were summarized and grouped by type of response to reflect the central idea being expressed. The final rule contains revisions to the proposed rule which reflect FmHA's consideration of all the letters as well as other information available to FmHA. The following is a discussion of the various responses. Numerous editorial changes were recommended. These were rejected or adopted without discussion here.

A. General Comments—Many letters objected to the proposed rule on the grounds that the local level (i.e. State Office) decision making authority would be lost. Others objected because it appeared that the flexibility of the local level program managers would be reduced. Both groups stated that they preferred the status quo. FmHA has determined that the selection system with the revisions discussed later (see part B below) will not have a negative effect on the decision making authority or flexibility of local program managers. All of the criteria contained in the project selection system are based on either goals of the Agency or requirements in FmHA regulations that are already in existence. All but one, truly rural, have been in effect for several years. The truly rural requirement has been in effect almost one year. The intent of the selection system is to set out all of the requirements in a format that is easily accessible by program managers. In addition, the 15 points that State Directors may award are intended to provide flexibility in the system.

B. Specific Comments—

1. Several letters suggested that greater emphasis be given to the criteria dealing with population size, income level and health status of the community to be served by a proposed project. In response, these criteria were revised to place greater emphasis on the smallest communities and those with the lowest income levels as well as to change the qualifications for meeting the health criteria. Also, a greater portion of the total number of points that can be scored has been assigned to these three criteria.

2. The priority assigned to those communities with populations under 5,500 which suffer sudden problems with their water supplies or waste disposal systems was questioned by many commenters. This priority is intended to assist communities encountering problems that are beyond their control. It is not intended to aid those communities where the problems are caused by poor maintenance or neglect. The priority is based on a requirement contained in FmHA's authorizing legislation which must be observed. Therefore, it was left in the selection system.

3. Several letters objected to the emphasis placed on public bodies. In response to those comments the number of points awarded for meeting this criteria have been reduced from 15 to 5. It cannot be eliminated completely because FmHA's authorizing legislation requires that preference be given to public bodies under certain circumstances.

4. Several commenters wanted to delete the priority given to projects that merge ownership of or enlarge or extend existing water and waste disposal systems. Other commenters supported this priority. FmHA believes that improved services to rural residents can best be achieved by combining smaller systems into larger, better managed ones and expanding existing systems which already have experienced management in place. Congress has taken note and encouraged this in various Congressional Reports. Therefore, FmHA has determined that this priority should remain in the selection system. However, in keeping with the desire to place greater emphasis on the health, population and income criteria, the total number of points that can be scored under this priority was reduced from 20 to 10.

5. Some letters recommended that the criterion on truly rural areas be eliminated. This criterion was selected to limit the participation in Community Programs of bedroom type communities which in reality are part of an urban

area and which often have greater resources than do other more rural communities. The criterion is in keeping with the intent of FmHA's authorizing legislation to serve only rural residents. Therefore, the criterion will remain in the selection system. However, the number of points assigned to it was reduced from 15 to 10 in order to place greater emphasis on the health, population and income criteria.

6. Many commenters objected to the criterion for geographic distribution of program benefits because it would bias the selection system against those areas with the greatest needs, where multiple projects of the same type may be required. Other comments stated that it would disrupt the orderly phasing of projects and make planning more difficult. This criterion was eliminated from the selection system.

7. Several commenters suggested that the priority for joint financing be eliminated or revised. The primary reason FmHA selected this priority is to maximize the effect of scarce Community Programs resources. It also serves to demonstrate a community's and/or State's commitment to the proposed project. The priority takes into account joint financing from local and State sources rather than just private sector sources in order to minimize its effect on poorer applicants who may not have access to commercial financing. Finally, by taking State funds into account, the priority will enhance coordination between this selection system and others operated in the States. Therefore, it was determined that this criteria should remain in the selection system. However, the maximum number of points that can be scored under it was reduced from 15 to 10. In addition, the minimum applicant contribution levels necessary to receive points were lowered.

8. Some commenters suggested that FmHA's selection system should include provision for coordination with other State and Federal selection systems. As noted above the joint funding criterion will improve such coordination. In addition, "improved coordination" was added as an authorized reason for State Directors to award points under their 15 point discretionary authority.

9. A few letters suggested that priority be given to those projects that demonstrate the greatest potential to promote economic development or to provide long range benefits. However, such potential cannot be measured in an objective manner which would permit clear comparisons between projects. In addition, FmHA believes that such a priority could divert resources from areas with the greatest need for assistance because there is no direct correlation between those areas and proposals showing the most potential. Therefore, it was not included in the selection system.

10. Some commenters suggested that consideration be given to the most cost effective proposals. FmHA concluded such a priority is consistent with our objective to maximize the use of scarce Community Program resources. Therefore, it was added as an authorized reason for State Directors to award points under their 15 point discretionary authority.

11. Several FmHA State Offices voiced concern over the mechanics of implementing the selection system. In particular, they were concerned about: how to process large, high scoring proposals that would use up most or all of their annual State allocations leaving nothing for other worthy projects; when preapplications should be reviewed; when applications should be obligated; and how long a preapplication should remain under active consideration when little progress is demonstrated by the applicant. Revisions have been made to the proposed rule that address each of these issues.

List of Subjects in 7 CFR Part 1942

Community development, Community facilities, Loan programs—housing and community development, Loan security, Rural areas, Waste treatment and disposal—domestic, Water supply—domestic.

PART 1942—ASSOCIATIONS

Accordingly, Subpart A of Part 1942, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revising § 1942.17(c) to read as follows:

§ 1942.17 Appendix A—Community Facilities

* * * * *

(c) *Priorities.*

(1) *Truly rural areas.* FmHA program assistance will be directed toward truly rural areas and rural communities. Normally, priority will not be given to preapplications for projects that will serve other than truly rural areas. Truly rural areas are areas other than densely settled areas or communities adjacent to, or closely associated with, a city or town with a population exceeding 10,000 residents for water or waste disposal assistance, or 20,000 residents for essential community facility assistance. When determining whether a rural area or rural community is adjacent to, or closely associated with, a city or town with a population exceeding 10,000 residents for water and waste disposal, or 20,000 residents for essential community facility assistance, minor open spaces such as those created by physical or legal barriers, commercial or industrial development, parks, areas reserved for convenience or appearance, or narrow strips of cultivated land, will be disregarded. An area or community shall be considered adjacent to or closely related with a nonrural area when it constitutes for general, social, and economic purposes a single community having a contiguous boundary.

(2) *Project selection process.* The following paragraphs indicate items and conditions which must be considered in selecting preapplications for further development. When ranking eligible preapplications for consideration for limited funds, FmHA officials must consider the priority items met by each preapplication and the degree to which those priorities are met, and apply good judgment.

(i) *Preapplications.* The preapplication and supporting information submitted with it will be used to determine the proposed project's priority for available funds.

(ii) *State Office review.* All preapplications will be reviewed and scored and an AD–622 issued within the time limits established in § 1942.2(a)(2)(iv). When considering authorizing the development of an application for funding, the State Director should consider the remaining funds in the State allocation, and the anticipated allocation of funds for the next fiscal year as well as the amount of time necessary to complete that application. Applicants whose preapplications are found to be ineligible will be so advised. These applicants will be given adverse notice through AD–622 and advised of their appeal rights in accordance with Subpart B of Part 1900 of this Chapter. Those applicants with eligible lower scoring preapplications which obviously cannot be funded within an eighteen month period of time, and are not within 150 percent of the State's allocation, should be notified that funds are not available; and requested to advise whether they wish to have their preapplication maintained in an active file for future consideration. The State Director may request an additional allocation of funds from the National Office for such preapplications. Such requests will be considered along with all others on hand.

(iii) *Selection priorities.* The priorities described below will be used by the State Director to rate preapplications. The priorities should be applied to Water and Waste Disposal or

Community Facilities preapplications as directed. The format found in Part I of Guide 26 should be followed in scoring each preapplication. A copy of the score sheet should be placed in the case file for future reference.

(A) *Population priorities.* The following priorities apply to both Water and Waste Disposal and Community Facilities preapplications. Points will be distributed as indicated.

(*1*) The proposed project is located in a rural community having a population not in excess of 2,500—25 points.

(*2*) The proposed project is located in a rural community having a population not in excess of 5,500—20 points. (Points under this priority should not be assigned to a preapplication if points were assigned under paragraph (A)(*1*) above.)

(B) *Health priorities.* Points will be distributed as indicated.

(*1*) Water and Waste Disposal preapplications only—The proposed project is:

(*i*) needed to alleviate the sudden unexpected diminution or deterioration of a water supply, or to meet health or sanitary standards which pertain to a community's water supply—25 points.

(*ii*) required to correct an inadequate waste disposal system due to unexpected occurrences, or to meet health or sanitary standards which pertain to a community's waste disposal systems—25 points.

(*2*) Community Facility preapplications only—The proposed project is required either to correct a health or sanitary problem, or to meet a health or sanitary standard—25 points.

(C) *Income priorities.* The following priorities apply to both Water and Waste Disposal and Community Facilities preapplications. Points will be distributed as indicated. The median income of the population to be served by the proposed facility is:

(*1*) Less than the poverty line for a nonfarm family of four as prescribed by the Office of Management and Budget (OMB) as described under Section 624 of the Economic Opportunity Act of 1964 (U.S.C. 2971d)—25 points.

(*2*) More than the poverty line but less than 85% of the State's nonmetropolitan median family income—20 points.

(*3*) Between 85% and 100%, inclusive, of the State's nonmetropolitan median family income—15 points.

(D) *Other factors.* Points will be distributed as indicated.

(*1*) Water and Waste Disposal preapplications only—The proposed project will: merge ownership, management, and operation of smaller facilities providing for more efficient management and economical service; and/or enlarge, extend, or otherwise modify existing facilities to provide service to additional rural residents—10 points.

(*2*) Community Facilities preapplication only—The purpose of the proposed project is to construct, enlarge, extend or otherwise improve the following types of facilities. (Select only the factor most applicable to the proposed project.)

(*i*) Public safety—10 points. (Examples include fire, police, rescue and ambulance services.

(*ii*) Health care—5 points. (Examples include clinics, nursing homes, convalescent facilities, and hospital projects designed to make the facility conform with life/safety codes, medicare and medicaid requirements, and minor expansions needed to meet the immediate requirements of the community. Points under this authority should not be awarded to a preapplication if points were awarded under § 1942.17(c)(2)(iii)(B)(*2*).)

(*3*) Water and Waste Disposal and Community Facilities preapplications—

(*i*) Applicant is a public body or Indian tribe—5 points.

(*ii*) Project is located in a "truly rural area" as described in §1942.17(c)(1)—10 points.

(*iii*) Amount of joint financing committed to the project is:

(*a*) 20% or more private, local or state funds—10 points.

(*b*) 5%–19% private, local or state funds—5 points.

(*E*) In certain cases the State Director may assign up to 15 points to a preapplication, in addition to those that may be scored under paragraphs (A) through (D) above. These points are primarily intended to address an unforeseen exigency or emergency, such as the loss of a community facility due to accident or natural disaster or the loss of joint financing if FmHA funds are not committed in a timely fashion. However, the points may also be awarded to projects in order to improve compatibilty/coordination between FmHA's and other agencies' selection systems and to assist those projects that are the most cost effective. A written justification must be prepared and placed in the project file each time the State Director assigns these points.

(*iv*) *Results of State Office review.* After completing the review, the State Director will normally select the eligible preapplications with the highest scores for further processing. In cases where preliminary cost estimates indicate that an eligible, high scoring preapplication is unfeasible or would require an amount of funding from FmHA that exceeds either 25% of a State's current annual allocation or an amount greater than that remaining in the State's allocation, the State Director may instead select the next lower scoring preapplication(s) for further processing provided the high scoring applicant is notified of this action and given an opportunity to revise the proposal and resubmit it. If it is found that there is no effective way to reduce costs, the State Director, after consultation with the applicant, may submit a request for an additional allocation of funds for the proposed project to the National Office. The request should be submitted during the fiscal year in which obligation is anticipated. Such requests will be considered along with all others on hand. A written justification must be prepared and placed in the project file when an eligible preapplication with a higher rating is not selected for further processing. The State Director will notify the District Director of the results of the review action. The State Director will return the preapplication information with an authorization for the District Director to prepare and issue Form AD–622 in accordance with § 1942.2(a)(2)(iv). Priority will be given to those preapplications and applications for funding which meet eriteria in § 1942.17(c)(2)(iii)(A) (*1*) or (*2*) and (B)(*1*) (*i*) or (*ii*).

(v) *Application development.* Applications should be developed expeditiously following good management practices. Applications that are not developed in a reasonable period of time taking into account the size and complexity of the proposed project may be removed from the State's active file. Applicants will be consulted prior to taking such action.

(vi) *Project obligations.* To ensure efficient use of resources, obligations should occur in a timely fashion throughout the fiscal year. Projects may be obligated as their applications are completed and approved.

(vii) *Requests for additional funding.* All requests for additional allocations of funds submitted to the National Office must follow the formats found in Parts I and II of Guide 26. In selecting projects for funding at the National Office level, additional points may be scored based on the priority assigned to the project by the State Office. These points will be scored in the manner shown below. Only the three highest priority projects can score points. In addition, the Administrator may assign up to 15 additional points to account for items such as geographic distribution of funds and emergency conditions caused by economic problems or natural disasters.

Priority	Points
1	5
2	3
3	1

(viii) *Cost overruns.* A preapplication may receive consideration for funding before others at the State Office level or at the National Office level, if funds are not available in the State Office, when it is a subsequent request for a previously approved project which has encountered cost overruns due to high bids or unexpected construction problems that cannot be reduced by negotiations, redesign, use of bid alternatives, rebidding or other means.

* * * * *

(7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70)

Dated: September 26, 1983.

Frank W. Naylor, Jr.,

Under Secretary for Small Community and Rural Development.

[FR Doc. 83-26734 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-07-M

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7 CFR Part 1944

Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its Farm Labor Housing regulations concerning broad-based nonprofit organizations operating on a regional or statewide basis by including a specific definition for such organizations and requirements for local participation from the area and community where such an applicant proposed to construct and operate farm labor housing using FmHA loan and grant resources. This action is being taken to clarify existing procedure. The intended effect is to provide guidance to regional and statewide applicants on the Agency's requirements for local membership.

EFFECTIVE DATE: September 30, 1983, except for all applicants who have been issued an AD-622, "Notice of Preapplication Review Action," before this date.

FOR FURTHER INFORMATION CONTACT: John H. Pentecost, Senior Loan Officer, 202-382-8983, Farmers Home Administraton, U.S. Department of Agriculture, Room 5337, South Agriculture Building, 14th and Independence Avenue, SW, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under USDA procedures established in Secretary's Memorandum 1512-1 which implements Executive Order 12291, and has been determined to be non-major. This action requires no change in recordkeeping requirements and no increase in costs to the Government or public. There is no impact on proposed budget levels, and funding allocations will not be affected because of this action. The revision is intended to provide guidance to broad-based nonprofit organizations who apply for FmHA funds to develop farm labor housing.

The FmHA programs and projects which are affected by this Subpart are subject to state and local clearinghouse reviews in the manner delineated in Part 1901, Subpart H of this chapter.

The Catalog of Federal Domestic Assistance number of the affected program is 10.405, Farm Labor Housing Loans and Grants.

This document has been reviewed in accordance with 7 CFR Part 1901, Subpart G, "Environmental Impact Statements." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Charles W. Shuman, Administrator, Farmers Home Administration, has determined that the action will not have a significant economic impact on a substantial number of small entities because of the relatively small scope of the program and the historically few regional or statewide broad-based nonprofit organizations that have exhibited interest in the program.

Need for Government Action

FmHA hereby revises its Farm Labor Housing regulations to clarify the meaning of "local participation" in regional and statewide broad-based nonprofit organizations. Previous regulations included broad-based nonprofit organizations that operate on a regional or statewide basis as eligible organizations. However, confusion existed over the interpretation of local participation in such organizations. This resulted from not separately defining local organizations from regional or statewide broad-based nonprofit organizations. Since there are substantial differences between local and regional or statewide organizations of this type, especially in their membership, the regulation defines them separately as well as explains the term "variety of interest." This removes the confusion and possible conflict of the interpretation between the Agency field staff and potential applicants.

The proposed rule was published in the **Federal Register** (47 FR 46857) on October 21, 1982. That action proposed revision to Subpart D of Part 1944 of Chapter XVIII, Title 7, Code of Federal Regulations. The change added a definition of "regional and statewide broad-based nonprofit organizations" and a definition of "variety of interest" to be represented in the membership of a broad-based nonprofit organization.

FmHA received ten comments on the proposed rule during the sixty day comment period which ended December 21, 1982. Four of the comments opposed the change as narrowing the definition of regional and statewide nonprofits to the point where such an entity would be overweighed to the locality where it would propose a project. This would limit its capacity to maintain a regional or statewide approach to migrant farmworker social and economic concerns which many current statewide and regional nonprofits were established to alleviate. FmHA recognizes that many regional nonprofits were formed to operate migrant health maintenance networks, day care and educational programs, or economic opportunity and training programs. However, the Agency believes that farm labor housing with a 33-year mortgage is a long-term facility and service that requires local support and attention different than social service programs require. Therefore, the Agency has determined that the rule on local membership representation in regional nonprofits is justified.

Three comments were received which brought to our attention the fact that many broad-based non-profits are not membership organizations but are comprosed solely of a board of directors, which represent a variety of interests of the locality, region or State they serve. In addition, two comments referred to the proposed regulation as so limiting that the effect was contrary to the intent of the legislation to enable "any" broad-based nonprofit organization to be eligible to apply for the LH grant program. FmHA has reviewed the legislation and appropriate conference reports. These refer to membership of a broad nature to assure that the applicant represents a variety of interests of the specific local area, not just growers or farmers. Therefore, the Agency concludes that non-membership organizations do not follow the intent of the legislation. The Agency also has the administrative authority to establish

regulations to assure broad-based representation from the community and employement area where labor housing will be located when the applicant is either a regional or statewide nonprofit organization. Such local representation is consistent with FmHA policies for local participation in housing financed by the Agency through its multi-family housing loan and/or grant programs. Broad local participation, especially in regional or statewide groups, strengthens the organization with long-term stability in its operation in the local area and provides local oversight for project development and management. However, the Agency has revised the proposed regulation to require that only four of the minimum of eight local members from the employment area be from the service-providing community.

One comment was received which asked that the Pacific Trust Territory be included as an eligible area for organizational applicants. Current legislation does not include farmworkers from the Trust Territory as eligible occupants of housing constructed under the program. Therefore, no revision was made to the proposed regulation to address this recommendation.

Finally, the Agency revised the proposed rule to refer consistently to the "employment area" served by the project and the prospective borrower. The "employment area" of the project is generally that area in which prospective farm laborer tenants would be employed.

List of Subjects in 7 CFR Part 1944

Farm labor housing, Grant programs—Housing and Community Development, Loan programs—Housing and Community Development, Migrant labor, Nonprofit organizations, Public housing, Rental assistance, Rural housing.

Therefore, Subpart D of Part 1944 of Chapter XVIII, Title 7, Code of Federal Regulations, is amended as follows:

PART 1944—[AMENDED]

1. Section 1944.153 is amended by redesignating paragraphs (k) through (v) to (m) through (x) respectively, revising paragraph (j), and adding new paragraphs (k) and (l) to read as follows:

§ 1944.153 Definitions.

* * * * *

(j) *Local broad-based nonprofit organization.* An organization, public or private, that operates in one employment area and which:

(1) Is incorporated within the State, Puerto Rico, or Virgin Islands, or a Federally recognized Indian Tribe,

(2) Is organized and operated on a nonprofit basis,

(3) Is legally precluded from distributing any profits or dividends to its members or any private individual during its corporate lifetime,

(4) Is not grower oriented (majority of board must be nonfarmers),

(5) Pledges to administer the housing as a community service in the interest of the whole community, regardless of race, color, national origin, sex, religion, age, handicap, and marital status,

(6) Has at least 25 members for projects with a total development cost of up to $100,000 and additional members for projects costing more than $100,000, and

(7) Has a membership reflecting a variety of interests of the area where the housing will be located.

(k) *Regional or statewide broad-based nonprofit organization.* An organization that operates or plans to operate in more than one employment area, that provides or is planning to provide labor housing in those areas, and that meets the following criteria in addition to those in § 1944.153(j) (1) through (6):

(1) The membership of the organization must be broadly representative of the region or state by having representation from either the counties or employment areas in which it provides or is planning to provide labor housing; and

(2) The membership must include at least eight (8) members from the employment area to be served by the project who represent a variety of interests of the employment area. If the project is located in a community or dependent upon a community for essential services, at least four of the eight members must be residents of that community.

(l) *Variety of interests.* To meet the representation of a variety of interests in a broad-based nonprofit organization, members should be actively affiliated with or participating in civic, business, agricultural, or service organizations in their community; members' previous and current occupations may be considered in this determination. Individual members may represent multiple interests as well.

* * * * *

§ 1944.157 [Amended]

2. Section 1944.157 is amended by removing paragraph (a)(8)(i) and redesignating paragraphs (a)(8) (ii) through (v) to paragraphs (a)(8) (i) through (iv) respectively.

(42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70)

Dated: June 27, 1983.

Michael E. Brunner,

Acting Administrator, Farmers Home Administration.

[FR Doc. 83-26352 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Air Pacific Limited

Correction

In FR Doc. 83-25646, appearing on page 42969, in the issue of Wednesday, September 21, 1983, make the following corrections:

1. In column three, line two, "E.O. 122291." should read "E.O. 12291.".

2. In the same column, the amendatory language should read, "Accordingly, 8 CFR Part 238 is amended as follows:".

BILLING CODE 1505-01-M

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8 CFR Part 248

Change of Nonimmigrant Classification; Denial of Appeal; Correction

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule; Correction.

SUMMARY: This document corrects a final rule on denial of appeal that was published Sept. 13, 1983 (48 FR 41016). This action is necessary to make an editorial correction to 8 CFR 248.3 without changing the substance of the paragraph.

EFFECTIVE DATE: October 13, 1983.

FOR FURTHER INFORMATION CONTACT: Bert C. Rizzo, Immigration Examiner, Immigration and Naturalization Service, 425 I Street NW., Washington, D.C. 20536, Telephone: (202) 633-3946.

SUPPLEMENTARY INFORMATION: This document makes a technical correction to 8 CFR 248.3. The paragraph being revised in the final rule document of September 13, 1983 (48 FR 41016) was inadvertently designated as (d). The correct paragraph designation is (f).

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because this correction is merely editorial in nature.

This is not a rule within the meaning of 5 U.S.C. 601(2) since it is merely an

editorial correction and the Regulatory Flexibility Act does not apply.

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

List of Subjects in 8 CFR Part 248

Administrative practice and procedure, Aliens.

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

PART 248—CHANGE OF NONIMMIGRANT CLASSIFICATION

§ 248.3 [Corrected]

1. Paragraph (d) *Denial of Application* is amended to read (f) *Denial of Application.*

* * * * *

(Sec. 248 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1258)

Dated: September 23, 1983.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations, Immigration and Naturalization Service.

[FR Doc. 83-26774 Filed 9-29-83; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR 307, 350, 351, 354, 355, 362, and 381

[Docket No. 83-017F]

Fee Increase for Inspection Services

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is amending the Federal meat and poultry products inspection regulations to increase fees charged by FSIS to provide overtime inspection, identification, or certification services to meat and poultry establishments. The fees reflect the increased costs of providing these services in fiscal year 1984.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Ms. Eppie Daproza, Acting Director, Finance Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250 (202) 382-0072.

SUPPLEMENTARY INFORMATION:

Executive Order 12291

This rule is issued in conformance with Executive Order 12291, and has been determined to be not a "major rule." It will not result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Effect on Small Entities

The Administrator, Food Safety and Inspection Service, has determined that this action will not have a significant economic impact on a substantial number of small entities as defined by the Regulatory Flexibility Act, Pub. L. 96-354 (5 U.S.C. 601), because the fees provided for in this document are not new but merely reflect a minimal increase in the costs currently borne by those entities which elect to utilize certain inspection services.

Background

Each fiscal year, the fees for certain services rendered to operators of official meat and poultry establishments, importers, or exporters by the Food Safety and Inspection Service (FSIS) are reviewed and a cost analysis is performed to determine if such fees are adequate to recover the cost of providing the services. The analysis relates to fees charged in connection with overtime and holiday inspection, identification, certification, or laboratory services. The fees to be charged for these services are determined by an analysis of data on the current cost of these services coupled with the increase in that cost due to the increase for salaries of Federal employees allocated by Congress under the Federal Pay Comparability Act of 1970.

Based on the Department's analysis of the costs incurred in providing these services, a proposal was published in the **Federal Register** on August 24, 1983 (48 FR 38490) to increase the fees related to such services to reflect increased costs associated therewith in the upcoming fiscal year.

The comments received on the proposal provide generally that the Department should not increase fees for the affected inspection services at this time in light of current economic conditions affecting official establishments using these services. In that connection, it is noted that the ordinary costs of providing inspection services under the requirements of the Federal Meat Inspection Act (FMIA) and the Poultry Products Inspection Act (PPIA) are borne by the Federal Government. However, the Department is required by the FMIA (21 U.S.C. 659) and the PPIA (21 U.S.C. 468) to recover the costs of overtime and holiday inspection services from those establishments which voluntarily elect to utilize such inspection services. The rates provided for in this document reflect only a minimal increase in the costs currently borne by those entities electing to utilize those and certain other voluntary inspection services. It should also be noted that the charges incurred by the plant for overtime do not equal the wages paid the individual inspector. The charges also reflect all the benefits, travel, administrative support and other costs incurred by the Department for this program.

These fee increases do not include the increase resulting from a pay raise for Federal employees. Although the pay raise is normally effective at the beginning of each fiscal year and calculated into the fee increases, this fiscal year Congress is delaying the pay increase. When Congress enacts a pay increase FSIS will engage in further rulemaking prior to raising fees.

The amendments, as proposed, to the Federal meat and poultry products inspection regulations are promulgated herein.

List of Subjects

9 CFR Part 307

Meat inspection, Fee charges.

9 CFR Part 350

Meat inspection, Fee charges.

9 CFR Part 351

Meat inspection, Fee charges.

9 CFR Part 354

Meat inspection, Fee charges.

9 CFR Part 355

Animal food, Fee charges.

9 CFR Part 362

Poultry and poultry products, Fee charges.

9 CFR Part 381

Poultry products inspection, Fee charges.

The amendments to the Federal meat and poultry products inspection regulations are as follows:

PART 307—[AMENDED]

1. The authority citation for Part 307 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 34 Stat. 1264, as amended; 21 U.S.C. 621; 62 Stat. 334; 21 U.S.C. 695, 7 CFR 2.15(a), 2.92.

2. Section 307.5(a) is revised to read as follows:

§ 307.5 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $19.76 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday as specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

PART 350—[AMENDED]

3. The authority citation for Part 350 reads as follows:

Authority: 41 Stat. 241, 7 U.S.C. 394; 60 Stat. 1087, as amended, 7 U.S.C. 1622; 60 Stat. 1090, as amended, 7 U.S.C. 1624; 34 Stat. 1264, as amended, 21 U.S.C. 621; 62 Stat. 334, 21 U.S.C. 695; 7 CFR 2.15(a), 2.92.

4. Section 350.7(c) is revised to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $17.12 per hour for base time, $19.76 per hour for overtime including Saturdays, Sundays, and holidays, and $31.00 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include, but will not be limited to, the time required for travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—[AMENDED]

5. The authority citation for Part 351 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

6. Section 351.8 is revised to read as follows:

§ 351.8 Charges for surveys for plants.

Applicants for the certification service shall pay the Department for salary costs at the rate of $17.12 per hour for base time, $19.76 per hour for overtime, travel and per diem allowances at rates currently allowed by the Federal Travel Regulations, and other expenses incidental to the initial survey of rendering plants or storage facilities for which certification service is requested.

7. Section 351.9(a) is revised to read as follows:

§ 351.9 Charges for examinations.

(a) The fees to be charged and collected by the Administrator for examination shall be $17.12 per hour for base time and $19.76 per hour for overtime including Saturdays, Sundays, and holidays, as provided for in § 351.14 and $31.00 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this Part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—[AMENDED]

8. The authority citation for Part 354 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

9. Section 354.101(b) is revised to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $17.12 for base time and $19.76 for overtime or holiday work.

* * * * *

PART 355—[AMENDED]

10. The authority citation for Part 355 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

11. Section 355.12 is revised to read as follows:

§ 355.12 Charge for service.

The fees to be charged and collected by the Administrator shall be $17.12 per hour for base time, $19.76 per hour for overtime, including Saturdays, Sundays, and holidays, and $31.00 per hour for laboratory services to reimburse the Department for the cost of the inspection service furnished.

PART 362—[AMENDED]

12. The authority citation for Part 362 reads as follows:

Authority: 60 Stat. 1087, as amended, 7 U.S.C. 1622, 60 Stat. 1090, as amended, 7 U.S.C. 1624; 7 CFR 2.15(a), 2.92.

13. Section 362.5(c) is revised to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $17.12 per hour for base time, $19.76 per hour for overtime including Saturdays, Sundays, and holidays, and $31.00 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 381—[AMENDED]

14. The authority citation for Part 381 reads as follows:

Authority: 71 Stat. 447, 448, as amended, 21 U.S.C. 463, 468; 7 CFR 2.15(a), 2.92.

15. Section 381.38(a) is revised to read as follows:

§ 381.38 Overtime and holiday inspection service.

(a) The management of an official establishment, an importer, or an exporter shall pay the Food Safety and Inspection Service $19.76 per hour per Program employee to reimburse the Program for the cost of the inspection service furnished on any holiday specified in paragraph (b) of this section; or for more than 8 hours on any day, or more than 40 hours in any administrative workweek Sunday through Saturday.

* * * * *

The Administrator has determined that good cause exists to make these amendments effective less than 30 days after publication in the **Federal Register.**

Done at Washington, DC, on: September 23, 1983.

Donald L. Houston,

Administrator, Food Safety and Inspection Service.

[FR Doc. 83-26666 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-DM-M

CIVIL AERONAUTICS BOARD

14 CFR Part 261

[Reg. ER-1361; Amdt. No. 1 to Part 261]

Filing of Agreements

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This final rule gives notice that the Office of Management and Budget (OMB) has approved the information collection requirements contained in Part 261 of the Board's Economic Regulation governing the filing of agreements affecting air transportation under section 412 of the Federal Aviation Act (49 U.S.C. 1382) through September 30, 1986. OMB approval is required under the Paperwork Reduction Act of 1980.

DATE: September 26, 1983.

Effective: September 14, 1983.

FOR FURTHER INFORMATION CONTACT: Linda K. Koman, Data Requirements Section, Information Management Division, Office of Comptroller, Civil Aeronautics Board, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428. (202) 673-6042.

List of Subjects in 14 CFR Part 261

Air carriers, Antitrust.

PART 261—[AMENDED]

Accordingly, the Civil Aeronautics Board amends Part 261 of its Economic Regulations (14 CFR 261) by adding a note at the end of the table of contents to Part 261 to read:

Note.—The information collection requirements contained in §§ 261.4 and 261.7 have been approved by the Office of Management and Budget under number 3024-0066.

This amendment is issued by the undersigned pursuant to delegation of authority from the Board to the Secretary in 14 CFR Sec. 385.24(b). (Sec. 204 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324).

By the Civil Aeronautics Board.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 83-26835 Filed 9-29-83; 8:45 am]

BILLING CODE 6320-01-M

FEDERAL TRADE COMMISSION

16 CFR Parts 3 and 4

Organization, Procedures, and Rules of Practice

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: The Commission has amended §§ 3.43(g) and 4.1(a) of its Rules of Practice and Procedure to allow non-attorney experts to participate personally in the cross-examination of other experts in the same discipline during Commission adjudicative proceedings. Such Cross-examination by a non-attorney expert would elicit more precise and useful information from an expert witness than would cross-examination by an attorney who lacks technical expertise in the particular discipline.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Bruce G. Freedman, (202) 523-3487, Office of General Counsel, Federal Trade Commission, 6th Street and Pennsylvania Avenue, NW., Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On March 3, 1983 at 48 FR 9289, the Commission published for comment proposed amendments to its Rules of Practice and Procedure which would allow non-attorney experts to participate personally in the cross-examination of other experts in the same discipline. The proposed amendments were to apply to Commission adjudicative proceedings.

The amendments to §§ 3.43(g) and 4.1(a) of the Commission Rules of Practice and Procedure were proposed after the Commission tentatively concluded that, in some cases, cross-examination by a non-attorney expert would elicit more precise and useful information from an expert witness than would cross-examination by an attorney who lacks technical expertise in the particular disipline.

Five comments were filed during the public comment period which closed May 18, 1983. Comments in favor of the proposed amendments were filed by Thomas M. Susman on behalf of the Division of Antitrust, Trade Regulation and Consumer Affairs of the District of Columbia Bar ("D.C. Bar Antitrust Division") and Jonathan Rose, professor of law at Arizona State University College of Law. Professor Rose also submitted a copy of a draft report, which he had previously prepared for the Administrative Conference of the United States. Comments in opposition to the proposed amendments were submitted by Irving Sommer, Chairman of the National Conference of Administrative Law Judges; Joseph S. Brownman, an attorney in the Bureau of Competition of the Federal Trade Commission; and Ray W. Harvey, Jr., Esquire.

The Commission believes that the comments do not raise any new issues that would militate against adoption of the proposal. Instead, on balance, they support allowing non-lawyer experts to cross-examine other experts where the ALJ believes it appropriate. A discussion of the major issues raised by the proposal and the comments follows.

A. The Expert As Witness and Advocate

During the course of Commission adjudications under the proposed amendments it could be expected that the expert who conducts cross-examination may also serve as an expert witness. Several comments raise the possibility that this could result in a potential conflict of interest analogous to that proscribed by the model codes of professional responsibility approved by the American Bar Association and by rules adopted by various states and other jurisdictions. These rules generally prohibit an attorney from acting as an advocate at a trial where he or she is likely to be a necessary or material witness. See Rule 3.7, *ABA Model Rules of Professional Conduct*, 52 U.S.L.W. 19 (Aug. 16, 1983); DR 5-101, *ABA Code of Professional Responsibility* (1975). Although these rules do not apply to non-lawyer "advocates," the policies underlying the prohibition are relevant to the Commission's proposal.

One justification for the disqualification rule is that "the public might think that the lawyer is distorting the truth for the sake of his client." *International Electronics Corp.* v. *Flanzer*, 527 F.2d 1288, 1294 (2d Cir. 1975). This justification is based on the reasonable assumption that a witness' objectivity may be undermined by any interests he or she may have in the litigation, for example, in the case of an attorney, the fact that he or she is being compensated by one of the parties and, perhaps even more important, the fact that the attorney has an ethical duty to attempt to promote the interests of the client. A related justification for the rule is that the attorney's effectiveness as a witness may be impaired because he or she can be impeached for interest. See American Bar Foundation, *Annotated Code of Professional Responsibility* 213 (1979).

Nevertheless, a compensated expert witness, unlike the ordinary lay witness who testifies about facts he or she has observed, normally already has a financial interest in the litigation, an interest which, in our view, would not be significantly increased if the expert was also called upon to participate personally in cross-examination. Expert witnesses often assist counsel in developing a case, selecting witnesses, and developing questions for direct as well as cross-examination; indeed, expert witnesses frequently sit at the counsel table. In view of the litigation role experts already play, we do not see how the additional limited role they would assume under the Commission's proposal would create any reasonable

concern that they would be prompted to distort the truth. For the same reasons, we do not believe that this limited additional role would undermine their effectiveness as witnesses.

Other justifications for the attorney-witness disqualification rule are plainly inapplicable. For example, "[a]s an advocate, the attorney is said to be placed in the 'unseemly' position of arguing his or her own credibility." *Id.* The Commission's proposal would not authorize non-lawyer experts to present oral or written argument on credibility issues.

One commentary suggests a further rationale, that "opposing counsel may be handicapped in challenging the testimony of the attorney-witness." It explains that this assertion is based upon the premise that a laywer's professional courtesy will inhibit him or her from fully cross-examining a professional colleague. The commentary, however, characterizes this as "the most questionable rationale." *Id.* Nevertheless, assuming that this rationale has any validity, we believe that the attorney in charge of the litigation should be trusted to make a sensible judgment whether an expert will be inhibited from fully cross-examining an opposing expert.

Finally, there is a concern that the switching of roles may frustrate the adjudicatory process because factfinders may confuse the role of advocate and witness and, thus, give evidentiary weight "to statements that in reality constitute nothing more than mere argument." Opinion No. 44, Legal Ethics Committee of the District of Columbia Bar (Jan. 24, 1978). This is obviously not a concern where the factfinder is an ALJ.

The Commission agrees with Professor Rose that the limited, additional role that the Commission's proposal would provide expert witnesses would not create a conflict of interest or undermine their ability to provide candid testimony. On the contrary, cross-examination by a person trained in the relevant discipline should result in more careful testing of an expert witness and therefore produce more candid and useful testimony.

B. Legal Skills

Two comments suggest that a non-lawyer's lack of legal training might present possible problems. The attorney in charge of the litigation, however, is under a professional duty to assure that the client is effectively represented. The Commission's proposal would not require a non-lawyer expert to conduct cross-examination, and we have no reason to assume that the attorney would permit an expert to conduct all or a portion of cross-examination unless that attorney believed that the cross-examination would be competently conducted. We are confident that the lawyers who appear before this agency will be able to make sensible judgments about when their clients will be best served by cross-examination conducted by a person who does not happen to be an attorney but who is more expert than counsel in the subject matter of the direct testimony.

C. Discipline for Misconduct

The Commission has considered the question whether it would be able to impose adequate discipline on non-lawyer participants to control their conduct. The Commission has implied authority to impose reasonable standards of conduct upon those who practice before it. In the case of lawyers, the Commission relies on the established codes of professional responsibility and may suspend or disbar from practice before the agency any attorney who engages in serious misconduct. See 16 CFR 4.1(e). The Administrative Law Judge is also empowered to "regulate the course of the hearings and the conduct of the parties and their counsel"and to suspend or bar from participation in a particular proceeding any attorney who engages in "disorderly, dilatory, obstructionist, or contumacious conduct * * *." 16 CFR 3.42(c)(6), 3.42(d). If the circumstances warrant further action, the Commission may also refer cases of misconduct to appropriate disciplinary bodies.

Although the existing rules might not permit the Commission to proceed against the non-lawyer who engaged in serious misconduct, it is unclear that the activities associated with cross-examination would be particularly likely to generate disciplinary problems. Moreover, the ALJ would retain the authority to halt cross-examination which was disorderly or otherwise inappropriate. The Commission, however, will consider appropriate amendments to assure adequate sanctions for non-attorneys.

D. Other Issues

The proposed amendments would permit cross-examination by an expert in the "same discipline" as the expert witness. The Commission contemplates that the ALJ's will define the term "same discipline" in the same manner that they define relevant disciplines in deciding whether an expert witness is qualified to testify.

The Commission has also considered the question whether the proposed changes would authorize non-attorneys to engage in the practice of law. Cross-examination is a function typically performed by members of the bar, although as noted in D.C. Bar Antitrust Division comment, it is a function that is no longer exclusively performed by attorneys. In the Commission's view, non-attorneys should be allowed to perform this limited role as long as they can do it competently.[1]

Finally, the Commission sees no need to "sunset" the proposed revisions as suggested by the D.C. Bar Antitrust Division. The Commission, however, agrees with the Division that the Commission should evaluate the effects of the amendments and also continue to consider whether non-lawyer practitioners should be allowed to perform additional functions in litigation.

After careful consideration of all the comments submitted, the Commission has determined to promulgate the amendments set forth below, pursuant to the authority of the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

List of Subjects

16 CFR Part 3

Administrative practice and procedure, Claims, Equal access to justice, Lawyers.

16 CFR Part 4

Administrative practice and procedure, Freedom of information, Privacy, Sunshine Act.

Accordingly, the Commission amends 16 CFR 3.43 and 4.1 as follows:

PART 3—RULES OF PRACTICE FOR ADJUDICATIVE PROCEEDINGS

By revising § 3.43(g) to read as follows:

§ 3.43 Evidence.

* * * * *

(g) *Excluded evidence.*—When an objection to a question propounded to a witness is sustained, the questioner may make a specific offer of what he expects to prove by the answer of the witness, or the Administrative Law Judge may, in his discretion, receive and report the evidence in full. Rejected exhibits, adequately marked for identification, shall be retained in the record so as to

[1] The Administrative Procedure Act provides that, "If permitted by an agency," a party may be represented or advised by a person other than counsel. 5 U.S.C. 555(b). This provision appears to allow agencies to authorize non-attorneys to perform all the functions of counsel. Therefore, the modest role non-attorneys would perform under the Commission's proposal will not amount to the *"unauthorized* practice of law."

be available for consideration by any reviewing authority.

PART 4—MISCELLANEOUS RULES

By adding § 4.1(a)(3) to read as follows:

§ 4.1 Appearances.

(a) * * *

(3) At the request of counsel representing any party in an adjudicative proceeding, the Administrative Law Judge may permit an expert in the same discipline as an expert witness to conduct all or a portion of the cross-examination of such witness.

(15 U.S.C. 46(g).)

By direction of the Commission, dated September 15, 1983.

Emily H. Rock,

Secretary.

[FR Doc. 83-28719 Filed 9-29-83; 8:45 am]

BILLING CODE 6750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6485; File No. S7-972]

Definition of Terms

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission announces the adoption of new Rule 158, which defines certain terms for purposes of the last paragraph of Section 11(a) of the Securities Act of 1933. That paragraph relates to liability under the Act and imposes a reliance requirement upon purchasers in certain circumstances. The Rule is intended to provide clarity and certainty with respect to these terms by building upon the Integrated Disclosure System.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Barry Mehlman, (202) 272-2573, Office of Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announces the adoption of new Rule 158, which defines the terms "earning statement", "made generally available to its security holders" and "effective date of the registration statement" for purposes of the last paragraph of Section 11(a) of the Securities Act of 1933 (the "Securities Act") [15 U.S.C. 77a et seq. (1976 and Supp. IV 1980)]. Consistent with the Integrated Disclosure System,[1] the Rule defines such terms with reference to certain reports filed pursuant to the Securities Exchange Act of 1934 (the "Exchange Act") [15 U.S.C. 78a et seq. (1976 and Supp. IV 1980)].

I. Background

In April 1983, the Commission published for comment Rule 158 defining the terms "earning statement", "made generally available to its security holders" and "effective date of the registration statement" for purposes of the last paragraph of Section 11(a).[2] That paragraph imposes a reliance requirement upon purchasers of securities in a registered offering if the purchase is made after the registrant has made generally available to its security holders an earning statement covering a period of at least twelve months beginning after the effective date of the registration statement.

Historically, no clear guidelines have existed for determining the meaning of and standards for satisfying the terms and conditions of the last paragraph of Section 11(a). In addition, over the years, a wide variety of practices have developed with respect to the form and content of the earning statement and with respect to demonstrating general availability to security holders. In view of the absence of clear guidelines, the differing practices which had developed, and particularly the establishment of the Integrated Disclosure System, which makes use under the Securities Act of existing reports filed pursuant to the Exchange Act, the Commission believed that it would be appropriate to define the terms in the last paragraph of Section 11(a).

Commentator response to proposed Rule 158 was overwhelmingly favorable.[3] In addition, some commentators suggested modifying or clarifying certain provisions of the Rule. The Commission is adopting the Rule with modifications to reflect certain of the specific comments. These modifications are discussed below.

[1] *See* Release No. 33-6383 (March 3, 1982) [47 FR 11380]. Because the Integrated Disclosure System utilizes the term "registrant," *see* Rule 405 [17 CFR 230.405], the Commission has amended Rule 158 to refer to a "registrant" instead of an "issuer."

[2] Release No. 33-6464 (April 22, 1983) [48 FR 19392] ("Proposing Release").

[3] The Commission received twenty-six comment letters in response to the proposed Rule. The comment letters and a highlight of the comments prepared by the staff are available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549 (*See* File No. S7-972).

II. Discussion

A. Earning Statement

Paragraph (a) of Rule 158, as adopted, is modified in five respects: (1) The Commission has determined to allow statements of income in one or any combination of Exchange Act reports to satisfy the requirements of paragraph (a) of the Rule, provided that certain conditions are met; (2) the Commission has modified paragraph (a) to allow statements of income meeting the requirements of Rule 14a-3(b) [17 CFR 240.14a-3(b)] under the Exchange Act for annual reports to satisfy the requirements of that paragraph; (3) the Commission has revised paragraph (a) to allow a subsidiary issuing debt securities guaranteed by its parent to meet the requirements of that paragraph if the parent's income statements satisfy the requirements of paragraph (a) and information respecting the subsidiary is included to the same extent as was presented in the registration statement; (4) the Commission has added a provision to provide explicitly that paragraph (a) is nonexclusive; and (5) the Commission has added provisions applicable to foreign private issuers (described separately below).

In the Proposing Release, the Commission indicated that only optional cumulative twelve month income statements in reports on Form 10-Q [17 CFR 249.308a] would be deemed "sufficient" for purposes of paragraph (a). Several commentators objected to this proposal, arguing that it would have the effect of making mandatory the filing of optional cumulative twelve month income statements in reports on Form 10-Q and, to the extent it did not and three month Form 10-Q reports were interspersed with twelve month Form 10-Q reports, it would confuse rather than inform investors. These commentators suggested that the Rule be modified to allow the filing of Exchange Act reports for the twelve month period specified in Section 11(a) to meet the requirements of paragraph (a), regardless of whether statements of income in reports on Form 10-Q contain three or twelve month information.

In view of these comments, the Commission has determined to allow statements of income in one or any combination of Exchange Act reports to satisfy the requirements of paragraph (a) of the Rule, provided that certain conditions are met. Thus, an "earning statement" shall be sufficient for purposes of the last paragraph of Section 11(a) if the information specified in the last paragraph of Section 11(a): (1) Is contained in one report or any

combination of reports on Form 10–K [17 CFR 249.310], Form 10–Q, Form 8–K [17 CFR 249.308] or in the annual report to security holders pursuant to Rule 14a–3; and (2) meets the requirements of Item 8 of Form 10–K, Part I, Item 1 of Form 10–Q or Rule 14a–3(b) under the Exchange Act.

Permitting one or any combination of Exchange Act reports containing the required information for statements of income to satisfy the "earning statement" requirement of paragraph (a) means that the information in the "earning statement" may be contained in multiple documents.[4] The Commission believes that this change satisfies the purposes underlying Section 11(a). Under the Integrated Disclosure System, the information contained in Exchange Act reports is available to the public, regardless of the number of disclosure documents in which it is contained. Thus, twelve month financial information for an issuer is generally available even though it may be contained in several documents.

The Commission also is expanding paragraph (a) to allow statements of income in the annual report to security holders to satisfy the requirements of that paragraph. Because the requirements for statements of income pursuant to Rule 14a–3(b) are uniform with those for Form 10–K,[5] the Commission believes that it is appropriate to allow statements of income prepared in accordance with Rule 14a–3(b) to satisfy the requirements of paragraph (a).

It also was suggested that the Commission amend paragraph (a) to provide that an earning statement of a parent guarantor satisfies the earning statement requirement of both the parent guarantor and the subsidiary where the subsidiary issues debt securities guaranteed by the parent. Because this change would be consistent with the staff's administrative practice under the Securities Act in connection with the disclosure required in registration statements, the Commission has determined to modify paragraph (a) to permit a subsidiary issuing debt securities gauranteed by its parent to meet the requirement of that paragraph if the parent's income statements satisfy the criteria of paragraph (a) and information respecting the subsidiary is included to the same extent as was presented in the registration statement.[6]

There were a number of suggestions as to how paragraph (a) could be clarified. For example, some commentators expressed concern that, because of the reference to Item 8 of Form 10–K, paragraph (a) may be construed to require audited financial information for earning statements and requested that this be clarified. While the Commission does not believe that it is necessary to amend the rule in this regard, it notes that financial information in earning statements under paragraph (a) need not be audited.[7] Because current practice does not mandate audited earning statements, requiring an audit for earning statements under Rule 158 would impose an undue burden on registrants.

Finally, a number of commentators suggested that a nonexclusivity provision be added to paragraph (a). Because this change would be consistent with paragraph (b) of the Rule, the Commission is amending paragraph (a) to provide that an "earning statement" not meeting the requirements of that paragraph may otherwise be sufficient for purposes of Section 11(a).

B. General Availability

Paragraph (b) of Rule 158 is adopted substantially as proposed. The Commission has determined not to modify pargraph (b) to include non-reporting registrants in the Rule or to impose additional requirements on registrants not qualified to use Forms S–2 or S–3. The Commission has added the annual report to security holders, which is supplied to the Commission pursuant to Rule 14a–3(c), to the means specified for meeting the general availability requirement of that paragraph and has added provisions applicable to foreign private issuers (described separately below).

In the Proposing Release, the Commission requested specific comment as to whether paragraph (b) should be broadened to include registrants not subject to Sections 13 or 15(d) of the Exchange Act. Commentators opposing the inclusion of non-reporting registrants indicated that the voluntary filing of Exchange Act reports by non-reporting registrants would be an unexpected occurrence and, thus, would not make the earning statement "generally available." On the other hand, commentators favoring the inclusion of non-reporting registrants asserted that most are foreign issuers and that information comparable to that filed by reporting registrants is available and is readily assimilated into the market place.

The Commission has determined not to include non-reporting registrants in the Rule. Because only reporting registrants are required to file periodic reports under the Exchange Act, the Commission believes that the voluntary filing of Exchange Act reports by non-reporting registrants would not make the earning statement "generally available" within the meaning of the Rule. In addition, the Commission believes that the number of registrants that have made public offerings within a preceding twelve month period, but no longer have a reporting obligation under Section 15(d) of the Exchange Act,[8] is small. Because the Rule is non-exclusive, these registrants can meet the general availability requirement of the last paragraph of Section 11(a) in ways other than those specified in the Rule. If the number of such registrants becomes larger, however, the Commission will reconsider whether non-reporting registrants should be covered by the Rule.

In the Proposing Release, the Commission also requested specific comment as to whether the filing of Exchange Act reports should be sufficient to establish general availability in the case of registrants not qualified to use Forms S–2 or S–3 or whether additional requirements should be imposed on such registrants. Most of the commentators addressing this point believed that additional requirements should not be imposed on S–1

[4] For example, such information may be contained in three Form 10–Q's and one Form 10–K. Alternatively, such information may be contained in two Form 10–Q's, one Form 10–K and one Form 8–K, or in any other combination of Exchange Act reports, or the annual report to security holders, that covers the twelve month period specified in the last paragraph of Section 11(a).

[5] *See* Release No. 33–6234 (September 2, 1980) [45 FR 63682].

[6] Pursuant to Staff Accounting Bulletin No. 53 (June 13, 1983) [48 FR 28230], subsidiaries issuing debt securities guaranteed by a parent are subject to differing levels of disclosure in their registration statements. Were the subsidiary is wholly owned, has no independent operations and the guarantee is full and unconditional, separate financial statements for the subsidiary are not required. Where the guarantee is full and unconditional and where the subsidiary is wholly owned, but has more than minimal independent operations, summary financial information for the subsidiary must be provided. Where the subsidiary is not wholly owned or where the guarantee is not full and unconditional, all financial information for the subsidiary specified by the applicable registration form is required.

[7] However, both Form 10–K and Rule 14a–3(b) require that financial statements in annual reports be audited. Thus, when a registrant uses its Form 10–K or annual report to security holders to meet the general availability requirement of paragraph (b), the income statement contained therein necessarily will be audited.

[8] Under Section 15(d) a registrants's obligation to file periodic reports under Section 13(a) of the Exchange Act is automatically suspended if, at the beginning of the fiscal year following the effective date of the registration statement, the securities of the class to which the registration statement relates are held of record by less than three hundred persons.

registrants, indicating that Exchange Act reports are readily available for reporting companies and are not affected by the nature of the reporting company. Because S–1 registrants file the same Exchange Act reports as registrants qualified to use Forms S–2 or S–3 and since these reports are in the Commission's disclosure system and readily available to the investing public, the Commission does not believe it is necessary to impose additional requirements on registrants not qualified to use Forms S–2 or S–3.

It also was suggested that paragraph (b) be modified to allow the annual report to security holders pursuant to Rule 14a–3 to meet the general availability requirement of that paragraph. The Commission believes that this change is appropriate for several reasons. First, the Integrated Disclosure System is premised on the concept of equivalency of information and, accordingly, the annual report to security holders contains the same minimum disclosure package, including statements of income, which is required to be included in the Form 10–K.[9] Second, copies of the annual report to security holders, while not deemed to be filed with the Commission, are required to be supplied to the Commission [10] and thus are in the Commission's disclosure system and readily available to the investing public. And, of course, by definition, such reports are disseminated to the registrant's security holders.

Accordingly, the Commission has determined to amend paragraph (b) to permit the annual report to security holders to satisfy the general availability requirement of that paragraph. Copies of the annual report to security holders will be deemed to meet the general availability requirement of paragraph (b) at the time the copies are sent to the Commission pursuant to the requirements of Rule 14a–3(c).

While some commentators believed that the Commission should set forth additional ways in which an earning statement can be made "generally available," [11] the Commission does not believe such action is appropriate. Tying the general availability requirement to the Exchange Act reporting system provides certainty and avoids the problems inherent in setting standards for alternatives. Moreover, approving additional ways in which an earning statement can be made "generally available" is unnecessary because the Rule is nonexclusive.

C. Effective Date

Paragraph (c) of Rule 158 is adopted substantially as proposed. It provides that for purposes of the last paragraph of Section 11(a) the "effective date of the registration statement" is deemed to be the latest to occur of three dates. These dates are: (1) The effective date of the initial registration statement; (2) the effective date of a post-effective amendment, which next precedes a particular sale of securities by the registrant, that is filed for the purposes enumerated in Item 512(a) of Regulation S–K; [12] and (3) the filing date of an Exchange Act report incorporated by reference into a registration statement, subsequent to its effective date and next preceding a particular sale of securities by the registrant, if such report takes the place of an otherwise required post-effective amendment. The Commission has relocated the phrase "next preceding a particular sale by the registrant of registered securities to the public" in paragraph (c)(2) in order to make clear that the phrase applies to each of subclauses (i), (ii) and (iii).

D. Foreign Private Issuers

In the Proposing Release, the Commission indicated its intention to adopt comparable provisions, either in Rule 158 or in a separate rule, for foreign private issuers that file annual reports on Form 20–F [17 CFR 249.220f] and requested specific comment as to: (1) The extent to which earning statements on Form 6–K [17 CFR 249.306] reports should come within the definition of the term "earning statement" for purposes of the last paragraph of Section 11(a) and (2) which reports should be deemed to have been made generally available to security holders for such purposes.

A number of commentators suggested that foreign private issuers filing periodic reports on Forms 20–F and 6–K should come within the purview of the Rule. They asserted that the rationale of relying on the Exchange Act reporting system in order to make the earning statement generally available applies equally to foreign private issuers.

In view of these comments, and the establishment of the Integrated Disclosure System for foreign private issuers which is comparable to the Integrated Disclosure System for domestic registrants,[13] the Commission has determined to include foreign private issuers in Rule 158. Thus, under paragraph (a) of the Rule, an "earning statement" of a foreign private issuer eligible to use Form 20–F shall be sufficient for purposes of the last paragraph of Section 11(a) if the information specified in the last paragraph of Section 11(a): (1) Is contained in one or any combination of reports on Form 20–F or Form 6–K; and (2) meets the requirements of Item 17 of Form 20–F. Similarly, under paragraph (b) of the Rule, foreign private issuers may use Form 20–F and Form 6–K to meet the general availability requirement of that paragraph.

III. Statutory Authority

Rule 158 is being adopted pursuant to Sections 6, 7, 10 and 19(a) of the Securities Act of 1933.

IV. Effective Date

In view of the clarifying nature of Rule 158, the absence of costs or burdens imposed on registrants by the Rule and the interest expressed in making the Rule effective immediately, the Commission has determined to make Rule 158 effective upon publication in the **Federal Register.**

List of Subjects in 17 CFR Part 230

Reporting requirements, Securities.

V. Text of Proposal

In accordance with the foregoing, Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

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[9] Release No. 33–6231 (September 2, 1980) [45 FR 63630].

[10] Rule 14a–3(c) under the Exchange Act requires that seven copies of the annual report sent to security holders be mailed to the Commission, solely for its information, not later than the date on which such report is first sent or given to security holders or the date on which preliminary copies of solicitation material are filed with the Commission pursuant to Rule 14a–6(a) [17 CFR 240.14a–6(a)], whichever date is later. The report is not deemed to be "filed" with the Commission or subject to the liabilities of Section 18 of the Exchange Act.

[11] For example, some commentators suggested that publishing an earning statement in a financial journal or sending informal quarterly reports to security holders should be deemed to be acceptable ways of making an earning statement "generally available" within the meaning of paragraph (b) of Rule 158.

[12] Item 512(a) of Regulation S–K (17 CFR 229.512) sets forth undertakings which must be included in a registration statement if securities are registered pursuant to Rule 415 [17 CFR 230–415]. These undertakings require the filing of a post-effective amendment: (a) To include any prospectus required by Section 10(a)(3) of the Securities Act; (b) to reflect any facts or events arising after the effective date which, individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement; or (c) to include any new material information, or any materially changed information, with respect to the plan of distribution.

[13] See Release No. 33–6437 (November 19, 1982) [47 FR 54764].

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

By adding § 230.158 to read as follows:

§ 230.158 Definitions of certain terms in the last paragraph of section 11(a).

(a) An "earning statement" made generally available to security holders of the registrant pursuant to the last paragraph of section 11(a) of the Act shall be sufficient for the purposes of such paragraph if (1) there is included the information required for statements of income contained either (i) in Item 8 of Form 10–K (§ 249.310 of this chapter, Part I, Item 1 of Form 10–Q (§ 249.308a of this chapter), or Rule 14a–3(b) (Section 240.14a–3(b) of this chapter) under the Securities Exchange Act of 1934, or (ii) in Item 17 of Form 20–F (§ 249.220f of this chapter), if appropriate; and (2) the information specified in the last paragraph of section 11(a) is contained in one report or any combination of reports either (i) on Form 10–K, Form 10–Q, Form 8–K (§ 249.308 of this chapter), or in the annual report to security holders pursuant to Rule 14a–3 under the Securities Exchange Act of 1934, or (ii) on Form 20–F or Form 6–K (§ 249.306 of this chapter). A subsidiary issuing debt securities guaranteed by its parent will be deemed to have met the requirements of this paragraph if the parent's income statements satisfy the criteria of this paragraph and information respecting the subsidiary is included to the same extent as was presented in the registration statement. An "earning statement" not meeting the requirements of this paragraph may otherwise be sufficient for purposes of the last paragraph of section 11(a).

(b) For purposes of the last paragraph of section 11(a) only, the "earning statement" contemplated by paragraph (a) of this Rule shall be deemed to be "made generally available to its security holders" if the registrant (1) is required to file reports pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 and (2) has filed its report or reports on Form 10–K, Form 10–Q, Form 8–K, Form 20–F, or Form 6–K, or has supplied to the Commission copies of the annual report sent to security holders pursuant to Rule 14a–3(c), containing such information. A registrant may use other methods to make an earning statement "generally available to its security holders" for purposes of the last paragraph of section 11(a).

(c) For purposes of the last paragraph of section 11(a) only, the "effective date of the registration statement" is deemed to be the date of the latest to occur of (1) the effective date of the registration statement; (2) the effective date of the last post-effective amendment to the registration statement, next preceding a particular sale by the registrant of registered securities to the public filed for purposes of (i) including any prospectus required by section 10(a)(3) of the Act, (ii) reflecting in the prospectus any facts or events arising after the effective date of the registration statement (or the most recent post-effective amendment thereof) which , individually or in the aggregate, represent a fundamental change in the information set forth in the registration statement, or (iii) including any material information with respect to the plan or distribution not previously disclosed in this registration statement or any material change to such information in the registration statement, or (3) the date of filing of the last report of the registrant incorporated by reference into the prospectus, and relied upon in lieu of filing a post-effective amendment for purposes of paragraphs (c)(2) (i) and (ii) of this rule, next preceding a particular sale by the registrant of registered securities to the public.

(Secs. 6, 7, 10, 19(a), 48 Stat. 78, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 8, 68 Stat. 685; sec. 308(a)(2), 90 Stat. 57; 15 U.S.C. 77f, 77g, 77j, 77s(a))

By the Commission.

George A. Fitzsimmons,

Secretary.

September 23, 1983.

[FR Doc. 83–26795 Filed 9–29–83; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Parts 230 and 239

[Release No. 33–6488]

Securities; Reporting and Recordkeeping Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission announces the adoption of an amendment to Rule 144 [17 CFR 230.144] under the Securities Act of 1933 to remove the requirement that current information be available publicly for the resales of securities held for three years or more by non-affiliates of the issuer. In light of the amendment to Rule 144, the Commission also is rescinding Rule 237 [17 CFR 230.237], an exemption for the resale of certain securities held for five years, and Form 237 [17 CFR 239.145], a notice of sales pursuant to Rule 237.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Prior to the effective date, H. Steven Holtzman or Mary M. Jackley, at (202) 272–2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. After the effective date, contact Ann Glickman, (202) 272–2573, Office of the Chief Counsel, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Discussion

Rule 144 [17 CFR 230.144] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.* (1976 and Supp IV 1980)] (the "Securities Act") sets forth a "safe harbor" under Section 4(1) [1] of the Securities Act for the resale of restricted securities and securities held by affiliates. On July 8, 1983, the Commission published for comment a proposal to remove the requirement in Rule 144 that current information be publicly available with respect to an issuer of restricted securities prior to resale by a non-affiliate after a three-year holding period.[2] In addition, the Commission proposed to rescind Rule 237 [17 CFR 230.237], an exemption for the sale of certain securities held for five years, and Form 237 [17 CFR 239.145], a notice of sales pursuant to Rule 237, since the substance of those provisions would be subsumed by the proposed revision to Rule 144. The proposed amendment to Rule 144 was responsive to a recommendation of the first SEC Government-Business Forum on Small Business Capital Formation (the "Forum") which found that the affected provisions of Rule 144 may deter investment in small business.[3]

Sixteen letters were received in response to the Commission's request for comment. The letters unanimously supported the Commission's intent to facilitate resales by non-affiliates of restricted securities where currrent information is not publicly available regarding the issuer of such securities. Based on the comment received, and its own experience, the Commission has determined to adopt the proposal exactly as published for comment. Reference is made to the Proposing Release for a discussion of the

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[1] Section 4(1) exempts sales of securities "by any person other than an issuer, underwriter or dealer" [15 U.S.C. 77(d)(1)].

[2] Release No. 6472 (July 8, 1983) [48 FR 32357] ("Proposing Release").

[3] *See* SEC Government-Business Forum on Small Business Capital Formation, *Final Report* at 53 (November 1982).

background and operation of the amendment.[4]

II. Availability of Final Regulatory Flexibility Analysis Regarding 144

In accordance with 5 U.S.C. 604, the Commission has prepared a final Regulatory Flexibility Act Analysis with regard to the amendment adopted to Rule 144. A summary of the corresponding Initial Regulatory Flexibility Act Analysis was included in the release proposing the amendment at 48 FR 32357. One commenter mentioned the Initial Regulatory Flexibility Act Analysis noting that the Commission did not consider alternatives to the proposal since its intent was to implement the recommendation made by the Forum participants. Members of the public who wish to obtain copies of the Final Regulatory Flexibility Act Analysis should contact H. Steven Holtzman or Mary M. Jackley in the manner specified above.

III. Statutory Authority

The amendment to Rule 144 and rescission of Rule 237 and Form 237 are adopted by the Commission pursuant to Sections 2(11), 4(1), 4(4) and 19(a) of the Securities Act.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 88, 85; secs. 201, 203, 209, 210, 218 Stat. 904, 906, 908; secs. 14, 5, 68 Stat. 683, 684; sec. 12, 78 Stat 580; (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)))

List of Subjects in 17 CFR Parts 230 and 239

Reporting and recordkeeping requirements, Securities.

Text of Forms and Regulations

Pursuant to Section 19(a), in Chapter II, Title 17 of the Code of Federal Regulations is hereby amended as follows.

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising paragraph (k) of § 230.144 as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(k) *Termination of certain restrictions on sales of restricted securities by persons other than affiliates.* The requirements of paragraphs (c), (e), (f) and (h) of this rule shall not apply to restricted securities sold for the account of a person who is not an affiliate of the issuer at the time of the sale and has not been an affiliate during the proceeding three months, provided the securities have been beneficially owned by such person for a period of at least three years prior to their sale. In computing the period for which securities have been beneficially owned for purposes of this provision, reference should be made to paragraph (d) of this section.

§ 230.237 [Removed]

2. By removing § 230.237.

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

§ 239.145 [Removed]

3. By removing § 239.145.

By the Commission.
September 23, 1983.

George A. Fitzsimmons,
Secretary.

[FR Doc. 83-26812 Filed 9-29-83; 8:45 am]
BILLING CODE 8010-01-M

[4] In a companion release, the Commission has proposed a similar substantive amendment to the restrictions on resales of securities acquired by certain persons in transactions subject to Rule 145 [17 CFR 230.145]. *See* Release No. 33-6487 (September 23 1983).

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 12 and 127

[T.D. 83-158]

Special Classes of Merchandise; Chemical Imports and Articles Containing Hazardous Chemicals; Delay of Effective Date of Regulations

AGENCY: Customs Service, Treasury.

ACTION: Notice of delay of effective date.

SUMMARY: In FR Doc. 83-20835 appearing as T.D. 83-158 on page 34734 in the issue of Monday, August 1, 1983, the Customs Regulations were amended to implement the Toxic Substances Control Act (TSCA). The effective date of these amendments, which relate to the importation of chemical substances into the customs territory of the United States, was stated to be October 1, 1983. Because importers of chemical substances anticipate difficulty in determining compliance requirements by that date, a request has been received to delay the effective date of the amendments. This extension will allow the Environmental Protection Agency sufficient time to issue a policy statement informing importers of TSCA rules. Customs and EPA believe that a delay of the effective date is warranted. Accordingly, this notice delays the effective date of the amendments until January 1, 1984.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry Examination and Liquidation Branch, Duty Assessment Division, Office of Trade Operations, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229; 202-566-8651, or Jack McCarthy, Director, TSCA Assistance Office (TS-799), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Room E-511B, 401 M Street, SW., Washington, D.C. 20460, 800-424-9065 (Toll Free), calls within the District of Columbia 554-1404, outside the United States; Operator-202-554-1404.

Dated: September 23, 1983.

John P. Simpson,
Acting Assistant Commissioner, (Commercial Operations).

[FR Doc. 83-26770 Filed 9-29-83; 8:45 am]
BILLING CODE 4820-02-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

Federal Old-Age, Survivors and Disability Insurance; Coverage of Employees of State and Local Governments; Payments by Third Party on Account of Sickness or Accident Disability

AGENCY: Social Security Administration, HHS.

ACTION: Final rule with comment period.

SUMMARY: The Social Security Administration (SSA) is amending its regulations on Social Security coverage of employees of State and local governments. The amendment provides that a payment on account of sickness or accident disability covered as wages but paid by a third party, such as an insurance company or a union-administered health and welfare trust, will be considered to have been paid on the date the governmental employer receives notice of the payment from the third party. The States, which have the fiscal responsibility under voluntary agreements with the Secretary of Health and Human Services, currently are required to pay Social Security contributions (equivalent to the Social Security taxes imposed in the private sector of employment) on wages paid to State and local government employees to SSA within 30 days after the end of the calendar month in which wages are

paid for covered services. (Sec. 342 of Pub. L. 98–21, the Social Security Amendments of 1983, effective for calendar months beginning after December 1983, requires States to deposit Social Security contributions twice a month.) If the contributions are not paid timely, SSA assesses interest on the late contributions. This amendment will relieve States from paying interest when payment of contributions is delayed only because the third party that made the payment on account of sickness or accident disability did not promptly inform the employer of that payment.

DATES: These amended regulations are effective beginning September 30, 1983, but they apply to payments on account of sickness or accident disability paid after 1981. We will consider any comments we receive by November 29, 1983. We will revise and republish these regulations if public comments warrant.

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, Md. 21235, (301) 594–7519.

SUPPLEMENTARY INFORMATION: Before enactment of Pub. L. 97–123 on December 29, 1981, a payment on account of sickness or accident disability paid to or on behalf of an employee was not treated as wages for Social Security purposes if it either was paid under the employer's qualified plan or system or was paid after the employee had not worked for the employer for more than 6 calendar months. Also, before the change in the law, payments on account of sickness or accident disability made by third parties were generally not wages for Social Security purposes. Sec. 3 of Pub. L. 97–123 amended sec. 209(b)(2) of the Social Security Act (the Act) and sec. 3121(a)(2)(B) of the Internal Revenue Code of 1954 (IRC) to treat most payments on account of sickness or accident disability, including payments by third parties, as wages, if paid during the first 6 calendar months after the last month the employee worked. The change applies to payments made after 1981.

The amendments to the IRC apply to payments to employees of employers other than State or local employers. Those amendments impose certain obligations on third parties making payments on account of sickness or accident disability to assure prompt payment of Social Security tax on the sick pay. The third party must (1) withhold the employee's share of the tax from the payments, (2) pay it to the Internal Revenue Service (IRS), and (3) notify the employer of the amount of the payments made to the employee. Further, Pub. L. 97–123 regarding payments on account of sickness or accident disability in private employment gives the third party an incentive to do these things promptly. If the third party does not, then the third party is treated as the employer and must pay the employer's share of the Social Security tax on the payments to the employee as well as withhold the employee's share. The legislation did not impose similar obligations on third parties making these payments to employees of State and local governments.

The IRS issued regulations implementing this legislation (47 FR 29224 and 48 FR 793). Those regulations, as pertinent, require an employer or third party making a payment on account of sickness or accident disability on or after January 1, 1982, to withhold, deposit, and pay the applicable Social Security taxes based on the amount of the payment and provide a receipt of the amount of any such payment to the employee pursuant to section 6051 of the IRC. The regulations allow third parties to transfer to the employer liability for paying the employer portion of the tax and responsibility for providing a receipt to the employee if they promptly (1) withhold the employee share of the tax, (2) deposit such portion pursuant to section 6302 of the IRC, and (3) notify the employer for whom services are normally rendered of the amount of the payment. For purposes of the employer's paying the employer portion of the tax, payment to the employee will be deemed to have been made on the date that the employer receives notice of such payment from the third party.

Before the IRS regulations were issued, most employers were excused by sec. 3(f) of Pub. L. 97–123 from penalties or interest for late payment of Social Security taxes on payments on account of sickness or accident disability paid before July 1982 to the extent that the lateness "is due to reasonable cause and not to willful neglect." This grace period recognized the fact that the legislation took effect only 2 days after enactment. With regard to penalties only, IRS administratively extended the grace period through September 1982 (IRS News Release 82–85, July 2, 1982).

The services of employees of State and local governments are covered for title II purposes under the Act under agreements between the States and the Secretary of Health and Human Services pursuant to sec. 218 of the Act. Those employers are not protected against the consequences of late notice from third parties of these payments to the governmental employees. The States currently are required by sec. 218(e)(1)(A) of the Act to pay the Social Security contributions equivalent to the combined employer and employee tax imposed on other employers on wages paid for covered employment—including payments made by third parties on account of sickness or accident disability—within 30 days after the end of each calendar month in which wages are paid for covered services. (Sec. 342 of Pub. L. 98–21, the Social Security Amendments of 1983, effective for calendar months beginning after December 1983, requires States to deposit Social Security contributions twice a month). This is true whether or not the third party cooperates with the governmental employer by withholding what would be considered the employee's share of the contributions on the payments and promptly sending them to the employer and notifying the employer of the amount of the payments to the employee. If the contributions are paid late, sec. 218(j) of the Act requires that interest be charged.

Thus States, under existing law and regulations, would be required to pay interest on contributions that are paid late only because the third party did not promptly take the necessary action regarding informing the employer of the payment to the employee on account of sickness or accident disability. The State or local employer may be unable to compel the third party to act promptly because, for example, contracts with the third parties existing when the coverage of these payments took effect contained no provision to require the third party to withhold and deposit contributions and send notice of the payment on account of sickness or accident disability to the employer. Even where the third party cooperates, the employer often receives notice of the payment to the employee after the due date for the State's payment of contributions to SSA.

SSA believes the States should, to the extent practicable, have the same protection as other employers against having to pay interest for late payment of Social Security contributions that were late only because the third party did not promptly take the necessary action. Moreover, sec. 218(i) of the Act requires that the regulations regarding State and local employment impose the same requirements on the States, so far as practicable, as those imposed on other employers.

SSA administratively granted States a grace period as section 3(f) of Pub. L. 97-123 did for other employers. For permanent relief, these regulations provide, in the case of State and local employment, as the IRS regulations do in the case of employment for other employers, that payments on account of sickness or accident disability covered as wages for Social Security purposes but paid by a third party will be considered, for purposes of the due dates for payment of Social Security contributions, to have been paid to the employee on the date the employer receives notice of the amount of the payments. The regulations apply to payments made after 1981, corresponding with the effective date of the statutory provision and of the IRS regulations. (In anticipation of these regulations, SSA has deferred assessing States for interest on late contributions due on payments on account of sickness or accident disability made by a third party.)

Regulatory Procedures

We find that good cause exists, in accordance with sec. 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), for publishing these regulations as a final rule without prior Notice of Proposed Rulemaking and opportunity for public comment. These rules do not affect the general public or involve complex or controversial public policy questions. Prior notice and comment would be impracticable because the resulting delay would subject States to harsher rules than apply to other employers. Delay in publishing these rules would be contrary to the timely fulfillment of the Secretary's duty under section 218(i) of the Act to make the rules for States the same, so far as practicable, as they are for other employers.

Executive Order No. 12291—These regulations have been reviewed under Executive Order 12291 and do not meet any of the criteria for a major regulation. 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. We estimate the potential amount of interest involved at less than $500,000 a year. 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. They affect only State and, indirectly, local governments. Some of the latter are small entities; however, the impact on them will not be significant. 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.

(Catalog of Federal Domestic Assistance Program Nos. 13.800 Medicare—Hospital Insurance; 13.802-13.805 Social Security)

List of Subjects in 20 CFR Part 404

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

Dated: July 12, 1983.

John A. Svahn,

Commissioner of Social Security.

Approved: September 14, 1983.

Margaret M. Heckler,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Subpart M of Part 404 of 20 CFR is amended to read as follows:

1. The authority citation for Subpart M reads as follows:

Authority: Secs. 205, 218, and 1102 of the Social Security Act, 53 Stat. 1368, 64 Stat. 514, 49 Stat. 647; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 405, 418, and 1302.

2. Section 404.1255a is amended by inserting "(1) *General.*" after the heading of paragraph (a) and by adding at the end of paragraph (a) a new paragraph (a)(2) to read as follows:

§ 404.1255a Place and time for filing contribution returns, wage reports, and making deposits of contributions for months on or after January 1, 1981.

(a) *Deposits.* (1) *General.* * * *

(2) *Payments by third party on account of sickness or accident disability.* Where a third party makes a payment to an employee on account of sickness or accident disability which constitutes wages for services covered under a State agreement, the wages will be considered, for purposes of the deposits required under this section, to have been paid to the employee on the date on which the employer receives notice from the third party of the amount of the payment. No interest will be assessed for failure to make timely deposits of contributions due on such wages for which deposits were made after December 31, 1981, and before July 1, 1982, to the extent that the failure to make the deposits timely is due to reasonable cause and not to willful neglect.

* * * * *

[FR Doc. 83-26751 Filed 9-29-83; 8:45 am]
BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Red No. 33; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Red No. 33 for use as a color additive in drugs and cosmetics. The new closing date will be November 29, 1983. This brief postponement will provide additional time for the agency to complete its review and to consider the scientific and legal aspects of the results of the toxicological studies submitted by several petitioners. Additionally, during this brief postponement, the agency will prepare the appropriate **Federal Register** document(s) upon completion of its review.

DATES: Effective September 30, 1983, the new closing date for D&C Red No. 33 will be November 29, 1983.

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

SUPPLEMENTARY INFORMATION: FDA established the current closing date of September 30, 1983, by a final rule published in the **Federal Register** of July 29, 1983 (48 FR 34467). The agency extended the closing date to provide time for the agency to complete its review and to consider the scientific and legal aspects of the results of the toxicological studies submitted by several petitioners. FDA had previously extended the closing date for D&C Red No. 33 in the **Federal Register** of May 31, 1983 (48 FR 24059) and of April 1, 1983 (48 FR 13975). The regulation set forth below will postpone the September 30, 1983 closing date for the provisional

listing of the color additive until November 29, 1983.

As noted in the **Federal Register** of November 20, 1968 (33 FR 17205) and the **Federal Register** of August 6, 1973 (38 FR 21200), D&C Red No. 33 is the subject of a petition (CAP 8C0066) submitted by the Toilet Foods Association, Inc. (now the Cosmetic, Toiletry and Fragrance Association, Inc.), the Pharmaceutical Manufacturers Association, and the Certified Color Industry Committee (now the Certified Color Manufacturers Association, Inc.) and of a petition (CAP 7C0059) submitted by the Procter & Gamble Co. The petitions requested that D&C Red No. 33 be permanently listed for use in ingested drugs, all types of cosmetics subject to ingestion, including lipsticks, externally applied drugs and cosmetics, and for use in the area of the eye.

The review and evaluation of the data on the use of D&C Red No. 33 have required more time than anticipated. FDA concludes that a brief postponement will provide time for the agency to complete its review and to prepare the appropriate **Federal Register** document(s). Therefore, FDA concludes that the brief extension of the closing date to November 29, 1983, is necessary. The agency has also concluded that no harm to the public health will result from this extension.

Because of the short time until the September 30, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable, and that good cause exists for issuing this postponement as a final rule. This regulation will permit the uninterrupted use of this color additive until November 29, 1983. To prevent any interruption in the provisional listing of D&C Red No. 33, and in accordance with 5 U.S.C 553(d)(1) and (3), this postponement is issued as a final regulation effective on September 30, 1983

List of Subjects in 21 CFR Part 81

Color additives; Color additives provisional list Cosmetics, Drugs.

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

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

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives* by revising the closing date for "D&C Red No. 33" in paragraph (b) to read "November 29, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing* by revising the closing date for "D&C Red No. 33" in paragraphs (d) and (e) to read "November 29, 1983."

Effective date. This final rule shall be effective September 30, 1983.

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

Dated: September 12, 1983.

William F. Randolph

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26491 Filed 9-29-83; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Part 81

[Docket No. 76N-0366]

Provisional Listing of D&C Orange No. 17 for Use in Externally Applied Drugs and Cosmetics; Postponement of Closing Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of D&C Orange No. 17 for use as a color additive in externally applied drugs and cosmetics. The new closing date will be November 29, 1983. This brief postponement will provide time for the agency to determine the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17.

DATES: Effective September 30, 1983, the new closing date for D&C Orange No. 17 will be November 29, 1983.

FOR FURTHER INFORMATION CONTACT: Julia L. Ho, Bureau of Foods (HFF–334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–472–5690.

SUPPLEMENTARY INFORMATION: FDA established the current closing date of September 30, 1983, for the provisional listing of the use of D&C Orange No. 17 in externally applied drugs and cosmetics by a final rule published in the **Federal Register** of July 29, 1983 (48 FR 34468). The agency extended the closing date to provide time for the agency to determine the applicability of the statutory standard for the listing of noningested color additives to the results of the scientific investigations of D&C Orange No. 17. Previously in the **Federal Register** of May 31, 1983 (48 FR 24060), FDA had published a rule establishing the July 29, 1983 closing date for the provisional listing of the use of D&C Orange No. 17 in externally applied drugs and cosmetics to provide time for the agency to review the statutory standard, and in the **Federal Register** of April 1, 1983 (48 FR 13975), FDA had published a rule establishing the May 31, 1983 closing date for the provisional listing of D&C Orange No. 17 to provide time for the uninterrupted use of this color additive in externally applied drugs and cosmetics while FDA considered the scientific and legal aspects of a skin penetration study submitted by the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA). In the **Federal Register** of April 1, 1983 (48 FR 13976), FDA announced that the provisional listing of D&C Orange No. 17 for coloring ingested drugs and cosmetics had expired. In that issue of the **Federal Register** (48 FR 14045), FDA also published a notice denying those portions of the color additive petition for D&C Orange No. 17 that requested permanent listing of the color additive for use in drugs and cosmetics intended for ingestion and in cosmetics intended for use in the area of the eye.

As noted in the **Federal Register** of August 6, 1973 (38 FR 21199), D&C Orange No. 17 is the subject of a petition (CAP 9C0090) submitted by the Toilet Goods Association, Inc. (now CTFA), for use in coloring drugs and cosmetics. The agency has concluded that D&C Orange No. 17 is an animal carcinogen when administered in the diet, based on the increased incidence of hepatocellular neoplasms in two mammalian species (48 FR 13977 and 14046–7). Therefore, FDA has denied that portion of the petition for this color additive that relates to ingested uses. However, under 21 U.S.C. 376(b)(5)(B)(ii), the agency must determine whether the ingestion studies that show D&C Orange No. 17 to be a carcinogen are appropriate for the evaluation of the safety of the external uses of this color additive. To assist the agency in making this determination, the petitioner has submitted a skin penetration study on D&C Orange No. 17.

The evaluation of the data involved has taken FDA more time than the

agency expected, FDA concludes that the brief postponement will provide time for the agency to prepare and publish a **Federal Register** document setting forth its final decision on the petition for the permanent listing of this color additive. Thus, FDA finds that a brief extension of the closing date to November 29, 1983, is necessary. The agency has also concluded that no harm to the public health will result from this extension.

Because of the short time until the September 30, 1983 closing date, FDA concludes that notice and public procedure on this regulation are impracticable. This regulation will permit the uninterrupted use of this color additive until November 29, 1983. To prevent any interruption in the provisional listing of D&C Orange No. 17 and in accordance with 5 U.S.C. 553(d)(1) and (3), this final rule is being made effective September 30, 1983.

List of Subjects in 21 CFR Part 81

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

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

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

§ 81.1 [Amended]

1. In § 81.1 *Provisional lists of color additives by* revising the closing date for "D&C Orange No. 17" in paragraph (b) to read "November 29, 1983."

§ 81.27 [Amended]

2. In § 81.27 *Conditions of provisional listing* by revising the closing date for "D&C Orange No. 17" in paragraph (d) to read "November 29, 1983."

Effective date. This final rule shall be effective September 30, 1983.

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

Dated: September 12, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26402 Filed 9-29-83; 8:45 am]

BILLING CODE 4160-01-M

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21 CFR Part 444

[Docket No. 83N-0303]

Antibiotic Drugs; Gentamicin Sulfate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the antibiotic drug regulations to provide for the inclusion of accepted standards for two new strengths of gentamicin sulfate injection. The manufacturer has supplied sufficient data and information to establish their safety and efficacy.

DATES: Effective September 30, 1983; comments, notice of participation, and request for hearing by October 31, 1983; data, information, and analyses to justify a hearing by November 29, 1983.

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

FOR FURTHER INFORMATION CONTACT: 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: FDA has evaluated data submitted in accordance with regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, with respect to requests for approval of two new strengths (0.7 and 0.9) milligram per milliliter) of gentamicin sulfate injection. The agency has concluded that the data supplied by the manufacturer concerning this antibiotic drug are adequate to establish its safety and efficacy when the drug is used as directed in the labeling and that the regulations should be amended in Part 444 (21 CFR Part 444) to provide for the inclusion of accepted standards for the product.

The agency has determined pursuant to 21 CFR 25.24(b)(22) (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 444

Antibiotics, oligosaccharide.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), § 444.220 is amended by revising the second sentence in paragraph (a)(1) to read as follows:

PART 444—OLIGOSACCHARIDE ANTIBIOTIC DRUGS

§ 444.220 Gentamicin sulfate injection.

(a) * * *

(1) * * * Each milliliter contains gentamicin sulfate equivalent to either 0.4, 0.6, 0.7, 0.8, 0.9, 1.0, 1.2, 1.6, 2.0, 2.4, 10.0, or 40 milligrams of gentamicin.* * *

* * * * * *

This regulation announces standards that FDA has accepted in a request for approval of an antibiotic drug. Because this regulation is not controversial and because when effective it provides notice of accepted standards, notice and comment procedure and delayed effective date are found to be unnecessary and not in the public interest. The amendment, therefore, is effective September 30, 1983. Interested persons may, however, on or before October 31, 1983 submit written comments to the Dockets Management Branch (address above). Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number in brackets in the heading of this document. Received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Any person who will be adversely affected by this regulation may file objections to it and request a hearing. Reasonable grounds for the hearing must be shown. Any person who decides to seek a hearing must file: (1) On or before October 31, 1983, a written notice of participation and request for hearing, and (2) on or before November 29, 1983, the data, information, and analyses on which the person relies to justify a hearing, as specified in 21 CFR 430.20. A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of

the data, information, and factual analyses in the request for hearing that no genuine and substantial issue of fact precludes the action taken by this order, or if a request for hearing is not made in the required format or with the required analyses, the Commissioner of Food and Drugs will enter summary judgment against the person(s) who request(s) the hearing, making findings and conclusions and denying a hearing. All submissions must be filed in three copies, identified with the docket number appearing in the heading of this order and filed with the Dockets Management Branch.

The procedures and requirements governing this order, a notice of participation and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and grant or denial of a hearing are contained in 21 CFR 430.20.

All submissions under this order, except for data and information prohibited from public disclosure under 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Effective date. This regulation shall be effective September 30, 1983.

(Secs. 507, 701 (f) and (g), 52 Stat. 1055–1056 as amended, 59 Stat. 463 as amended (21 U.S.C. 357, 371 (f) and (g)))

Dated: September 23, 1983.

James C. Morrison,

Assistant Director for Regulatory Affairs.

[FR Doc. 83-26087 Filed 9-29-83; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 83-2, Notice No. 3]

Contracts Procedures; Buy America Requirements; Extension of Interim Final Rule As Amended

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Extension of interim final rule.

SUMMARY: This emergency regulation extends the expiration date of the existing interim Buy America regulations from September 30, 1983, until the date a final rule becomes effective. This action is being taken in order to avoid expiration of the regulations which implement provisions mandated by section 165 of the Surface Transportation Assistance Act of 1982.

DATE: This interim final rule is effective September 30, 1983, and will expire when the final rule becomes effective.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, Chief, Construction and Maintenance Division, (202) 426–0392, or Ms. Ruth R. Johnson, Attorney, Office of the Chief Counsel, (202) 426–0781, Federal Highway Administration, 400 Seventh Street, SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On January 6, 1983, the President signed into law the Surface Transportation Assistance Act of 1982 (Pub. L. 97–424, 96 Stat. 2136) (STAA of 1982). Section 165 sets forth revised Buy America requirements which supersede the previous requirements contained in section 401 of the 1978 Surface Transportation Assistance Act. Since the former Buy America provisions, as implemented in 23 CFR 635.410, were in conflict with the provisions of the STAA of 1982, immediate revision of the regulation was required. An interim final rule implementing the STAA of 1982 was issued effective January 6, 1983 (48 FR 1946) which invited the public to submit comments until July 1, 1983. The interim final rule expires on September 30, 1983. Due to substantial public comments on the $450,000 threshold figure which triggered application of the Buy America provisions and the need for certain clarifying amendments, the interim final rule was amended effective June 10, 1983 (48 FR 23631). The public comment period was extended until August 1, 1983, but the original expiration date of September 30, 1983, was retained.

The FHWA received over 550 comments on this rulemaking. In order to be completely responsive to these comments in the development of the final rulemaking, more time is needed than the two months alloted between the closing of the public docket and the present interim rule expiration date of September 30, 1983. If the interim final rule were to expire on September 30, 1983, the implementing regulations mandated by section 165 of the STAA of 1982 would no longer be operative. For these reasons, it has been determined that circumstances warrant the issuance of an emergency regulation to extend the expiration date of the interim final rule published on January 17, 1983 (48 FR 1946) from September 30, 1983, until the date a final rule becomes effective. It is the intention of FHWA to issue a final rule as soon as the public comments have been fully analyzed and assessed and this is expected to take place shortly.

The Federal Highway Administrator has determined that since the document responds to an emergency situation, it is impracticable for the agency to provide for notice and comment on it. Therefore, good cause exists for publication as a final rule without notice and opportunity for comment and without a 30-day delay in its effective date.

The draft regulatory evaluation which was prepared for the intial rulemaking is available for inspection in the public docket. A copy may be obtained by contacting Mr. P. E. Cunningham at the address provided above under the heading "For Further Information Contact."

PART 635—[AMENDED]

In consideration of the foregoing, and under the authority of 23 U.S.C. 315, section 165, Surface Transportation Assistance Act of 1982, Pub. L. 97–424, 96 Stat. 2136, and 49 CFR 1.48(b), the FHWA hereby amends § 635.410(c) of Part 635, Subpart D of Title 23, Code of Federal Regulations, be revising the effective date of § 635.410 as published on January 17, 1983 at 48 FR 1946 to read as follows:

§ 635.410 Buy America requirements.

* * * * *

(c) Where appropriate, the effective date of application of this section is January 6, 1983 and terminates when a final rule becomes effective.

* * * * *

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulation implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR 635

Buy America, Government contracts, Grant programs—transportation, Highways and roads.

Issued on September 28, 1983.

R. A. Barnhart,

Fedeal Highway Administrator, Federal Highway Administration.

[FR Doc. 83-26856 Filed 9-29-83; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Interim final rule with request for comments.

SUMMARY: The U.S. District Court for the Eastern District of Louisiana held in *Chevron U.S.A. Inc. v. Watt* (Civ. Action No. 82-2840, May 23, 1983) that section 24(b) of the Outer Continental Shelf (OCS) Lands Act authorizes the Secretary of the Interior (Secretary) to assess civil penalties against Federal OCS oil and gas lessees for violations of the OCS Lands Act and related requirements only after the lessee has been given notice of the violation and has failed to correct it within any reasonable period allowed. The decision of the U.S. District Court effectively invalidates the regulation found at 30 CFR 250.80–2(a)(1). This interim final rule is being issued to revise § 250.80–2(a)(1) consistently with the U.S. District Court's decision.

DATES: This interim final rule becomes effective on September 30, 1983. Comments must be received or postmarked no later than November 29, 1983.

ADDRESSES: Comments should be sent to: Minerals Management Service, Room 6A110, 12203 Sunrise Valley Drive, Mail Stop 646, Reston, Virginia 22091, Attention: David A. Schuenke.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke, telephone: (703) 860–7916, (FTS) 928–7916.

SUPPLEMENTARY INFORMATION: Before today, 30 CFR 250.80–2(a)(1) (which implements section 24(b) of the OCS Lands Act) provided, in pertinent part:

> Pursuant to subsection 24(b) of the Act, any person who fails to comply with any * * * order * * *, shall be liable for a civil penalty of not more than $10,000 for each day of continuance of such failure. The Director may assess, collect, and compromise a civil penalty after notice of the failure and the passage of a reasonable period of time to allow for corrective action.

The U.S. District Court for the Eastern District of Louisiana held in *Chevron U.S.A. Inc. v. Watt* (Civ. Action No. 82–2840, May 23, 1983) that § 250.80–2(a)(1) exceeds the authority of section 24(b) of the OCS Lands Act insofar as it could be construed to mean that the Secretary is authorized to assess civil penalties against Federal OCS oil and gas lessees for violations of the OCS Lands Act and related requirements where a violation is corrected within any reasonable period allowed by the Minerals Management Service.

Accordingly, 30 CFR 250.80–2(a)(1) is being revised consistently with the court's construction of section 24(b) of the OCS Lands Act. In accordance with 5 U.S.C. 553(b)(B) of the Administrative Procedure Act, the Department of the Interior (DOI) finds good cause why advance notice and advance public comment on this interim final rule are unnecessary and contrary to the public interest. A Notice of Proposed Rulemaking is precluded by the ruling of the U.S. District Court for the Eastern District of Louisiana in *Chevron*, previously cited, which effectively invalidated 30 CFR 250.80–2(a)(1). Thus, it is necessary for the rule to be made immediately effective in order to ensure that section 24(b) of the OCS Lands Act is properly implemented. The issues associated with the rule will be fully aired since public comments will be considered after publication of the interim final rule.

The DOI has determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, an environmental impact statement is not required.

The DOI has also determined that this document is not a major rule under Executive Order 12291 because this rule will impose no costs on Federal OCS lessees and permittees or on consumers.

The DOI has certified that this rule will not have a significant effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) as the entities that engage in activities on the OCS are not considered small due to the technical complexity of such activities and the financial resources necessary to conduct them.

The information collection requirements contained in 30 CFR 250.80 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and assigned clearance number 1010–0038.

Drafting Information

This document was drafted by Neil Stoloff, Offshore Rules and Operations Division, Minerals Management Service.

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Investigations, Mineral royalties, Oil and gas reserves, Penalties, Pipelines, Public lands/mineral resources Reporting and recordkeeping requirements.

(43 U.S.C. 1331 et seq.)

Dated: August 6, 1983.

David C. Russell,

Acting Director, Minerals Management Service.

PART 250—[AMENDED]

For the reasons set forth above, 30 CFR Part 250 is amended to read as shown:

1. In § 250.0, paragraph (h) is added to read as follows:

§ 250.0 Authority for information collection.

* * * * *

(h) The information collection requirements contained in 30 CFR 250.80 have been approved by the Office of Management and Budget under 44 U.S.C. 3504(h) and assigned clearance number 1010–0038. The information is being collected and will be used to review violations for possible imposition of civil penalties when appropriate. The obligation to respond is mandatory.

2. In § 250.80–2, paragraph (a)(1) is revised to read as follows:

§ 250.80–2 Penalties.

(a)(1) Pursuant to subsection 24(b) of the Act, if any person fails to comply with any provision of the Act, or any term of a lease, license, or permit issued pursuant to the Act, or any regulation or order issued under the Act, after notice of such failure and expiration of any reasonable period allowed for corrective action, such person shall be liable for a civil penalty of not more than $10,000 for each day of the continuance of such failure. The Director may assess, collect, and compromise any such penalty. No penalty shall be assessed until the person charged with a violation has been given an opportunity for a hearing pursuant to § 250.80 of this part.

* * * * *

[FR Doc. 83-26765 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-MR-M

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 700, 701, 732, 736, 740, 780, 784, 785, 795, 800, 816, 817, 824, 828, 840, 842, 850

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Technical Amendments

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule; Technical Amendments.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is

amending its rules regarding surface coal mining and reclamation operations to correct typographical errors, misspellings, and obsolete part and section references. Due to the major reorganization and redesignation of CFR units that took place in 1982–1983, a number of part and section references in unrevised sections were superseded. They are corrected in this rulemaking to cite the proper section number.

EFFECTIVE DATE: October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Jan Benson, Division of Environmental Analysis, Office of Surface Mining, U.S. Department of Interior, 1951 Constitution Avenue, N.W., Washington, D.C. 20240; 202–343–5587.

SUPPLEMENTARY INFORMATION: .

I. Background
II. Discussion of Amendments
III. Procedural Matters

I. Background

OSM recently completed its regulatory review, which was conducted in response to Executive Order 12291. In the course of this study, approximately 300 sections of 30 CFR Chapter VII were revised. Due to this reorganization and revision many of the sections not revised contained incorrect part and section references. This rulemaking will correct those references and make any other spelling or typographical corrections. These corrections are considered technical amendments and no change in meaning or application is intended. The main purpose for these technical amendments is to assure that 30 CFR Chapter VII, due for update in October 1983 is as accurate as possible. Some of the unrevised sections mentioned here are presently being studied for possible revision.

II. Discussion of amendments

For amendments 1–10, 12–29, 31–38, 40–45, 52, 53 and 64–70, the cited sections or parts within the provisions being amended are corrected to correspond with the redesignation and/or removal of certain section numbers. The remaining amendments are made for different reasons, such as spelling or typographical errors, and are discussed below by numbers.

Amendment No. 11—In § 740.11(a)(3) the phrase "except as specified in this subchapter" is being removed because there is no such specification elsewhere in the subchapter referred to.

Amendment No. 30—Paragraph (d) of § 784.20 originates from previous § 784.20(b) as stated in the preamble of June 1, 1983 (48 FR 24641). It was intended that this final rule provision read the same as the previous rule. Therefore the addition of the two words "if any" is made to follow the intentions of the final rule as stated in the preamble.

Amendment No. 39—The title of Part 795 is revised so that it does not duplicate the title of Part 701 and so it more explicitly reflects the content of the part.

Amendment Nos. 46 and 56—The abbreviation "(DS)" is added in the tables of §§ 816.67(d) and 817.67(d) to identify "scaled-distance factor" for the reader and no change in meaning results.

Amendment No. 47—This amendment corrects a typographical error.

Amendment No. 48—This amendment inserts the word "the" in the phrase "incompatible with *the* stability" in § 816.71(e)(4) to make the provision read the same as § 817.71 as intended and explained in the preamble.

Amendment Nos. 49, 50 and 62—These amendments correct typographical errors.

Amendment Nos. 51 and 63—Sections 816.151(c)(6) and 817.151(c)(6) contain the same obvious typing error. The indicated corrections make the provisions understandable and bring them into agreement with the preamble explanation of the provisions.

Amendment No. 54—The word "as" is added to § 817.57(b) so that the provision reads the same as § 816.57(b) as was intended. The addition of the word does not change the meaning of the provision.

Amendment No. 55—The amendatory language for § 817.64 mistakenly read as a revision in the **Federal Register** of March 8, 1983 (48 FR 9809). It should have been an addition to Part 817 because the provisions, though just revised and transferred from deleted § 817.65, are moved to § 817.64, which did not previously exist.

Amendment Nos. 57 and 59—These spelling and punctuation corrections made to § 817.71 are to make the provisions read the same as § 816.71 as intended and explained in the preamble.

Amendment Nos. 58 and 61—These amendments correct typographical errors.

Amendment No. 60—The phrasing is changed in § 817.71(h)(2) to make the provisions read the same as § 816.71 as intended and explained in the preamble. There is no change in meaning.

Amendment No. 71—The title of Part 850 is revised so that it does not duplicate the title of Part 701 and so it more explicitly reflects the content of the part.

Amendment No. 72—Section 850.12(a) contains an obvious typing error. The indicated correction makes the provision understandable and brings it into agreement with the preamble explanation of the provision.

Amendment No. 73—The phrase "publication date" in § 850.12(b) is corrected to read "March 4, 1983", which is the publication date. It was originally intended that this date would be inserted by the printer (See proposed rule, March 24, 1982, 47 FR 12783).

III. Procedural Matters

Executive Order 12291

OSM has determined that this document is not a major rule and does not require a regulatory impact analysis under Executive Order 12291 because the rule is procedural and has no economic effect on the public.

Regulatory Flexibility Act

The Department has also determined that this document will not have a significant economic effect on a substantial number of small entities and does not require a flexibility analysis under the Regulatory Flexibility Act.

National Environmental Policy Act

This rulemaking is not a major Federal action, but a procedural rule covered under the previous rulemakings. Therefore, an environmental assessment is not required for this rulemaking, which is covered under the environmental assessments and environmental impact statements prepared for the previous rulemakings.

Federal Paperwork Reduction Act

It has been determined that the information collection requirements do not change due to the corrections of this rulemaking, and therefore it is exempt from the requirements of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and does not require clearance by Office of Management and Budget.

List of Subjects in 30 CFR

Part 700

Administrative practice and procedure, Coal mining, Surface mining, Underground mining, and Reporting and recordkeeping requirements.

Parts 701 and 842

Coal mining, Law enforcement, Surface mining, and Underground mining.

Part 732

Coal mining, Intergovernmental relations, Reporting and recordkeeping requirements, Surface mining, and Underground mining.

Part 736

Coal mining, Intergovernmental relations, Surface mining, and Underground mining.

Part 740

Coal mining, Public lands, Minerals resources, Surface mining, and Underground mining.

Part 780

Coal mining, Reporting and recordkeeping requirements, and Surface mining.

Part 784

Coal mining, Reporting and recordkeeping requirements, and Surface mining.

Part 785

Coal mining, Reporting and recordkeeping requirements, Surface mining, and Underground mining.

Part 795

Coal mining, Grant programs, Natural resources, Small businesses, Surface mining, Technical assistance, and Underground mining.

Part 800

Coal mining, Insurance, Reporting and recordkeeping requirements, Surety bonds, Surface mining and Underground mining.

Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements and Underground mining.

Part 824

Coal mining, Environmental protection and Surface mining.

Part 828

Coal mining, Environmental protection, Surface mining, and Underground mining.

Part 840

Coal mining, Intergovernmental relations, Law enforcement, Reporting and recordkeeping requirements, Surface mining and Underground mining.

Part 850

Explosives, Miners, Safety, Surface mining and Training programs.

Accordingly, 30 CFR Parts 700, 701, 732, 736, 740, 780, 784, 785, 795, 800, 816, 817, 824, 828, 840, 842, and 850 are amended as set forth herein.

Dated: September 28, 1983.

Perry P. Pendley,

Deputy Assistant Secretary, Energy and Minerals.

PART 700—GENERAL

§ 700.11 [Amended]

1. Paragraph (a)(6) of § 700.11 is amended by removing the reference to "Part 211 of this title" and inserting in its place "43 CFR Parts 3480–3487".

PART 701—PERMANENT REGULATORY PROGRAM

§ 701.5 [Amended]

2. The definition of "Excess spoil" in § 701.5 is amended by removing the reference to "§§ 816.102(c) and 817.102(c)" and inserting in its place "§§ 816.102(d) and 817.102(d)".

3. The definition of "Soil survey" in § 701.5 is amended by removing the reference to "30 CFR 785.17(b)(1)" and inserting in its place "30 CFR 785.17(c)(1)".

§ 701.11 [Amended]

4. Section 701.11(a) is amended by removing the reference to "§ 771.13(b)" and inserting in its place "30 CFR 773.11(b)".

5. Paragraphs (d)(1)(i), (d)(1)(ii) and (d)(1)(iii) of § 701.11 are each amended by removing the reference to "30 CFR 786.21" and inserting in its place "30 CFR 773.15".

6. Paragraph (e)(1) of § 701.11 is amended by removing the reference to "30 CFR Part 776" and inserting in its place "30 CFR Part 772".

PART 732—PROCEDURES AND CRITERIA FOR APPROVAL OR DISAPPROVAL OF STATE PROGRAM SUBMISSIONS

§ 732.15 [Amended]

7. Paragraph (b)(3) of § 732.15 is amended by removing the two references to "30 CFR Parts 776 and 815" and inserting in their place "30 CFR Parts 772 and 815".

PART 736—FEDERAL PROGRAM FOR A STATE

§ 736.22 [Amended]

8. Paragraph (b)(1) of § 736.22 is amended by removing reference to Parts "760" and "765".

9. Paragraph (b)(2) of § 736.22 is amended by removing reference to Parts "770, 776, 787" and inserting in their place "772, 773, 775".

PART 740—GENERAL REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATIONS ON FEDERAL LANDS

§ 740.13 [Amended]

10. Paragraph (c)(8) of § 740.13 is amended by removing the reference to "Part 787" and inserting in its place "Part 775".

§ 740.11 [Amended]

11. Paragraph (a)(3) of § 740.11 is amended by replacing the comma after "States" with a period and removing the phrase "except as specified in this subchapter".

§§ 740.4, 740.5, 740.11, 740.13, 740.15, 740.17 and 740.19 [Amended]

12. In addition to the amendments set forth above, Part 740 is amended by removing the reference to "Part 211 of this title" and inserting in its place the reference "43 CFR Parts 3480–3487" in each of the following places:

(a) § 740.4 (c)(5), (c)(6), (d)(1), (d)(3), (d)(4) and (d)(5);

(b) § 740.5(b);

(c) § 740.11(a)(1);

(d) § 740.13 (a)(3) and (f)(2);

(e) § 740.15(d)(1);

(f) § 740.17(a)(3); and

(g) § 740.19(a)(2) and (b)(2)(ii).

PART 772—REQUIREMENTS FOR COAL EXPLORATION

§ 772.1 [Amended]

13. Section 772.1 is amended by removing the reference to "30 CFR Part 211." and inserting in its place "43 CFR Parts 3480–3487".

PART 780—SURFACE MINING PERMIT APPLICATIONS-MINIMUM REQUIREMENT FOR RECLAMATION AND OPERATION PLAN

§ 780.16 [Amended]

14. Paragraph (a)(2) of § 780.16 is amended by removing the reference to "30 CFR 816.111–816.117" and inserting in its place "30 CFR 816.111–816.116".

§ 780.18 [Amended]

15. Paragraph (b)(3) of § 780.18 is amended by removing the reference to "30 CFR 816.101–816.106" and inserting in its place "30 CFR 816.102–816.107".

16. Paragraph (b)(5) of § 780.18 is amended by removing the reference to "30 CFR 816.111–816.117" and inserting in its place "30 CFR 816.111–816.116".

17. Paragraph (b)(7) of § 780.18 is amended by removing the reference to "30 CFR 816.89 and 816.103" inserting in its place "30 CFR 816.89 and 816.102".

§ 780.25 [Amended]

18. Paragraph (a)(3)(i) of § 780.25 is amended by removing the reference to "§§ 816.91–816.93" inserting in its place "30 CFR 816.81–816.84".

19. Paragraph (d) of § 780.25 is amended by removing the reference to "30 CFR 816.81–816.85" and inserting in its place "30 CFR 816.81–816.84".

20. Paragraph (e) of § 780.25 is amended by removing the reference to "30 CFR 816.91–816.93" and inserting in its place "30 CFR 816.81–816.84".

§ 780.35 [Amended]

21. Paragraph (c) of § 780.35 is amended by removing the reference to "30 CFR 816.71(i)" and inserting in its place "30 CFR 816.71(d)".

§ 780.37 [Amended]

22. Paragraph (b) of § 780.37 is amended by removing the reference to "30 CFR 816.150(d), 816.152(c), 816.160(d) or 816.162(c)" and inserting in its place "30 CFR 816.150 and 816.151".

23. Paragraph (c) of § 780.37 is amended by removing the reference to "30 CFR 816.153(d), 816.163(d) or 816.173(c) and inserting in its place "30 CFR 816.150 and 816.151".

24. Paragraph (d) of § 780.37 is amended by removing the reference to "30 CFR 816.153(c)(2)(vi) and 816.163(c)(2)(vi)" and inserting in its place "30 CFR 816.150 and 816.151".

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS-MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

§ 784.13 [Amended]

25. Paragraph (b)(3) of § 784.13 is amended by removing the reference to "30 CFR 817.101–817.106" and inserting in its place "30 CFR 817.102–817.107".

26. Paragraph (b)(7) of § 784.13 is amended by removing the reference to "30 CFR 817.89 and 817.103" and inserting in its place "30 CFR 817.89 and 817.102".

§ 784.16 [Amended]

27. Paragraph (a)(3)(i) of § 784.16 is amended by removing the reference to "30 CFR 817.91–817.93" and inserting in its place "30 CFR 817.81–817.84".

28. Paragraph (d) of § 784.16 is amended by removing the reference to "30 CFR 817.81–817.85" and inserting in its place "30 CFR 817.81–817.84."

29. Paragraph (e) of § 784.16 is amended by removing the reference to "30 CFR 817.91–817.93" and inserting in its place "30 CFR 817.81–817.84."

§ 784.20 [Amended]

30. Paragraph (d)(5) of § 784.20 is corrected by adding the words ", if any," after the word "Monitoring".

§ 784.21 [Amended]

31. Paragraph (a)(2) of § 784.21 is amended by removing the reference to "§§ 817.111–817.117" and inserting in its place "30 CFR 817.111–817.116".

§ 784.24 [Amended]

32. Paragraph (b) of § 784.24 is amended by removing the reference to "30 CFR 817.150(d), 817.152(c), 817.160(d) or 817.162(c)" and inserting in its place "30 CFR 817.150 and 817.151".

33. Paragraph (c) of § 784.24 is amended by removing the reference to "30 CFR 817.153(d), 817.163(d), or 817.173(c)" and inserting in its place "30 CFR 817.150 and 817.151".

34. Paragraph (d) of § 784.24 is amended by removing the reference to "30 CFR 817.153(c)(2)(vi) and 817.163(c)(2)(vi)" and inserting in its place "30 CFR 817.150 and 817.151".

35. Paragraph (a) of § 784.25 is amended by removing the reference to "30 CFR 817.88" and inserting in its place "30 CFR 817.81(f)."

§ 784.200 [Amended]

36. Section 784.200 is amended by correcting the reference "§ 788.12" to read "§ 774.13", the reference "§ 771.21(b)(3)" to read "§ 774.13", and the reference "30 CFR Parts 786 and 787" to read "30 CFR Parts 773 and 775".

PART 785—REQUIREMENTS FOR PERMITS FOR SPECIAL CATEGORIES OF MINING

§ 785.11 [Amended]

37. Paragraph (b)(2) of § 785.11 is amended by removing the reference to "30 CFR Part 809" and inserting in its place "30 CFR 800.70".

§ 785.16 [Amended]

38. Paragraph (a)(5) of § 785.16 is amended by removing the reference to "or 782.15".

PART 795—PERMANENT REGULATORY PROGRAM—SMALL OPERATOR ASSISTANCE PROGRAM

39. The title of Part 795 is revised to read as set forth above.

§ 795.9 [Amended]

40. Paragraph (b)(1) of § 795.9 is amended by removing the reference to "§§ 780.21(g) and 784.14(g)" and inserting in its place "§§ 780.21(f) and 784.14(e)."

41. Paragraph (d) of § 795.9 is amended by removing the reference to "§ 786.15" and inserting in its place "§ 773.13(d)".

PART 800—BOND AND INSURANCE REQUIREMENTS FOR SURFACE COAL MINING AND RECLAMATION OPERATORS UNDER REGULATORY PROGRAMS

§ 800.40 [Amended]

42. Paragraph (d) of § 800.40 is amended by correcting the reference to "§ 800.21(a)(4)" to read "§ 800.21(f)".

§ 800.50 [Amended]

43. Paragraph (c) of § 800.50 is amended by correcting the reference to "§ 800.11(d)(3)" to read "§ 800.11(b)".

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

§ 816.11 [Amended]

44. Paragraph (f) of § 816.11 is amended by removing the reference to "§ 816.23" and inserting in its place "§ 816.22".

§ 816.45 [Amended]

45. Paragraph (b)(2) of § 816.45 is amended by removing the reference to "§ 816.101" and inserting in its place "§ 816.102".

§ 816.67 [Amended]

46. The table located between Paragraphs (d)(2)(i) and (d)(2)(ii) of § 816.67 is amended by adding the abbreviation "(Ds)" after the word "monitoring ²" in the third column.

47. Paragraph (d)(3) of § 816.67 is amended by correcting the phrase "$W=(D/D)^2$" to read "$W=(D/Ds)^2$".

§ 816.71 [Amended]

48. Paragraph (e)(4) of § 816.71 is amended by correcting the phrase "with stability" to read "with the stability".

§ 816.73 [Amended]

49. The word "fill" in the title of § 816.73 is corrected to read "fills".

§ 816.150 [Amended]

50. Paragraph (b)(1) of § 816.150 is amended by adding the letter "s" to the word "practice".

§ 816.151 [Amended]

51. Paragraph (c)(6) of § 816.151 is amended by correcting the phrase "crossings shall be made using" to read "crossings, made using".

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

§ 817.11 [Amended]

52. Paragraph (f) of § 817.11 is amended by removing the reference to "§ 817.23" and inserting in its place "§ 817.22".

§ 817.45 [Amended]

53. Paragraph (b)(2) of § 817.45 is amended by removing the reference to "§ 817.101" and inserting in its place "§ 817.102".

§ 817.57 [Amended]

54. Paragraph (b) of § 817.57 is amended by correcting the phrase "designated a" to read "designated as a".

§ 817.64 [Amended]

55. The amendatory language for § 817.64 is corrected to clarify the section is "added" and not "revised".

§ 817.67 [Amended]

56. The table located between Paragraphs (d)(2)(i) and (d)(2)(ii) of § 817.67 is amended by adding the abbreviation "(Ds)" after the word "monitoring [2]" in the third column.

§ 817.71 [Amended]

57. Paragraph (b)(2) of § 817.71 is amended by replacing the word "at" with the word "of".

58. Paragraph (e)(2) of § 817.71 is amended by correcting the reference to "§ 816.22" to read "§ 817.22".

59. Paragraph (h)(1) of § 817.71 is amended by adding the letter "s" to the end of the word "inspection" in the first line, and inserting a comma after the word "preparation" in Paragraph (h)(1)(i).

60. Paragraph (h)(2) of § 817.71 is amended by correcting the phrase "provide, to the regulatory authority, a certified report" to read "provide a certified report to the regulatory authority".

§ 817.74 [Amended]

61. Paragraph (e)(4) of § 817.74 is amended by correcting the reference "§ 816.22" to read "§ 817.22".

§ 817.150 [Amended]

62. Paragraph (b)(1) of § 817.150 is amended by adding the letter "s" to the word "practice".

§ 817.151 [Amended]

63. Paragraph (c)(6) of § 817.151 is amended by correcting the phrase "crossings shall be made using" to read "crossings, made using".

§ 817.200 [Amended]

64. Paragraph (d) of § 817.200 is amended by correcting the reference "30 CFR 788.12" to read "30 CFR 774.13", the reference "30 CFR 771.21(b)(3)" to read "30 CFR 774.13", and the reference "30 CFR 786 and 787" to read "30 CFR Parts 773 and 775".

PART 824—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—MOUNTAINTOP REMOVAL

§ 824.11 [Amended]

65. Paragraph (a)(11) of § 824.11 is amended by removing the reference "30 CFR 816.52" and inserting in its place "30 CFR 816.41 and 816.43".

PART 828—SPECIAL PERMANENT PROGRAM PERFORMANCE STANDARDS—IN SITU PROCESSING

§ 828.12 [Amended]

66. Paragraph (a) of § 828.12 is amended by removing the reference to "30 CFR 817.52" and inserting in its place "30 CFR 817.41".

PART 840—STATE REGULATORY AUTHORITY INSPECTION AND ENFORCEMENT

§ 840.11 [Amended]

67. Paragraph (f)(2) of § 840.11 is amended by removing the reference to "§ 807.12(e)" and inserting in its place "§ 800.40".

§ 840.14 [Amended]

68. Paragraph (b)(2) of § 840.14 is amended by removing the reference to "§§ 776.17 and 786.15" and inserting in its place "§§ 772.15 and 773.13(d)".

PART 842—FEDERAL INSPECTIONS AND MONITORING

§ 842.11 [Amended]

69. Paragraph (c)(2)(iii)(B) of § 842.11 is amended by removing the reference to "§ 807.12(e)" and inserting in its place "§ 800.40".

§ 842.16 [Amended]

70. Paragraph (a)(2) of § 842.16 is amended by removing the reference to "§§ 776.17, 786.15" and inserting in its place "§§ 772.15, 773.13(d)".

PART 850—PERMANENT REGULATORY PROGRAM REQUIREMENTS—STANDARDS FOR CERTIFICATION OF BLASTERS

71. The title of Part 850 is revised to read as set forth above.

§ 850.12 [Amended]

72. Paragraph (a) of § 850.12 is amended by correcting the phrase "rules to the for" to read "rules to the Office of Surface Mining for".

73. Paragraph (b) of § 850.12 is amended by correcting the phrase "publication date" to read "March 4, 1983".

Authority: Pub. L. 95-87, 30 U.S.C. 1201 *et seq.*

[FR Doc. 83-26589 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Parts 402 and 403

Revision of Tariff of Tolls and Rules of Procedure of the Joint Tolls Review Board

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects the table in § 402.8, Schedule of Tolls, by separating the material which was formerly (a)(3) into (a) (3) and (4) so as to conform with the revisions made to the Tariff of Tolls as a result of an Agreement entered into by the Saint Lawrence Seaway Development Corporation and the St. Lawrence Seaway Authority of Canada on November 30, 1981. The revised Tariff of Tolls was published as a final rule on Tuesday, March 30, 1982 (47 FR 13333) and on Thursday, April 1, 1982 (47 FR 13803).

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, General Counsel, (315) 764-3245.

SUPPLEMENTARY INFORMATION: The following correction is made in FR Doc. 82-8375 appearing on pages 13335 and 13336 in the issue of March 30, 1982 and in FR Doc. 82-8375 appearing on page 13805 in the issue of April 1, 1982.

§ 402.8 [Corrected]

	Tolls			
	Montreal to or from Lake Ontario		Lake Ontario to or from Lake Erie (Welland Canal)	
	1982	1983	1982	1983
(a) * * *				
(3) A charge in dollars per passenger per lock	1.00	1.00	1.00	1.00
(4) A charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo or passenger vessels, which may be shared by vessels in tandem:				
(i) loaded: Per Lock	NA	NA	150.00	250.00
(ii) In ballast: Per Lock	NA	NA	75.00	167.50

Issued at Massena, New York on September 21, 1983.

Saint Lawrence Seaway Development Corporation.

William H. Kennedy,

Associate Administrator.

[FR Doc. 83-26702 Filed 9-29-83; 8:45 am]

BILLING CODE 4910-61-M

POSTAL SERVICE

39 CFR Part 111

Amendment of Regulations on Mailing Unsolicited Advertisements for Contraceptives

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: Postal regulations dealing with nonmailable written, printed, and graphic matter currently reflect the prpvisions of 39 U.S.C. 3001(e)(2), a statute prohibiting the mailing of certain advertisements for contraceptives (123.434, Domestic Mail Manual). A recent Supreme Court decision held the statute unconstitutional. The revision necessitated by this decision deletes the current provisions, notes the reason therefor, and advises addressees who find such mail objectionable of an alternative remedy.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: John F. Ventresco, (202) 245-5898.

SUPPLEMENTARY INFORMATION: On August 18, 1983, the Postal Service published in the **Federal Register**, 48 FR 37439, a notice of a proposed rule to amend the postal regulations referred to in the Summary above, and invited public comments. No comments were received. Accordingly, the Postal Service hereby adopts, without change, the following amendment of the Domestic Mail Manual, which is incorporated by reference in the **Federal Register**. See 39 CFR 111.1 (1982).

List of Subjects in 39 CFR Part 111 Postal Service.

Part 123—Nonmailable Matter—Written, Printed, and Graphic

Revise 123.434 to read as follows:

.434 The statute making unsolicited advertisements for contraceptives nonmailable to consumers (39 U.S.C. 3001(e)(2)) has been held unconstitutional by the U.S. Supreme Court. Any addressee of such an advertisement sent through the mails, who considers the matter which it offers for sale to be "erotically arousing or sexually provocative," may seek a prohibitory order to prevent receipt of any further mail from the sender (*See* 123.6).

A transmittal letter making this change in the pages of the Domestic Mail Manual will be published and will be transmitted to subscribers automatically. Notice of issuance of the transmittal letter will be published in the **Federal Register** as provided in 39 CFR 111.3.

(39 U.S.C. 401)

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

[FR Doc. 83-26772 Filed 9-29-83; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. I

[FRL-2443-3]

Decision To Exclude the Printing and Publishing Point Source Category From Regulation Under the Clean Water Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of decision to exclude the Printing and Publishing Point Source Category from regulation under the Clean Water Act and availability of documents.

SUMMARY: On January 19, 1982, the then Assistant Administrator for Water executed an affidavit which excluded six subcategories of the Printing and Publishing Point Source Category from nationally applicable effluent limitations guidelines and standards under the Clean Water Act. This action was taken pursuant to the provisions of paragraph 8(a)(iv) of the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

EPA has recently published a document which explains the basis of our decision and also contains information and data on water usage, toxic pollutant discharge levels, and control and treatment technologies employed in the printing and publishing industry. This document is now available to the public.

DATES: The decision not to establish national regulations was effective on January 19, 1982.

ADDRESSES: Copies of the document supporting EPA's decision to exclude the printing and publishing industry from regulation under the Clean Water Act may be obtained by writing to Gregory N. Aveni, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. The title of the document is: "Summary of Available Information on the Levels and Control of Toxic Pollutant Discharges in the Printing and Publishing Point Source Category", U.S. EPA, September 1983.

FOR FURTHER INFORMATION CONTACT: Gregory N. Aveni at (202) 382-7185 or Robert W. Dellinger at (202) 382-7137.

SUPPLEMENTARY INFORMATION: The printing and publishing point source category includes all manufacturing establishments whose primary line of business falls within Major Group 27 of the 1972 *Standard Industrial Classification Manual*. EPA divided the printing and publishing industry into eight subcategories based on process considerations:

Art and Copy Preparation and Composition.

Photoprocessing (printing and/or publishing facilities engaged in internal photoprocessing operations).

Nonmetallic Platemaking.

Metallic Platemaking.

Gravure Cylinder Preparation.

Pressroom (Nonwater-Based Inks).

Pressroom (Water-Based Inks).

Finishing and Binding Operations.

Art and copy preparation and composition operations do not involve the use of water, and finishing and binding operations are essentially dry processes. Because these two subcategories are dry or result in the discharge of very small quantities of toxic wastewater pollutants, they have

been excluded from national regulations under the authority of paragraph 8 (a)(iv) of the Settlement Agreement in *Natural Resources Defense Council, Inc.* v. *Train*, 8 ERC 2120 (D.D.C. 1976), *modified*, 12 ERC 1833 (D.D.C. 1979).

Discharge of heavy metals and other toxic pollutants may occur from plants in the photoprocessing, nonmetallic platemaking, pressroom (nonwater-based inks), and pressroom (water-based inks) subcategories. The median discharge volume from individual facilities is between 26 and 50 gallons per day. Even for large plants of which there are few in these subcategories, the total raw wastewater discharge contains less than 1.2 pounds of toxic pollutants per day per plant. Based on our review of all available data, the Agency has excluded these four subcategories from national regulations because the amount and toxicity of the pollutants contained in the raw wastewater discharges do not justify developing national regulations.

The information and data gathered to date regarding the gravure cylinder preparation and metallic platemaking subcategories were not sufficient to make regulatory decisions; however, the data do show that further study of these subcategories is warranted and that these operations are similar to certain metal finishing processes. Therefore, gravure cylinder preparation and metallic platemaking will be further studied in the second phase of the rulemaking effort for the metal finishing point source category.

Dated: September 21, 1983.

Bruce R. Barrett,

Director, Office of Water Enforcement and Permits.

[FR Doc. 83-26738 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 145

[WH-FRL-2432-7]

Wisconsin Department of Natural Resources Underground Injection Control; Program Approval.

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Program.

SUMMARY: The State of Wisconsin has submitted an application under Section 1422 of the Safe Drinking Water Act for the approval of an Underground Injection Control (UIC) progarm governing Classes I, II, III, IV, and V injection wells. After careful review of the application, the Agency has determined that the State's injection well program for all classes of injection wells meets the requirements of Section 1422 of the Act, and, therefore, approves it.

EFFECTIVE DATE: This approval is effective October 31, 1983.

FOR FURTHER INFORMATION CONTACT: Richard Traub, Ground Water Section (5WD-26), Environmental Protection Agency, Region V, 230 S. Dearborn Street, Chicago, Illinois 60604. PH: (312) 886-6193.

SUPPLEMENTARY INFORMATION: Part C of the Safe Drinking Water Act (SDWA) provides for an Underground Injection Control (UIC) program. Section 1421 of the SDWA requires the Administrator to promulgate minimum requirements for effective State programs to prevent underground injection which endangers drinking water sources. The Administrator is also to list in the **Federal Register** each State for which, in his judgment, a State UIC program may be necessary. Each State listed shall submit to the Administrator an application which contains a showing satisfactory to the Administrator that the State: (i) Has adopted after reasonable notice and public hearings, a UIC program which meets the requirements of regulations in effect under Section 1421 of the SDWA; and (ii) will keep such records and make suck reports with respect to its activities under its UIC program as the Administrator may require by regulations. After reasonable opportunity for public comment, the Administrator shall by rule approve, disapprove or approve in part and disapprove in part, the State's UIC program.

The State of Wisconsin was listed as needing a UIC program on June 19, 1979 (44 FR 35288). The State submitted an application under Section 1422 on December 1, 1982, for a UIC program to be administered by the Wisconsin Department of Natural Resources (WDNR). On February 4, 1983, EPA published notice of receipt of the application, requested public comments, and offered a public hearing on the UIC program submitted by the WDNR (48 FR 6565). A public hearing was held on March 31, 1983, in Madison, Wisconsin. After careful review of the application and the Responsiveness Summary, I have determined that the Wisconsin UIC program for Classes I, II, III, IV, and V injection wells submitted by the WDNR meets the requirements established by the Federal regulations pursuant to Section 1422 of the SDWA and, hereby, approve it.

The terms listed below comprise a complete listing of the thesaurus terms associated with 40 CFR Part 145, which sets forth the requirements for a State requesting the authority to operate its own permit program of which the Underground Injection Control program is a part. These terms may not all apply to this particular notice.

List of Subjects in 40 CFR Part 145

Indians—land, Reporting and recordkeeping requirements, Intergovernmental relations, Penalties, Confidential business information, Water Supply.

OMB REVIEW

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I certify that approval by EPA under Section 1422 of the Safe Drinking Water Act of the application by the Wisconsin Department of Natural Resources will not have a significant economic impact on a substantial number of small entities, since this rule only approves State actions. It imposes no new requirements on small entitites.

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-26753 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 180

[PP 2F 2728/R600; PH-FRL 2427-8]

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Iprodione

Correction

In FR doc. 83-24143 beginning on page 40384 in the issue of Wednesday, September 7, 1983, in the third Column Second full paragraph, Seventh line, "6-Kg" should read "60-Kg".

BILLING CODE 1505-01-M

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40 CFR Part 271

[HW-6-FRL 2444-1]

Hazardous Waste Management Program, New Mexico; Interim Authorization Phase I and Phase II, Components A and B

AGENCY: Environmental Protection Agency.

ACTION: Approval of State Hazardous Waste Management Program; extension of Interim Authorization application deadline; termination of permit processing by EPA.

SUMMARY: The State of New Mexico has applied for Interim Authorization, Phase I and Phase II, Components A and B. EPA has reviewed New Mexico's application and has determined that New Mexico's hazardous waste program is substantially equivalent to the Federal program covered in Phase I and Phase II, Components A and B. The State of New Mexico is hereby granted Interim Authorization for Phase I and Phase II, Components A and B, to operate the State's hazardous waste program covered by Phase I and Phase II, Components A and B, in lieu of the Federal program in the State of New Mexico.

New Mexico has submitted a request for an extension of the July 26, 1983, deadline for applying for remaining Components of Phase II, Interim Authorization under the Resource Conservation and Recovery Act (RCRA). EPA is granting the extension to New Mexico for applying for Component C of Phase II, Interim Authorization until July 26, 1984. This extension will avoid the termination of other authorized portions (action taken also in this notice) of the New Mexico program.

EPA and the State of New Mexico have been jointly processing a permit application. With today's announcement, EPA is terminating its processing of the application in favor of the State's authorized procedures.

EFFECTIVE DATE: Interim Authorization for Phase I and Phase II, Components A and B, for New Mexico shall become effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT: H. J. Parr, Hazardous Materials Branch, Air and Waste Management Division, Environmental Protection Agency, 1201 Elm St., Dallas, Texas 75270, Telephone (214) 767-2645.

SUPPLEMENTARY INFORMATION:

Background

In the May 19, 1980, **Federal Register** (45 FR 33063) the Environmental Protection Agency (EPA) promulgated regulations, pursuant to Subtitle C of the Resource Conservation and Recovery Act of 1976, as amended (RCRA), to protect human health and the environment from the improper management of hazardous waste. RCRA includes provisions whereby a State agency may be authorized by EPA to administer the hazardous waste program in that State in lieu of a Federally administered program. For a State program to receive Final Authorization, its hazardous waste program must be fully equivalent to and consistent with the Federal program under RCRA. In order to expedite the authorization of State programs, RCRA allows EPA to grant a State Interim Authorization if its program is substantially equivalent to the Federal program. During Interim Authorization, a State can make whatever legislative or regulatory changes that may be needed for the State's hazardous waste program to become fully equivalent to the Federal program. The Interim Authorization program is being implemented in two phases corresponding to the two stages in which the underlying Federal program takes effect.

Phase I regulations were published on May 19, 1980, and became effective on November 19, 1980. Phase I of the program contains standards for persons that generate or transport hazardous waste and Interim Status Standards that persons treating, storing or disposing of hazardous waste must comply with pending the receipt of a permit under Phase II of the program.

In the January 26, 1981 **Federal Register** (46 FR 7965), the Environmental Protection Agency announced the availability of portions or components of Phase II of Interim Authorization. Component A, published in the **Federal Register** January 12, 1981 (46 FR 2802), contains standards for permitting containers, tanks, surface, impoundments and waste piles. Component A was subsequently modified on July 26, 1982 (47 FR 14146), to contain standards for permitting the storage of hazardous waste only in tanks and containers. Component B, published in the **Federal Register** January 23, 1981 (46 FR 7666), contains standards for permitting hazardous waste incinerators.

Draft Application

The State of New Mexico submitted its draft application for Phase I and Phase II, Components A and B, on July 17, 1982. After detailed review, EPA transmitted comments to the State on August 19, 1982, for consideration. Major issues were identified for resolution before the State could be authorized. These issues involved demonstrations by the Attorney General of the State program's substantial equivalence to the federal program and the completeness of the Memorandum of Agreement (MOA).

Complete Application

Each of these issues was resolved at the time of submittal of the complete application. The Attorney General made the necessary demonstrations and a complete MOA was submitted.

On June 22, 1983, New Mexico submitted to EPA an official application for Phase I and Phase II, Components A and B. An EPA review team consisting of both Headquarters and Regional personnel made a detailed analysis of New Mexico's hazardous waste management program.

EPA comments were forwarded to the State on August 3, 1983. No major questions were raised in the comments; however, some minor clarifications were requested. By letter dated August 22, 1983, the State responded to all the issues raised by EPA.

Public Hearing and Comment Period

As noticed in the **Federal Register** on July 20, 1983, EPA gave the public the opportunity to comment on the State's application. EPA also issued a public notice for a hearing to be held in Albuquerque, New Mexico, on August 24, 1983.

At the hearing, held in two sessions, one in the morning and one in the afternoon, one (1) presentation was made. In addition, Region IV received one (1) written comment on the New Mexico application. At the request of the commenter at the hearing, the comment period was extended by the hearing officer until August 31, 1983, to provide added time to review material the State submitted in clarification of certain points.

All comments, whether presented at the hearing or in writing, were considered before reaching a decision on the New Mexico application for Phase I and Phase II, Components A and B, Interim Authorization.

Neither of the commenters opposed granting the State of New Mexico authorization. One (1) commenter specifically supported the authorization and urged EPA to expeditiously grant the authorization. The other commenter requested clarification of certain parts of the application and requested that the authorization not be granted until EPA had considered his concerns and responded to them. Responses to these concerns can be found in the Responsiveness Summary mentioned below.

A Responsiveness Summary containing a complete summary of the comments made on the New Mexico application, and EPA's response to the comments, may be obtained free of

charge by calling or writing the contact listed above.

Request for Extension

40 CFR 271.122(c)(4) (formerly § 123.122(c)(4); 47 FR 32377, July 26, 1982) requires that States which have received any but not all Phases/Components of Interim Authorization amend their original submission by July 26, 1983, to include all Components of Phase II. 40 CFR 271.137(a) (formerly § 123.137(a); 47 FR 32378, July 26, 1982) further provides that on July 26, 1983, Interim Authorizations terminate except where the State has submitted by that date an application for all Phases/Components of Interim Authorization.

When the authorization (approval) of the State program terminates, EPA is to administer and enforce the Federal program in those States. However, the Regional Administrator may, for good cause, extend the July 26, 1983, deadline for submission of the Interim Authorization application and the deadline for termination of the approval of the State program.

Note: 40 CFR Part 123, including July 26, 1982, amendments (47 FR 32373), was recodified on April 1, 1983, as 40 CFR 271 (48 FR 14248).

New Mexico is receiving Interim Authorization for Phase I and Phase II, Components A and B, today. New Mexico has requested an extension for applying for Component C in order to complete a thorough review of existing State ground water quality regulations and their relation to the Federal land disposal regulations so that the path New Mexico will pursue in approaching the matter of land disposal regulations can be determined. The State will seek Final Authorization in lieu of submitting an application for Phase II, Component C, Interim Authorization.

On June 20, 1983, New Mexico submitted a request for the extension and then reaffirmed this request and made a commitment to the following schedule on August 24, 1983:

January 1, 1984—State submits draft Final Authorization application.
July 26, 1984—State submits official application for Final Authorization.

Joint Permit Processing

Prior to being authorized for a component of Phase II, Interim Authorization, a state may require facilities that treat, store or dispose of hazardous waste obtain a state permit. There are no provisions within RCRA or the federal hazardous waste regulations for designating these preauthorization state permits as RCRA permits. RCRA permits can be issued only by EPA or an authorized state. Authorization requirements ensure that an authorized state will be using procedures substantially equivalent to the federal permitting procedures (state procedures must meet the requirements of Section 7004(b) of RCRA) and will be requiring facilities to comply with standards providing substantially the same degree of protection as the federal technical standards.

The State of New Mexico and EPA have been jointly processing a permit for New Mexico State University A-Mountain Hazardous Waste Storage Facility in Las Cruces, New Mexico. EPA has determined through review of the Interim Authorization application, that the State's permitting procedures and technical standards are substantially equivalent to the federal procedures and standards.

Since a draft permit has not yet been issued for this facility, EPA is today terminating its processing of this permit application in favor of the State's substantially equivalent processing procedures and technical standards.

Decision

EPA has reviewed New Mexico's complete application for Interim Authorization, Phase I and Phase II, Components A and B, and has determined that the State program is substantially equivalent to Phase I and Phase II, Components A and B, of the Federal program as defined in 40 CFR Part 271, Subpart B, as amended at 47 FR 32373 (July 26, 1982). In accordance with Section 3006(c) of RCRA and implementing regulations, New Mexico is hereby granted Interim Authorization for Phase I and Phase II, Components A and B, to operate the State's hazardous waste program in lieu of the Federal program in New Mexico.

In consideration of the State's efforts and commitment to meet the schedule for Final Authorization contained in this notice, I find that there is good cause to grant the State's request for an extension to the deadline for applying for Phase II, Component C, Interim Authorization. I am granting the extension until July 26, 1984, requiring the State to submit an official application for Final Authorization by that date.

With today's action, I have determined that New Mexico's permitting and technical standards are substantially equivalent to EPA's and thus EPA is terminating the processing of the permit application for New Mexico State University A-Mountain Hazardous Waste Storage Facility in favor of the authorized State processing procedures.

Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. The authorization suspends the applicability of certain Federal regulations in favor of the State program, thereby eliminating duplicative requirements for handlers of hazardous wastes in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

Executive Order 12291

The Office of Management and Budget (OMB) has exempted this rule from the requirements of Section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 271

Hazardous materials, Indians lands, Reporting and recordkeeping requirements, Waste treatment and disposal, Intergovernmental relations, Penalties, Confidential business information.

Authority

This notice is issued under the authority of Secs. 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6912(a), 6926, and 6974(b).

Dated: September 9, 1983.

Frances E. Phillips,

Acting Regional Administrator.

[FR Doc. 83-26754 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF ENERGY

Office of the Secretary

41 CFR Parts 9-4 and 9-51

Amendments to Procurement Regulations; Correction

AGENCY: Energy Department.

ACTION: Final rule: Correction.

SUMMARY: This document corrects two errors in a final rule amending the DOE Procurement Regulations published at 48 FR 16450 on April 15, 1983.

EFFECTIVE DATE: These corrections will be effective September 30, 1983.

ADDRESS: Comments, if any, should be addressed to the Department of Energy, Procurement Policy Branch, MA-421.1, Forrestal Building, Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT: Richard B. Langston, Procurement Policy Branch, Department of Energy, (202) 252–8188.

Issued in Washington, D.C., on September 19, 1983.

Berton J. Roth,

Deputy Director, Procurement and Assistance Management Directorate.

The following corrections are made to FR Doc. 83–9901, published April 15, 1983:

§ 9–4.909 [Corrected]

1. On page 16451, in the third column, two lines from the bottom of the first paragraph, the words ", 9–4.909 (f) and (g) are removed,". The drafter erroneously indicated that the existing paragraphs (f) and (g) would be retained. The revision at paragraph (e) negates the need for paragraphs (f) and (g) which should have been removed.

§ 9–51.101 [Corrected]

2. On page 16456, third column, in section 9–51.101, the drafter erroneously removed paragraphs (a) (1) and (2). Paragraphs (a) (2) and (3) should have been removed. The corrected text of *Change 7.9* should read as set forth below:

Change 7.9

Section 9–51.101(a) (2) and (3) are removed as they involve organizations, Resource Applications and Energy Technology, which no longer exist. Therefore, Section 9–51.101 is amended by removing and reserving paragraphs (a) (2) and (3) as follows:

§ 9–51.101 General instructions regarding submissions to Headquarters

(a) * * *

(2) [Reserved]

(3) [Reserved]

* * * * *

[FR Doc. 83–26513 Filed 9–29–83; 8:45 am]

BILLING CODE 6450–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6467

[U–15264]

Utah; Partial Revocation of Reclamation Withdrawals

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will partially revoke three Secretarial orders which withdrew 20,873.01 acres for the Echo Park Unit, Colorado River Storage Project, Utah. This action will restore 9,557.69 acres to surface entry and 17,704.14 acres to mining. Another 1,071.95 acres are privately owned and will not be subject to disposition under the public land laws. The balance of 2,096.92 acres is located within existing withdrawals and remains closed to mining. All public lands affected by the order have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 28, 1983.

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

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

1. Secretarial Orders dated October 17, 1904, November 14, 1904, and July 13, 1943, which withdrew lands for the Colorado River Storage Project, are hereby revoked insofar as they affect the following described lands:

Salt Lake Meridian

T. 2 N., R. 23 E.,
Secs. 13, 14, 23, and 24.
T. 1 N., R. 24 E.,
Sec. 1.
T. 2 N. R. 24 E.,
Sec. 13, lot 2, N½, SW¼, and N½SE¼;
Sec. 14;
Sec. 18, lots 9 to 19, inclusive, NE¼NE¼, SE¼NW¼, N½SE¼, and SE¼SE¼;
Secs. 19 to 22, inclusive;
Sec. 23, lots 10 to 18, inclusive, and S½;
Sec. 24, lots 6, 18, 20, 21, 26, 29 to 37, inclusive, N½SW¼, and SW¼SW¼;
Sec. 25, lots 9, 11 to 21, inclusive, and W½SE¼;
Sec. 26, lots 1 to 4, inclusive, N½SE¼, and W½SW¼;
Sec. 27, W½, and SE¼SE¼;
Secs. 28 to 30, inclusive;
Sec. 36, W½, W½SE¼, SE¼SE¼.
T. 1 N., R. 25 E.,
Sec. 2, lots 1 to 9 inclusive, and lots 12, 13, and 14, SW¼NE¼, and NW¼SE¼;
Sec. 3, lots 1, 2, 4, 13 to 17, inclusive, S½NE¼, SW¼NW¼, and W½SW¼;
Secs. 4 to 9, inclusive;
Sec. 10, lots 4 to 10, inclusive, SW½NE¼, and W½SW¼;
Sec. 11, lots 11 to 16, inclusive, SW¼NW¼, SW¼, and W½SE¼;
Sec. 14.
T. 2 N., R. 25 E.,
Sec. 18;
Sec. 19, lots 3 and 4, E½, E½W½, and NW¼SW¼;
Sec. 29;
Sec. 30, lots 6 and 7, NE¼, NE¼NW¼, and E½SE¼;
Sec. 31, lots 1, 3, 6, 8 to 14, inclusive E½NE¼, SW¼NE¼, SE¼NW¼, and SE¼;
Sec. 34, E½, E½NW¼, NE¼SW¼, and SW¼SW¼.

The areas described, including public and private lands, aggregate 20,873.01 acres in Daggett County.

2. The following listed lands are private and will not be opened:

Salt Lake Meridian, Utah

T. 2 N., R. 24 E.,
Sec. 26, W½SW¼;
Sec. 36, W½, W½SE¼, SE¼SE¼.
T. 1 N., R. 25 E.,
Sec. 2, lots 1 to 9, inclusive, 12, 13, 14, SW¼NE¼, S½NW¼, NW¼SE¼.

The areas described aggregate 1,071.95 acres in Daggett County.

3. At 10 a.m. on October 28, 1983, the public lands described below shall be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on October 28, 1983, shall be considered as simultaneously filed at that time.

Salt Lake Meridian, Utah

T. 2 N., R. 23 E.,
Sec. 13, SW¼, and SW¼SE¼;
Sec. 14, S½;
Secs. 23 and 24.
T. 1 N., R. 24 E.,
Sec. 1.
T. 2 N., R. 24 E.,
Sec. 14, N½, N½SW¼
Sec. 20, N½
Sec. 21, N½NE¼, NW¼;
Sec. 26, lots 1 to 4, inclusive, N½NE¼;
Sec. 27, SW¼, SE¼SE¼;
Sec. 28, S½;
Sec. 29, S½;
Sec. 30, lots 1, 2, 5, 6, 7, SE¼NW¼, NE¼SW¼, SE¼.
T. 1 N., R. 25 E.,
Sec. 4, lots 1 to 4, inclusive, SW¼NE¼, S½NW¼, N½SW¼, NW¼SE¼;
Sec. 5, lots 1 to 3, inclusive, S½NE¼, SE¼NW¼, E½SW¼, W½SE¼, NE¼SE¼;
Sec. 6, SW¼NW¼, SW¼;
Sec. 8, W½, SE¼;
Sec. 8, S½;
Sec. 9, S½;
Sec. 10, W½SW¼;
Sec. 14, lots 6, 7, 8, 9, NW¼NE¼, W½, W½SE¼.
T. 2 N., R. 25 E.,
Sec. 18, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 19, NE¼, N½SE¼, SE¼SE¼;
Sec. 29, E½, NW¼, E½SW¼;
Sec. 34, E½, E½NW¼.

The areas described aggregate 9,557.69 acres in Daggett County.

4. At 10 a.m. on October 28, 1983, the lands listed in paragraph 3 above, and the following described lands will be open to location under the United States mining laws. Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C.

Section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts. Any use made of these lands will be subject to prior rights, applicable law, and the provisions of existing withdrawals.

Salt Lake Meridian, Utah

T. 2 N., R. 23 E.,
Sec. 13, lots 10 to 15, inclusive;
Sec. 14, lots 9 to 12, inclusive;
T. 2 N., R. 24 E.,
Sec. 13, lot 2, N½, SW¼, N½SE¼;
Sec. 14, S½SW¼, SE¼;
Sec. 18, lots 16 and 17;
Sec. 19, lots 3, 4, 12, 13, 14, 15, 18, 19, 22, 24, 25, 26;
Sec. 20, lots 1, 4, 6 to 10, inclusive, NE¼ SW¼, N½SE¼;
Sec. 21, lots 1 to 6, inclusive, S½NE¼, N½ SW¼, NW¼SE¼;
Sec. 22, lots 11 to 21, inclusive, N½N½, SW¼NW¼, SE¼SW¼, NE¼SE¼, S½ SE¼;
Sec. 23, lots 10 to 18, inclusive, S½;
Sec. 24, lots 6, 18, 20, 21, N½SW¼, SW¼ SW¼;
Sec. 25, lots 11, 12, 13, 16 to 19, inclusive;
Sec. 27, NW¼;
Sec. 28, lots 1 to 5, inclusive, NE¼NE¼, S½N½;
Sec. 29, lot 1, W½NE¼, SE¼NE¼, NW¼;
Sec. 30, NE¼, NE¼NW¼.
T. 1 N., R. 25 E.,
Sec. 3, lots 1, 2, 4, 13, 16, S½NE¼, SW¼ NW¼, W½SW¼;
Sec. 4, SE¼NE¼, S½S½, NE¼SE¼;
Sec. 5, lots 4, 5, W½SW¼, SE¼SE¼;
Sec. 6, lots 1 to 12, inclusive, SW¼NE¼, SE¼NW¼, W½SE¼;
Sec. 7, lots 1, 2, NW¼NE¼, S½SE¼;
Sec. 8, lots 1 to 8, inclusive, S½N½;
Sec. 9, lots 10 to 18, inclusive, S½NW¼;
Sec. 10, lots 4 to 10, inclusive SW¼NE¼;
Sec. 11, SW¼NW¼, W½SW¼, SE¼ SW¼, SW¼SE¼;
Sec. 14, lot 5.
T. 2 N., R. 25 E.,
Sec. 18, SW¼SW¼;
Sec. 19, lot 3, E½W½, SW¼SE¼;
Sec. 29, W½SW¼;
Sec. 30, lots 6, 7, NE¼, NE¼NW¼, E½ SE¼;
Sec. 31, lots 1, 3, 6, 9, 10 to 14, inclusive, NE¼NE¼, S½NE¼, SE¼NW¼; SE¼;
Sec. 34, NE¼SW¼; SW¼SW¼.

The areas described aggregate 8,146.45 acres in Daggett County.

5. The remaining 2,096.92 acres are within existing withdrawals and will remain closed to entry and mining.

6. All public lands described in this order have been and will continue to be open to applications under the mineral leasing laws.

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

Dated: August 24, 1983.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. 83-26703 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

Bureau of Land Management

Minerals Management Service

43 CFR Parts 3160 and 3180

30 CFR Parts 221 and 226

[Circular No. 2533]

Onshore Oil and Gas, General; Redesignation of Regulations

Correction

In FR Doc. 83-22090 beginning on page 36582 in the issue of Friday, August 12, 1983, make the following corrections:

1. On page 36587, column one, **Redesignation Table,** column two (New 43 CFR Part 3180), line eighteen, "3182.4" should read "3181.4".

2. On page 36587, column one, **Redesignation Table,** column two (New 43 CFR Part 3180), line twenty-three, "Designation of areas." should read "Designation of area."

BILLING CODE 1505-01-M

Bureau of Land Management

Minerals Management Service

43 CFR Parts 3260 and 3280

30 CFR Parts 270 and 271

[Circular No. 2536]

Geothermal Resources Operations—General; Redesignation of Regulations

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: All of the Department of the Interior's non-royalty responsibilities related to the approval and supervision of operations on Federal geothermal resources leases have been consolidated within the Bureau of Land Management. This document transfers only those regulations in title 30 CFR concerning geothermal resources operations and unit agreements previously administred by the Minerals Management Service to the Bureau of Land Management and redesignates them to title 43 CFR, as follows:

Title 30 CFR Part 270 becomes Title 43 CFR Part 3260

Title 30 CFR Part 271 becomes Title 43 CFR Part 3280

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT:

Stephen H. Spector (202) 653-2147
or
Robert C. Bruce (202) 343-8735

SUPPLEMENTARY INFORMATION: On December 3, 1982, the Secretary of the Interior, by Order No. 3087, as amended on February 7, 1983 (48 FR 8983), assigned all functions related to royalty and mineral revenue accountability to the Minerals Management Service and assigned all functions related to the minerals management of Federal and Indian lands, including approval of drilling permits and production plans, and inspection and enforcement, to the Bureau of Land Management.

The separation of royalty revenue accountability functions from the mineral management functions has necessitated a division of the regulations now included in Title 30 CFR. The regulations pertaining to the management of Federal geothermal leases are addressed in this rulemaking. The regulations pertaining to minerals revenue accountability functions for these leases will be included in a separate redesignation rulemaking by the Minerals Management Service.

This final rule redesignates the regulations in Title 30 of the Code of Federal Regulations concerning lease operations and unit agreements involving Federal geothermal leases previously administered by the Minerals Management Service as Bureau of Land Management regulations at Title 43 of the Code of Federal Regulations. Publication of this rulemaking as a proposal for public comment is considered unnecessary since it is a redesignation of existing regulations. No change has been made in the substance of the regulations, except as necessary to recognize that the Bureau of Land Management, rather than the Minerals Management Service, will be responsible for their implementation and to conform the organization of the regulations to the Bureau of Land Management numbering system. Cross references between sections are also changed for correctness. Moreover, the effective date of this rulemaking will be the date of publication in the **Federal Register,** rather than 30 days after publication, since the Bureau of Land Management already is administering the redesignated portions of the regulations included in this rulemaking

pursuant to Secretarial Order No. 3087, as amended.

The Department of the Interior has determined that because this rule is a redesignation of existing regulations, it is not a major rule for purposes of E.O. 12291, and neither an environmental impact analysis nor a regulatory flexibility analysis is required. The information collection requirements contained in newly designated 43 CFR Parts 3260 and 3280 have been or are in the process of receiving approval by the Office of Management and Budget under 44 U.S.C. 3507 and, where approved, assigned clearance numbers, as shown under each part. The reporting requirements are not affected by this redesignation.

Lists of Subjects

43 CFR Part 3260

Environmental protection, Geothermal energy, Government contracts, Mineral royalties, Public lands—mineral resources, Reporting requirements.

43 CFR Part 3280

Geothermal energy, Government contracts, Public lands—mineral resources.

Under the authority of Secretarial Order 3087, December 3, 1982, as amended on February 7, 1983 (48 FR 8983), and the statutory authorities enumerated at each part, Group 3200, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

September 26, 1983.

1. 30 CFR Part 270 is redesignated as 43 CFR Part 3260 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR Part 270	New 43 CFR Part 3260
	Insert new part title—3260—Geothermal Resources Operations.
	Insert new subpart 3260—Geothermal resources operations—General.
270.1 (First sentence)	3260.0-1 Purpose.
270.1 (Second sentence)	3260.0-2 Policy.
	Insert new section 3260.0-3 Authority.
270.2	3260.0-5.
270.2-1	Insert as a note immediately after Part title.
	Insert new subpart 3261—Jurisdiction and responsibility.
270.10	3261.1.
270.11	3261.2.
270.12	3261.3.
270.13	3261.4.
270.14	3261.5.
270.15	3261.6.
270.16	3261.7.
270.17	3261.8.

REDESIGNATION TABLE—Continued

Old 30 CFR Part 270	New 43 CFR Part 3260
	Insert new Subpart 3262—Requirements for Lessees.
270.30	3262.1.
270.31	3262.2.
270.32	3262.2-1
270.33	3262.3.
270.34	3262.4.
270.34-1	3262.4-1.
270.35	3262.4-2.
270.36	3262.5.
270.37	3262.5-1.
270.38	3262.5-2.
270.39	3262.5-3.
270.40	3262.5-4.
270.41	3262.6.
270.42	3262.6-1.
270.43	3262.6-2.
270.44	3262.6-3.
270.45	3262.5-5.
270.46	3262.7.
270.47	3262.7-1.
270.48	3262.8.
270.50(b)	3262.9 Pilot operations or facility testing.
	Insert new Subpart 3263—Measurement of Production.
270.60	3263.1.
270.61	3263.2.
270.64	3263.3.
	Insert new Subpart 3264—Reports To Be Made by All Lessees.
270.70	3264.1.
270.71	3264.2.
270.71-1	3264.2-1.
270.72	3264.2-2.
270.73	3264.2-3.
270.74	3264.2-4.
270.74-1	3264.2-5.
270.76	Removed.
270.77	3264.3.
270.78	3264.4.
270.79	3264.5.
	Insert new Subpart 3265—Procedure in Case of Violation of the Regulations or Lease Terms.
270.80	3265.1.
	Insert new supart 3265—Appeals.
270.90	3266.1.

2. Section 3260.0-1, formerly the first sentence of 30 CFR 270.1, is revised to read:

§ 3260.0-1 Purpose.

The Geothermal Steam Act (30 U.S.C. 1001-1025) authorizes the Secretary of the Interior to prescribe rules and regulations applicable to operations conducted under leases granted pursuant to that Act, and for the development, conservation and utilization of geothermal steam and associated geothermal resources, the prevention of waste, the protection of the public interest and the protection of water quality and other environmental qualities.

3. Section 3260.0-2, formerly the second sentence of 30 CFR 270.1, is revised to read:

§ 3260.0-2 Policy.

The regulations in this part shall be administered by the Director, Bureau of Land Management.

4. Section 3260.0-3 is added to read as follows:

§ 3260.0-3 Authority.

These regulations are issued under the authority of the Geothermal Steam Act, as amended (30 U.S.C. 1001-1025) and Order Number 3087, dated December 3, 1982, as amended on February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the leasing of restricted Indian lands, to the Bureau of Land Management.

5. Part 3260 is amended by inserting immediately after the part heading two "Notes" to read:

Note: The information collection requirements contained in Part 3260 have been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1004-0132 and 1004-0141. The information is being collected to evaluate the technical feasibility and environmental impacts of geothermal operations on Federal lands. Clearance number 1004-0141 covers information required by section 3264.3 and is required to document exploration expenditures for which diligence credit is desired in accordance with section 3203.5. A response is required to obtain a benefit.

Note: There are many leases and agreements currently in effect, and which will remain in effect, involving Federal geothermal resources leases which specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, or Conservation Division. These leases and agreements may also specifically refer to various officers such as Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager, and Deputy Minerals Manager. In addition, many leases and agreements specifically refer to Title 30 CFR Part 270 or specific sections thereof. Those references must now be read in the context of Secretarial Order 3087 and now mean either the Bureau of Land Management or the Minerals Management Service as appropriate.

§ 3260.0-5 [Amended]

6. Section 3260.0-5, formerly 30 CFR 270.2, is amended as follows:

A. Paragraphs (a) through (d) are removed in their entirety;

B. Paragraphs (e) and (f) are redesignated as paragraphs (a) and (b), respectively;

C. Paragraphs (g), (h) and (i) are removed in their entirety;

D. Paragraphs (j) through (n) are redesignated as paragraphs (c), (d), (e), (f) and (g), respectively;

E. Paragraph (e), formerly paragraph (1), is amended by removing the phrase "Supervisor, with the prior approval of the Director, Minerals Management Service" and replacing it with the phrase "authorized officer, with the prior approval of the Director,";

F. Paragraph (o) is removed in its entirety; and

G. Paragraphs (p) through (w) are redesignated as paragraphs (h), (i), (j), (k), (l), (m), (n) and (o), respectively.

7. Section 3261.1, formerly 30 CFR 270.10, is revised to read:

§ 3261.1 Jurisdiction.

Drilling, production, construction, and operation of any facility for the utilization of geothermal resources and handling and measurement of production, and, in general, all operations conducted on a geothermal lease are subject to the regulations in this group. These operations are subject to the jurisdiction of the authorized officer for the area in which the leased lands are situated.

8. Section 3261.2, formerly 30 CFR 270.11, is revised to read:

§3261.1 Responsibility of authorized officer.

The authorized officer is authorized and directed to carry out the provisions of this part. The authorized officer shall require compliance with the terms of geothermal leases, with the regulations in this group and with the applicable statutes. The authorized officer shall act on all applications, requests, and notices required in this part. In executing the functions under this part, the authorized officer shall ensure that all permitted operations conform to the best practice and are conducted in a manner that protects the deposits of the leased lands and results in the maximum ultimate recovery and the beneficial utilization of geothermal resources, with minimum waste. The authorized officer shall also ensure that all permitted operations are consistent with the principles of the use of the lands for other purposes and the protection of the environment. As conditions in one area may vary widely from conditions in another area, the regulations in this part are intended to be general in nature. Detailed procedures hereunder in any particular area will be covered by GRO Orders. The requirements to be set forth in GRO Orders relating to surface resources or uses will be coordinated with the appropriate land management agency if other than BLM. The authorized officer may issue oral orders to govern lease operations, but such orders shall be confirmed in writing by the authorized officer as promptly as possible. The authorized officer may issue other orders and instructions to govern the development, method for production and the utilization of a deposit, field or area. Prior to issuance of GRO Orders, other written orders and instructions, or the approval of any plan of operation, the authorized officer shall consult with and receive comments from appropriate Federal and State agencies, lessees, operators and other interested parties. Before permitting operations to be commenced on the leased lands, the authorized officer shall determine if the lease is in good standing; whether the applicant is authorized to conduct the proposed operations; has filed an acceptable bond, and has, when requried by the regulations in this part, an approved plan of operations and/or plan of utilization, notice of intent, Sundry Notice or other appropriate permit.

§ 3261.3 [Amended]

9. Section 3261.3, formerly 30 CFR 270.12, is amended by:

A. Amending paragraph (a)(2) by removing the world "Supervisor" and replacting it with the phrase "authorized officer" and by amending paragraph (a)(3) by removing the citation "§ 270.80" and replacing it with the citation "§ 3265.1"; and

B. Amending paragraph (b) by removing in the two places it appears the world "Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "§ 270.34–1 of this part" and replacing it with the citation "§ 3262.4–1 of this title", amending paragraph (b)(2) by removing the word "Supervisor" and replacing it with the world "authorized officer", amending paragraph (b)(3) by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and amending paragraph (b)(4) by removing the citation "§ 270.79 of this part" and replacing it with the citation "§ 3264.5 of this title" and by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.4 [Amended]

10. Section 3261.4, formerly 30 CFR 270.13, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.5 [Amended]

11. Section 3261.5, formerly 30 CFR 270.14, is amended by removing in two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the phrase "part and 43 CFR Group 3200;" and replacing it with the word "group;".

§ 3261.6 [Amended]

12. Section 3261.6, formerly 30 CFR 270.15, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.7 [Amended]

13. Section 3261.7, formerly 30 CFR 270.16, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3261.8 [Amended]

14. Section 3261.8, formerly 30 CFR 270.17, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.1 [Amended]

15. Section 3262.1, formerly 30 CFR 270.30, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 270.11" and replacing it with the citation "§ 3261.2 of this title"; and

B. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.2 [Amended]

16. Section 3262.2, formerly 30 CFR 270.31, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in the three places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 270.34–1 of this part" and replacing it with the citation "§ 3262.4–1 of this title" and by removing the citation "43 CFR Group 3200." and replacing it with the phrase "the regualtions in this group".

§ 3262.2–1 [Amended]

17. Section 3262.2–1, formerly 30 CFR 270.32, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.3 [Amended]

18. Section 3262.3, formerly 30 CFR 270.33, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "43 CFR 3204.5" and replacing it with the citation "§ 3203.8 of this title"; and

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

19. Section 3262.4, formerly 30 CFR 270.34, is amended by:

A. Revising the introductory paragraph to read:

§ 3262.4 Plan of operation.

"Except as otherwise provided in these regulations, a lessee, prior to commencing operations on the leased lands or on lands subject to an approved unit or cooperative agreement, shall obtain the approval of a plan of operation by the authorized officer. A plan of operation is not required for: Subsequent well operations, the construction of new production facilities, or the alteration of existing production facilities, unless specifically required by the authorized officer, exploration operations or casual use activities. However, unless a previously approved plan included a specific authorization for subsequent well operations, construction of new production facilities, alteration of existing production facilities or exploration operations, the lessee may not conduct such operations or activities without the authorized officer's prior approval. Before commencing a subsequent well operation, the construction of a new production facility or the alteration of an existing production facility, the lessee shall, as a minimum, obtain the authorized officer's approval of a permit or of a sundry notice, whichever is appropriate. Before commencing exploration operations, the lessee shall obtain the authorized officer's approval of a notice of intent. When a plan of operation is required by the regulations in this part, it shall be filed in triplicate with the authorized officer and shall include:

* * * * *

B. Amending paragraph (i) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending the closing paragraph by removing in the four places it appears the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing the citation "§ 270.79 of this part." and replacing it with the citation "§ 3264.5 of this title."

§ 3264.4-1 [Amended]

20. Section 3264.4-1, formerly 30 CFR 270.34-1, is amended by:

A. Amending the opening paragraph by removing the word "Supervisor" in the three places it appears and replacing it with the phrase "authorized officer";

B. Amending paragraph (a) by removing the citation "§ 270.71-1 of this part" and replacing it with the citation "§ 3264.2-1 of this title";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (i) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Amending paragraph (j) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (k) by removing the citation "Title 43 Group 3200." and replacing it with the phrase "this group."; and

G. Amending the final paragraph of the section by removing the citation "§ 270.79 of this part" and replacing it with the citation "§ 3264.5 of this title" and by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.4-2 [Amended]

21. Section 3262.4-2, formerly 30 CFR 270.35, is amended by removing in the six places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-1 [Amended]

22. Section 3262.5-1, formerly 30 CFR 270.37, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

C. Amending paragraph (c) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-2 [Amended]

23. Section 3262.5-2, formerly 270.38, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-3 [Amended]

24. Section 3262.5-3, formerly 30 CFR 270.39, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6 [Amended]

25. Section 3262.6, formerly 30 CFR 270.41, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6-1 [Amended]

26. Section 3262.6-1, formerly 30 CFR 270.42, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6-2 [Amended]

27. Section 3262.6-2, formerly 30 CFR 270.43, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.6-3 [Amended]

28. Section 3262.6-3, formerly 30 CFR 270.44, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.5-5 [Amended]

29. Section 3262.5-5, formerly 30 CFR 270.45, is amended by removing in the four places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.7 [Amended]

30. Section 3262.7, formerly 30 CFR 270.46, is amended by removing in the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3262.8 [Amended]

31. Section 3262.8, formerly 30 CFR 270.48, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

32. Section 3262.9, formerly 30 CFR 270.50(b), is revised to read:

§ 3262.9 Pilot operations or facility testing.

With respect to the pilot operations or facility testing of those utilization facilities in accordance with the provisions of 30 U.S.C. 1012, the authorized officer may approve the suspension, waiver or reduction of the royalty obligation for a period not to exceed 120 days of net operation upon application therefor. No form of relief from the royalty requirements of a lease

will be approved where the geothermal resources and/or the output of the facility would be used commercially or sold during said period. In addition, no application in this respect will be approved in the absence of a determination by the authorized officer that the payment of royalty during this period would affect adversely the development and recovery of the resources and that the action would be in the interest of conservation, would encourage the greatest ultimate recovery of geothermal resources and is necessary in order to promote development or to ensure that the lease can be operated successfully under the lease terms. Each application for relief hereunder shall be filed in triplicate with the authorized officer and, as a minimum shall:

(a) Indentify the facility, its location and the facility operator;

(b) Provide the serial number(s) of the lease(s) from which the geothermal resources are produced and the name(s) of the current lessee(s) and/or operator(s);

(c) Contain the number and location of each well which will be utilized during the pilot or testing operation of the facility and the estimated daily volumes of geothermal resources to be produced of each such well;

(d) Furnish a detailed statement of the estimated costs associated with the pilot or testing operations; and

(e) Supply other appropriate documentation to support the contention that relief from royalty requirements of the lease would be in accordance with the provisions of 30 U.S.C. 1012, as set forth in the preceding paragraph.

§ 3263.1 [Amended]

33. Section 3263.1, formerly 30 CFR 270.60, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3263.2 [Amended]

34. Section 3263.2, formerly 30 CFR 270.61, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3263.3 [Amended]

35. Section 3263.3, formerly 30 CFR 270.64, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.1 [Amended]

36. Section 3264.1, formerly 30 CFR 270.70, is amended by:

A. Amending paragraph (a) by removing in the two places it appear the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (b) by removing in word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.2 [Amended]

37. Section 3264.2(a), formerly 30 CFR 270.71(a), is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.2-1 [Amended]

38. Section 3264.2-1, formerly 30 CFR 270.71-1, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by removing the citation "§ 270.34 of this part" and replacing it with the citation "§ 3262.4-1 of this title" and by removing the phrase "part, 43 CFR Group 3200," and replacing it with the word "group";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by removing from the third sentence the citation "§ 270.34-1 of this part" and replacing it with the citation "§ 3262.4-1 of this title", by removing from the end of the last sentence the phrase "Authorized Officer pursuant to 43 CFR Group 3200." and replacing it with the phrase "responsible officer of the surface managing agency pursuant to the regulations in this group.";

C. Amending paragraph (c) by removing from the two places it appears the word "Supervisor and replacing it with the phrase "authorized officer", by removing from the second sentence the citation "43 CFR Group 3200" and replacing it with the phrase "the regulations in this group.", by removing the citation "§ 270.34-1 of this part." and replacing it with the citation "§ 3262.4-1 of this title." and by removing from the last sentence the phrase "part, 43 CFR Group 3200," and replacing it with the word "group";

D. Paragraph (d) is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by removing from subparagraph (d)(5) the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Revising paragraph (e) to read:

§ 3264.2-1 Application for utilization permit.

(e) Except as permitted by the access provisions of the lease, transmission facilities (lines and substations) and roads or pipelines located on off-lease Federal surface will require that appropriate permits be obtained. In the event that a Federal agency, other than the Bureau of Land Management, has jurisdiction over all or a portion of the affected off-lease Federal surface, the necessary right-of-way permits must be obtained from that agency.

* * * * *

F. Amending paragraph (g) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (h) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3264.2-2 [Amended]

39. Section 3264.2-2, formerly 30 CFR 270.72, is amended by:

A. Amending paragraph (a) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the phrase "Supervisor or his representative" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

D. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Amending paragraph (e) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

F. Amending paragraph (f) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

G. Amending paragraph (g) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.2-3 [Amended]

40. Section 3264.2-3, formerly 30 CFR 270.73, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.2-4 [Amended]

41. Section 3264.2-4, formerly 30 CFR 270.74, is amended by:

A. Amending the introductory paragraph by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and

B. Amending paragraph (f) by removing the word "Supervisor" and

replacing it with the phrase "authorized officer";

§ 3264.2-5 [Amended]

42. Section 3264.2-5, formerly 30 CFR 270.74-1, is amended by removing from the introductory paragraph in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.3 [Amended]

43. Section 3264.3, formerly 30 CFR 270.77, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

§ 3264.4 [Amended]

44. Section 3264.4, formerly 30 CFR 270.78, is amended by:

A. Amending paragraph (a) by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

B. Amending paragraph (b) by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"; and by removing from paragraph (b)(6) the word "Supervisor" and replacing it with the phrase "authorized officer";

C. Amending paragraph (c) by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

D. Amending paragraph (d) by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

45. Section 3265.1, formerly 30 CFR 270.80, is amended by revising paragraph (a) to read:

§ 3265.1 Noncompliance with regulations or lease terms.

(a) Whenever a lessee or anyone acting under his/her authority fails to comply with the provisions of the regulations or lease terms, the authorized officer shall give the lessee notice to remedy any defaults or violations. Failure by the lessee to perform or commence the necessary remedial action pursuant to the notice may result in a shut down of operations and may also result in cancellation of the lease pursuant to § 3244.3 of this title."

* * * * *

22. Section 3266.1, formerly 30 CFR 270.90, is revised to read:

§ 3266.1 Appeals.

Appeals from final orders or decisions issued under the regulations in this part shall be made in the manner provided in Part 4 of this title.

23. The authority citation for new Part 3260 is added to read as follows:

Authority: Geothermal Steam Act as amended (30 U.S.C. 1001-1025) and Order No. 3087 dated Dec. 3, 1982, as amended on Feb. 7, 1983 [48 FR 8983].

II

1. 30 CFR Part 271 is redesignated as 43 CFR Part 3280 as shown in the following redesignation table:

REDESIGNATION TABLE

Old 30 CFR Part 271	New 43 CFR Part 3260
	Insert new part title—Part 3280 Geothermal Resources Unit Agreements—Unproven Areas.
	Insert new subpart 3180—Geothermal resources unit agreements—General.
271.1 (First sentence).	3280.0-1 Purpose.
271.1 (Second sentence).	3280.0-2 Policy.
	Insert new section 3280.0-3 Authority.
271.2	3280.0-5.
271.3	3281.2.
	Insert new subpart 3281—Application for unit agreement.
271.4	3281.1.
271.5	3281.4.
	Insert new subpart 3282—Qualification of unit operator.
271.6	3282.1.
271.7	3281.3.
	Insert new subpart 3283—Filing and approval of documents.
271.8(a)	3283.2-1 Approval of executed agreement.
271.8 (b), (c), (d)	3283.2 Executed agreement.
271.9(a)	3283.1 Filing of documents and number of counterparts.
271.9(b)	3283.4 Plan of development.
271.9(c)	3283.3 Participating area.
271.9(d)	3283.5 Return of approved documents.
	Insert new subpart 3284—Bonds.
271.10	3284.1.
	Insert new subpart 3285—Appeals.
271.11	3285.1.
	Insert new subpart 3286—Model forms.
271.12	3286.1 Model unit agreement—unproven areas.
271.13	3286.1-1 Model Exhibit "A."
271.14	3286.1-2 Model Exhibit "B."
271.15	3286.2 Model unit bond.
271.16	3286.3 Model designation of successor operator.
271.17	3286.4 Model change of operator by assignment.

2. Part 3280 is amended by inserting immediately after the part heading a "NOTE" to read:

Note.—Many existing unit agreements specifically refer to the United States Geological Survey, USGS, Minerals Management Service, MMS, Supervisor, Conservation Manager, Deputy Conservation Manager, Minerals Manager and Deputy Minerals Manager in the body of the agreements, as well as reference to Title 30 CFR Part 270 or specific sections thereof. Those references must now be read in the context of the provisions of Secretarial Order 3087 and now mean the Bureau of Land Management or the Minerals Management Service as appropriate.

3. Section 3280.0-1, formerly the first sentence of 30 CFR 271.1, is revised to read:

§ 3280.0-1 Purpose.

The regulations in this part prescribe the procedure to be followed and the requirements to be met by holders of Federal geothermal leases and their representatives who wish to unite with each other, or jointly or separately with others, in collectively adopting and operating under a cooperative or unit plan for the development of any geothermal resources pool, field or like area, or any part thereof.

4. Section 3280.0-2, formerly the second sentence of 30 CFR 271.1, is revised to read:

§ 3280.0-2 Policy.

Cooperative or unit agreements for the development of any geothermal resources pool, field or like area, or any part thereof, may be initiated by lessees, or where such agreements are deemed necessary in the interest of conserving natural resources, they may be required by the Director.

5. A new § 3280.0-3 is added to read:

§ 3280.0-3 Authority.

These regulations are issued under the authority of the Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025) and Order Number 3087, dated December 3, 1982, as amended February 7, 1983 (48 FR 8983), under which the Secretary consolidated and transferred the onshore minerals management functions of the Department, except mineral revenue functions and the leasing of restricted Indian lands, to the Bureau of Land Management.

§ 3280.0-5 [Amended]

6. Section 3280.0-5, formerly 30 CFR 271.2, is amended by:

A. Removing paragraph (d) in its entirety;

B. Renumbering paragraphs (e) through (j) as paragraphs (d), (e), (f), (g), (h) and (i), respectively; and

C. Removing paragraphs (k), (l), (m) and the note at the end thereof in their entirety.

§ 3281.1 [Amended]

7. Section 3281.1, formerly 30 CFR 271.4, is amended by removing in the two places it appears the citation "§ 271.12" and replacing it with the citation "§ 3286.1 of this title" and by removing in the two places it appears the citation "§ 271.3" and replacing it with the citation "§ 3281.2 of this title".

§ 3281.2 [Amended]

8. Section 3281.2, formerly 30 CFR 271.3, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3281.3 [Amended]

9. Section 3281.3, formerly 30 CFR 271.7, is amended by removing the word "Supervisor" and replacing it with the phrase "authorized officer".

§ 3282.1 [Amended]

10. Section 3282.1, formerly 30 CFR 271.8, is amended by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer".

11. Section 3283.1, formerly 30 CFR 271.9(a), is revised to read:

§ 3283.1 Filing of documents and number of counterparts.

All proposals and supporting papers, instruments and documents submitted under this part shall be filed with the authorized officer, unless otherwise provided in this part or otherwise instructed by the Director.

12. Section 3283.2, formerly 30 CFR 271.8 (b), (c) and (d), is revised to read:

§ 3283.2 Executed agreement.

(a) Where a duly executed agreement is submitted for Departmental approval, a minimum of 6 signed counterparts shall be filed. The same number of counterparts shall be filed for documents supplementing, modifying or amending an agreement, including change of operator, designation of a new operator and notice of surrender, relinquishment or termination.

(b) The address of each signatory party to the agreement shall be inserted below the party's signature. Each signature shall be attested to by at least 1 witness, if not notarized. Corporate or other signatures made in a representative capacity shall be accompanied by evidence of the authorization of the signatories to act unless such evidence is already a matter of record in the Bureau of Land Management. [The parties may execute any number of counterparts of the agreement with the same force and effect as if all parties signed the same document, or may execute a ratification of consent in a separate instrument with like force and effect.]

(c) Any modification of an approved agreement shall require approval of the Secretary or his/her duly authorized representative under procedures similar to those cited in § 3283.2–1 of this title.

13. Section 3283.2–1, formerly 30 CFR 271.8(a), is revised to read:

§ 3283.2–1 Approval of executed agreement.

A duly executed unit or cooperative agreement shall be approved by the Secretary or his/her duly authorized representative upon a determination that such agreement is necessary or advisable in the public interest and is for the purpose of properly conserving the natural resources, taking into account the environmental consequences of the action. Such approval shall be incorporated in a certificate appended to the agreement. No such agreement shall be approved unless at least 1 of the parties is a holder of a Federal lease embracing lands being committed to the agreement and unless the parties signatory to the agreement hold sufficient interests in the area to give effective control of operations therein.

14. Section 3283.3, formerly 30 CFR 271.9(c), is revised to read:

§ 3283.3 Participating area.

Each application for approval of a participating area, or revision thereof, shall be accompanied by 3 copies of a substantiating geologic and engineering report, structure contour map(s), cross-section or other pertinent data.

15. Section 3283.4, formerly 30 CFR 271.9(b), is revised to read:

§ 3283.4 Plan of development.

Plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof shall be submitted in quadruplicate.

16. Section 3283.5, formerly 30 CFR 271.9(d), is revised to read:

§ 3283.5 Return of approved documents.

All instruments or documents other than plans of development and operation, plans of further development and operation and proposed participating areas and revisions thereof submitted for approval shall be submitted for approval in sufficient number to permit the approving official to return at least 1 approved counterpart.

§ 3284.1 [Amended]

17. Section 3284.1, formerly 30 CFR 271.10, is amended by removing the word "Supervisor" and replacing it with the word "authorized officer" and by removing the citation "§ 271.15," and replacing it with the citation "§ 3286.2 of the title."

§ 3285.1 [Amended]

18. Section 3285.1, formerly 30 CFR 271.11, is amended by removing the citation "30 CFR Part 290." and replacing it with the citation "Part 4 of this title."

19. Section 3286.1, formerly 30 CFR 271.12, is amended by:

A. Revising the section heading to read:

§ 3286.1 Model Unit agreement—unproven areas.

B. Amending Article II, section 2.1, by removing paragraphs (g) and (h) in their entirety and replacing them with new paragraphs (g) and (h) to read:

Article II—Definitions

* * * * *

(g) *Director.* The Director of the Bureau of Land Management.

(h) *Authorized Officer.* Any person authorized by law or by lawful delegation of authority in the Bureau of Land Management to perform the duties described.

* * * * *

C. Amending Article III, section 3.4, by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

D. Amending Article IV, sections 4.1(b), (c) and (d), by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending sections 4.6 and 4.8 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

E. Amending Article VII by amending section 7.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 7.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

F. Amending Article VIII, section 8.3(b), by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

G. Amending Article IX, section 9.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

H. Amending Article X by amending section 10.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 10.4 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

I. Amending Article XI by amending section 11.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.4 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.5 by removing the word "Supervisor"' and replacing it with the phrase "authorized officer", by amending section 11.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.7 by removing in the two places it appears the word

"Supervisor" and replacing it with the phrase "authorized officer", by amending section 11.8 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer";

J. Amending Article XII by amending section 12.1 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 12.2 by removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer", by amending section 12.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer" and by amending section 12.4 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

K. Amending Article XIV by amending section 14.6 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

L. Amending Article XVI by amending section 16.1 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

M. Amending Article XVIII by amending section 18.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

N. Amending Article XXI by amending section 21.3 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

O. Amending Article XXV by amending section 25.1 By removing in the two places it appears the word "Supervisor" and replacing it with the phrase "authorized officer"and by amending section 25.5 by removing the word "Supervisor" and replacing it with the phrase "authorized officer"; and

P. Amending Article XXVIII by amending section 28.2 by removing the word "Supervisor" and replacing it with the phrase "authorized officer";

20 Section 3286.1–1, formerly 30 CFR 271.13, is amended by revising the section heading to read:

§ 3286.1–1 Model Exhibit 'A'.

21. Section 3286.1–2, formerly 30 CFR 271.14, is amended by:

A. Revising the Section heading to read:

§ 3286.1–2 Model Exhibit 'B'.

B. Removing the sentence "3 Patented tracts 1,951.20 acres or 19.04% of unit area." at the end of the table and replacing it with the sentence "4 Patented tracts 1,951.20 acres or 19.04% of unit area."

22. Section 3286.2, formerly 30 CFR 271.15, is amended by revising the section heading to read:

§ 3286.2 Model unit bond.

23. Section 3286.3, formerly 30 CFR 271.16, is amended by:

A. Revising the section heading to read:

§ 3286.3 Model designation of successor operator.

B. Removing the language under the signature line at the end of the form and replacing it with "Authorized Officer, Bureau of Land Management."

24. Section 3286.4, formerly 30 CFR 271.17, is amended by:

A. Revising the section heading to read:

§ 3286.4 Model change of operator by assignment.

B. Removing the language under the signature line at the end of the form and replacing it with "Authorized Officer, Bureau of Land Management."

25. The authority citation for new Part 3280 is added as follows:

Authority: Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001–1025) and order No. 3087, dated Dec. 3, 1982, as amended Feb. 7, 1983 (48 FR 8983).

[FR Doc. 83–26840 Filed 9–29–83; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Land Management

Minerals Management Service

43 CFR Part 3570

30 CFR Part 200

[Circular No. 2537]

Operating Procedures for Exploration, Development and Production; Final Rulemaking Redesignating Certain Provisions Covering Forms From Title 30 Part 200 of the Code of Federal Regulations to Title 43 Part 3570

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: On December 3, 1982, the Secretary of the Interior issued Order No. 3087, which was amended on February 7, 1983, transferring all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management. Notice of this transfer of management functions was published in the **Federal Register** of March 2, 1983 (48 FR 8982). In accordance with that order and the above notice, certain sections of the regulations in 30 CFR Part 200 are being transferred to 43 CFR Part 3570.

This notice redesignates the appropriate sections of 30 CFR Part 200 as 43 CFR Part 3570 and makes necessary administrative amendments to bring the redesignated sections into conformance with the language of Title 43 of the Code of Federal Regulations.

EFFECTIVE DATE: September 30, 1983.

ADDRESS: Any suggestions or inquiries should be sent to: Director (660), Bureau of Land Management, 1800 C Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Paul Sternberg, (202) 860–7506.

The principal author of this final rulemaking is Harry Moritz, Division of Solid Mineral Operations, Bureau of Land Management, assisted by the staff of the Office of Legislation and Regulatory Management, Bureau of Land Management.

Because this final rulemaking is an administrative action reflecting actions that have already occurred and that have no additional impacts on leasable mineral exploration and mining operations, it has been determined that no action needs to be taken with regard to a determination under either the provisions of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)) or the provisions of Executive Order 12291.

There are no additional information collection requirements contained in this final rulemaking that require clearance by the Office of Management and Budget under 44 U.S.C. 3507.

This final rulemaking is administrative and has no additional impacts on the public. Further, it reflects actions that have already occurred. It will, therefore, be effective upon publication.

List of Subjects in 43 CFR Part 3570

Environmental protection, Government contracts, Mineral royalties, Mines, Public lands—mineral resources, Reporting requirements.

Under the authority of Order No. 3087 issued by the Secretary of the Interior on December 3, 1982, as amended on February 7, 1983, which transferred all onshore management functions of the Minerals Management Service, not relating to royalty management, to the Bureau of Land Management, 30 CFR Part 231 is redesignated as Part 3570, Group 3500, Subchapter C, Chapter II of Title 43 of the Code of Federal Regulations and is amended as set forth below.

Garrey E. Carruthers,

Assistant Secretary of the Interior.

[FR Doc. – Filed —; 8:45 am]

BILLING CODE —

§ 2570.0–9 [Amended]

1. Section 2570.0–9, formerly 30 CFR 231.1(c), is amended by removing in its entirety the cross reference that appears at the end of 30 CFR 231.1.

§ 3571.1 [Amended]

2. Section 3571.1, formerly 30 CFR 231.4, is amended by:

A. Amending paragraph (e) by removing the citation "Parts 55, 56, or 57, Chapter I of this Title" and replacing it with the citation "30 CFR Parts 55, 56 or 57"; and

B. Revising paragraph (f) to read:

* * * * *

(f) Lessees and permittees shall submit the reports required by 25 CFR Parts 211 and 212, the requirements of § 3571.1–1 of this title and part 23 of this title.

3. A new § 3571.1–1, formerly 30 CFR 200.1 (b), (c), (d), (e) and (f), is added to read as follows:

§ 3571.1–1 Forms and reports.

Under regulations, the following reports are to be filed on the forms listed:

(a) *Potassium and sodium.* (1) Production reports on potassium and sodium prospecting permits on form 9–128, Carlsbad, New Mexico; 9–128c, Salt Lake City, Utah; 9–129d, all other districts. These forms require information each calendar quarter relating to prospecting operations, including the nature thereof, extent, cost and amount removed for experimentation and research. (See § 3470.0–2(b) of this title)

(2) Production and royalty reports on potassium and sodium leases on form 9–128a. This form requires information each month relating to the output from the leased lands, the amount in storage, the amount disposed of, unit and total value and royalty thereon. (See § 3470.0–2(b) of this title)

(3) Annual production reports on potassium and sodium leases on form 9–128B. This form requires information relating to the output from the leased lands, the amount in storage, the amount disposed of and the gross value thereof, total amount of products and cost of production. (See § 3470.0–2(b) of this title)

(b) *Phosphate.* (1) Production and royalty reports on phosphate leases on form 9–368. This form requires information each calendar quarter relating to the amount of phosphate rock mined, its character and quality, the amount in storage, products and by-products disposed of, unit gross value and royalty. (See § 3470.0–2(b) of this title)

(2) Annual reports on phosphate leases on form 9–389. This form requires information on the output from leased lands, the amount in storage, the amount disposed of and gross value thereof, total amount of products and cost of production. (See § 3470.0–2(b) of this title)

(c) *Silica sands.* Production and royalty reports on silica sand leases on form 9–1146. This form requires information each calendar quarter on the production from leased lands, unit and gross value at point of shipment to market and royalty. (See § 3470.0–2(b) of this title)

(d) *Oil shale and sulphur.* Production and royalty reports on the above-described potassium and sodium forms.

(e) *Logs of prospect bore holes for potassium, sodium, phosphate, silica sands, sulphurs and oil shale on form* 9–1147. This form requires, not later than 15 days after the completion of each bore hole, a complete and accurate log and history, in chronological order, of all operations conducted on the bore hole. (See § 3470.0–2(b) of this title)

§ 3574.4 [Amended]

4. Section 3574.4(b), formerly 30 CFR 231.34(b), is amended by removing the citation "Part 57, Chapter 1 of this Title" and replacing it with the citation "30 CFR Part 57".

§ 3577.1 [Amended]

5. Section 3577.1, formerly 30 CFR 231.60, is amended by removing from the cross reference following that section the citation "Part 200" and replacing it with the citation "§ 3571.1–1 of this title".

§ 3577.2 [Amended]

6. Section 3577.2(a)(1)(iii), formerly 30 CFR 231.61(a)(1)(iii), is amended by removing the phrase "Mining Supervisor" and replacing it with the phrase "authorized officer".

PART 200—[REMOVED]

7. 30 CFR Part 200 is removed in its entirety.

[FR Doc. 83-26857 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6562]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the flood plain management requirements of the program. If FEMA receives documentation that the community has adopted the required flood plain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column.

FOR FURTHER INFORMATION CONTACT: Richard W. Krimm, Assistant Associate Director Office of Natural and Technological Hazards Programs (202) 287–0176, 500 C Street, Southwest, Donohoe Building—Room 506, Washington, D.C. 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adoped adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the

effective date in the fourth column, so that as of that date flood insurance is no longer available in the community. However, those communities which, prior to the suspension date, adopt and submit documentation of legally enforceable flood plain management measures required by the program, will continue their eligibility for the sale of insurance. Where adequate documentation is received by FEMA, a notice withdrawing the suspension will be published in the **Federal Register.**

In addition, the Director of Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction of acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended.) This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Director finds that notice and public procedure under 5 U.S.C. 533(b) impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required flood plain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Associate Director of State and Local Programs and Support, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in Section 2 of the Flood Disaster Protection Act of 1973, the establishment of local flood plain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision not to (adopt) (enforce) adequate flood plain management, thus placing itself in noncompliance of the Federal standards required for community participation.

In each entry, a complete chronology of effective dates appears for each listed community.

List of Subjects in 44 CFR Part 64

Flood insurance, Flood plains.

PART 64—[AMENDED]

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of eligible communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Region I					
Connecticut: Fairfield	Easton, town of	09006B	Jan. 7, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	Oct. 18, 1974, Sept. 17, 1976	Sept. 30, 1983.
New Hampshire: Cheshire.	Keene, city of	330023A	Apr. 24, 1974, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	Jan. 3, 1975	Do.
Region II					
New Jersey: Monmouth.	Brielle, borough of	340290C	July 28, 1972, emergency, Apr. 2, 1979, regular, Sept. 30, 1983, suspended.	Aug. 31, 1973, Feb. 11, 1977, Apr. 2, 1979.	Do.
New York: Ontario	Farmington, town of	361299B	July 17, 1974, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	Oct. 25, 1974, July 23, 1976	Do.
Fulton	Gloversville, city of	360275B	July 30, 1976, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	June 21, 1974, July 30, 1976	Do.
Schenectady	Schenectady, city of	360741B	Apr. 30, 1974, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	May 10, 1974, June 25, 1976	Do.
Ontario	Victor, town of	361249C	July 24, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	Oct. 25, 1974, June 18, 1976, July 8, 1977.	Do.
Region III					
West Virginia: Wyoming.	Pineville, city of	540220B	Jan. 22, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	July 26, 1974, June 11, 1976	Do.
Region IV					
Alabama: Calhoun	Weaver, city of	010025B	June 27, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	Nov. 30, 1973, Jan. 9, 1976	Do.
Do	Hobson City, city of	010021B	Apr. 16, 1975 emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	May 17, 1974, Mar. 5, 1976	Do.
Region V					
Indiana: LaPorte	Unincorporated areas	180144B	Jan. 15, 1976, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	June 23, 1978	Do.
Region VI					
Texas: Kendall	Boerne, city of	480146D	Feb. 5, 1974, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	Nov. 30, 1973, Jan. 23, 1976, May 8, 1979.	Do.
Region VIII					
Utah: Davis	Layton, city of	490047A	Dec. 13, 1974, emergency, Dec. 1, 1982, regular, Sept. 30, 1983, suspended	May 14, 1976	Do.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard area identified	Date certain Federal assistance no longer available in special flood hazard area
Region IX					
California:					
Fresno	Orange Cove, city of	060052C	July 23, 1975 emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	May 10, 1974, Apr. 11, 1975, Sept. 5, 1978.	Do.
El Dorado	Placerville, city of	060041B	July 25, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	June 7, 1974, Oct. 3, 1975, Nov. 1, 1977.	Do.
Contra Costa	Pleasant Hill, city of	060034B	Mar. 19, 1971, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	May 24, 1974, Feb. 13, 1976	Do.
Region X					
Washington: Snohomish	Sultan, town of	530173B	May 16, 1975, emergency, Sept. 30, 1983, regular, Sept. 30, 1983, suspended.	June 7, 1974, Apr. 2, 1976	Do.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended, 42 U.S.C. 4001–4128; E.O. 12127, 44 FR 19367; and delegation of authority to the Associate Director, State and Local Programs and Support)

Issued: September 26, 1983.

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 83-26731 Filed 9-29-83; 8:45 am]

BILLING CODE 6718-01-M

ACTION

45 CFR Part 1207

Senior Companion Program

Corrections

In FR Doc. 83–15542 beginning on page 26802 in the issue of Friday, June 10, 1983, make the following correction on page 26804: In the middle column, in § 1207.2–3(b), the eighth line, the word "of" should read "or".

BILLING CODE 1505-01-M

45 CFR Part 1208

Foster Grandparent Program

Corrections

In FR Doc. 83–15544 beginning on page 26808 in the issue of Friday, June 10, 1983, make the following corrections:

1. On page 26809, the middle column, the **Authority** citation, the last line, "50023" should read "5023".

2. On page 26811, the third column, in § 1208.3–2(c), the fourth line, the word "of" should read "or".

3. On page 26812, the first column, in § 1208.3–3(c), the third line, the word "for" should read "from".

4. On the same page, the third column, in § 1208.3–5(b)(1), the thirteenth line, the word "if" should read "is".

5. On page 26813, the second column, in § 1208.3–5(c)(5), the ninth line, the word "Grandparents" should read "Grandparent".

6. On the same page, the third column, in § 1208.3–6(e), the second line, the word "on" should read "of".

7. In the same column, in § 1208.3–7(d)(2), the first line, remove the first "the".

8. On page 26814, the first column, in § 1208.5–1(a)(1), the second line, the word "be" at the end of the line should be removed.

BILLING CODE 1505-01-M

45 CFR Part 1209

Retired Senior Volunteer Program

Correction

In FR Doc. 83–15543, beginning on page 26815, in the issue of Friday, June 10, 1983, make the following correction on page 26816: In the first column, in § 1209.1–2, in the definition for "Hard-to-reach", the second line, the phrase "physical by" should read "physically".

BILLING CODE 1505-01-M

45 CFR Parts 1208 and 1209

Foster Grandparent Program and Retired Senior Volunteer Program

AGENCY: ACTION.

ACTION: Notice of technical amendments to final rule.

SUMMARY: This document makes technical corrections to regulations for the Foster Grandparent Program (FGP) and the Retired Senior Volunteer Program (RSVP). Final regulations were published for both programs on Friday, June 10, 1983 (48 FR 26808) and (48 FR 26815), respectively.

The changes are non-substantive and serve to either correct typographical errors or word omissions, or for clarification, such as removing a citation which is unnecessary.

FOR FURTHER INFORMATION CONTACT: C. Wade Freeman, Director, Older American Volunteer Programs, ACTION, 806 Connecticut Avenue, N.W., Room M–1006, Washington, D.C. 20525, (800) 424–8500, ext. 239.

List of Subjects

45 CFR Part 1208

Aged, Grant programs—Social programs, Reporting and recordkeeping requirements, Volunteers.

45 CFR Part 1209

Aged, Government contracts, Grant programs—Social programs, Reporting and recordkeeping requirements, Volunteers.

For the reasons set out in the preamble 45 CFR Parts 1208 and 1209 are amended as follows:

PART 1208—FOSTER GRANDPARENT PROGRAM (FGP)

§ 1208. 1–2 [Amended]

1. In § 1208.1–2 the definition "Children having exceptional needs" is amended by adding after the phrase "speech impaired," the phrase "hearing impaired, orthopedically impaired,".

2. In § 1208.1–2, the definition "Children with special needs" is amended by removing the phrase "and other children or youth, as further defined in Title III of the Juvenile Justice Act Amendments of 1977" and replacing

it with "; juvenile delinquents; runaway youths;"

§ 1208.3–7 [Amended]

3. In § 1208.3–7(a) the reference to § 1208.3–1(k) should read § 1208.3–1(1).

PART 1209—RETIRED SENIOR VOLUNTEER PROGRAM (RSVP)

§1209.1–2 [Amended]

4. In § 1209.1–2 the definition "Memorandum of Understanding" is amended by removing after the phrase "the RSVP director" the word "or".

§1209.3–1 [Amended]

5. Section 1209.3–1(h) is amended by replacing after the phrase "anti-labor organization" the word "of" with the word "or".

Authority: Section 402 of the Domestic Volunteer Service Act of 1973, as amended (42 U.S.C. 5042).

Signed at Washington, D.C., this 27th day of September, 1983.

Thomas W. Pauken,

Director, ACTION.

[FR Doc. 83-26906 Filed 9-29-83; 8:45 am]

BILLING CODE 6050-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0, 1, and 19

[FCC 83-417]

Amendment of Rules To Implement Provisions of the Ethics in Government Act of 1978

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action is taken to implement the Ethics in Government Act, as amended. The rules establish post employment restrictions for former Commission employees and prescribe public financial disclosure requirements for certain high-level personnel in accordance with the Ethics in Government Act of 1978. The rules establish the process by which the financial reports are reviewed and the procedures which accompany public disclosure of the reports. The rules also establish procedures for enforcing the post employment restrictions as required by the Act.

EFFECTIVE DATE: October 27, 1983.

ADDRESS: Federal Communications Commission, 1919 M Street NW., Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Fred J. Goldsmith, Office of Managing Director, (202) 632–7143.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 0

Freedom of information, Organization and functions.

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 19

Conflict of interests.

Order

Adopted: September 13, 1983.
Released: September 20, 1983.

By the Commission.

1. The Commission is adopting rules which provide guidance to employees and former employees on conflict-of-interest matters. These rules comport with the Ethics in Government Act of 1978, Pub. L. No. 95–521, 92 Stat. 1824 (approved Oct. 26, 1978). In general, as it pertains to this agency, the law made two principal changes in "conflict of interest" requirements: (a) Annual financial reporting requirements for certain high-ranking or policy-making employees; and (b) Amendments of 18 U.S.C. 207 regarding restrictions on post-employment activities of employees. Further, the Act was amended by two subsequent Acts of Congress, each affecting one of the two referenced parts of the Ethics Act. *See* Pub. L. No. 96–19, 93 Stat. 37 (June 13, 1979) and Pub. L. No. 96–28, 93 Stat. 76 (June 22, 1979). The 97th Congress made further modifications to the Act (Pub. L. No. 97–409; approved Jan. 3, 1983).

2. The Act established the Office of Government Ethics which, in consultation with the Attorney General, subsequently issued regulations to implement the Act and to provide guidance to federal agencies in exercising the administrative enforcement authority provided in the Act. On February 1, 1980, the Office of Government Ethics issued 5 CFR Part 737 (45 FR 7406) [1] concerning post employment conflict of interest; on October 21, 1980 the Office issued 5 CFR Part 734 (45 FR 69776) concerning financial disclosure requirements. The Act and the regulations issued by the Office of Government Ethics take precedence should they conflict with the regulations issued by the Commission on this matter. *Cf.* 5 CFR 737.1.

3. To implement the Act and to provide guidance to employees and former employees, the Commission is adopting regulations concerning both (a) post-employment conflict of interest restrictions and (b) financial disclosure requirements for executive personnel.

Post Employment Conflict of Interest

4. Title V of the Act and the regulations are intended to bar certain acts by former Commission employees which may reasonably give the appearance of making unfair use of prior Commission employment and affiliations. The policy considerations involved are outlined in the following manner at 5 CFR 737.1(c). When *any* former Commission employee who has been involved with a particular matter decides to act as the representative for another person on that matter, such "switching of sides" undermines confidence in the fairness of proceedings and creates the impression that personal influence, gained by Commission affiliation, is decisive. Similarly, when a former *Commissioner* or *senior* employee assists in representing another by personal presence at an appearance before the Commission regarding a matter which is in dispute, such assistance suggests an attempt to use personal influence and the possible unfair use of information unavailable to others. Former Commissioners and employees are required to avoid such activities in the circumstances specified by statute and in the regulations.

5. The provisions of 18 U.S.C. 207 do not, however, bar any former Commission employee, regardless of rank, from employment with any private or public employer after Commission service. Instead, only certain acts which are detrimental to public confidence in the Commission are prohibited. See 5 CFR 737.1.

6. Federal departments and agencies have primary responsibility for the administrative enforcement of the post employment restrictions found in the Act. Consequently, the Commission is adopting regulations in Part 1 of the Rules which provide guidance to employees and which specify the procedures for administrative enforcement of the post-employment restrictions. The rules do not supplant restrictions that may be contained in laws other than 18 U.S.C. 207 (*e.g.*, 18 U.S.C. 208, 47 U.S.C. 154(b)) and do not incorporate restrictions contained in the code of conduct of a profession of which an employee may be a member.

Financial Disclosure Requirements

7. Title II of the Ethics in Government Act requires high-level Federal executives to disclose their personal

[1] *See also* 45 FR at 75525 (Nov. 14, 1980) and 48 FR at 8213 (Feb. 25, 1983).

financial interests and thereby demonstrate that they are able to carry out their duties without compromising the public trust. Title II of the Act and the regulations serve to deter conflicts of interest and to identify potential conflicts of interest in the case of newcomers to Government service by providing for a systematic review of the financial holdings of both current and prospective officers and employees.

8. Statements of income, assets and liabilities must be reported by presidential appointees, those in the Senior Executive Service, those in confidential or policymaking positions (Schedule C), and civil service employees in grades GS–16 and above (and the equivalent). The reports are not net worth statements. Only assets held as investments and certain other items must be recorded—not items for personal use. These reports are available to the public. If anyone uses them for commercial or credit rating reasons or in connection with the solicitation of money for any political, charitable or similar purpose, the Attorney General may institute a civil action against such a person which may result in a penalty not to exceed $5,000. Personnel below the grade of GS–16 continue to remain subject to the financial reporting requirements contained in Part 19 of the Commission's Rules. These statements, however, are confidential and are not available for public inspection. See 5 CFR 734.104.

9. The rules being adopted identify the individuals who are expected to file such statements, outline the process by which the reports are to be reviewed, and specify the procedures which accompany public disclosure of such reports. Individuals should also refer to 5 CFR Part 734 for specific information about the contents of such reports.

10. To implement these provisions in the law, the Commission is amending Parts 0, 1, and 19 of its Rules as indicated in the Appendix to this Order. In addition, certain other portions of Part 19 are being updated and revised to comport with these provisions. Authority for these amendments is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and in 18 U.S.C. 207(j). Because the amendments concern matters of internal agency procedure or practice, the prior notice provisions of 5 U.S.C. 553 are inapplicable.

11. Accordingly, it is ordered, effective October 27, 1983, that Parts 0, 1, and 19 of the Rules are amended as set out in the attached Appendix.[1]

Federal Communications Commission.

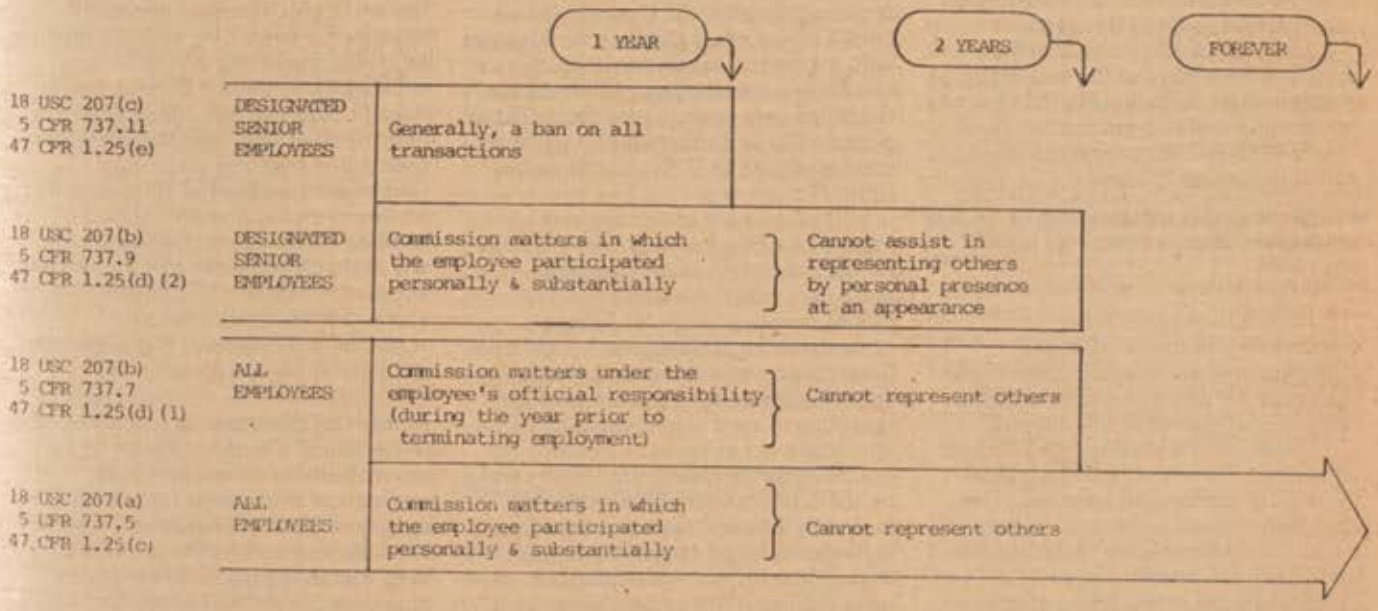
William J. Tricarico,

Secretary.

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[1] The post employment provisions are depicted in the diagram below. This chart is presented merely to simplify explanation; it does not include all exceptions. The restrictions are governed only by the rules and not by information in this diagram.

POST EMPLOYMENT RESTRICTIONS



Appendix

PART 0—[AMENDED]

1. In 47 CFR 0.231, paragraph (i) is added to read as follows:

§ 0.231 Authority delegated.

* * * * *

(i) The Chief, Internal Review and Security Division, Office of Managing Director, is delegated authority to act as the "designated agency ethics official" within the meaning of Sections 206 and 209(10) of the Ethics in Government Act of 1978, Pub. L. No. 95-521, 92 Stat. 1824. (1978). Cross-reference 47 CFR Part 19, Subpart E.

2. In 47 CFR 0.455, paragraph (f)(4) is added to read as follows:

§ 0.455 Other locations at which records may be inspected.

* * * * *

(f) * * *

(4) Reports filed pursuant to Subpart E of Part 19 of this chapter and applications for inspection of such reports. See § 0.460(k).

* * * * *

3. In 47 CFR 0.460, paragraph (a) is amended by adding, before the comma in the second sentence, the following: "and paragraph (k) of this section"

4. In 47 CFR 0.460, paragraph (h) is amended by adding, at the end of the first sentence, the following: ", subject to paragraph (k) of this section."

5. In 47 CFR 0.460, paragraph (k) is added to read as follows:

§ 0.460 Requests for inspection of records which are routinely available for public inspection.

* * * * *

(k) In addition to the other requirements of this section, the following provisions apply to the reports filed with the Commission pursuant to Subpart E of Part 19 of this chapter.

(1) Such reports shall not be obtained or used: (i) For any unlawful purpose; (ii) for any commercial purpose, other than by news and communications media for dissemination to the general public; (iii) for determining or establishing the credit rating of any individual; or (iv) for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(2) Such reports may not be made available to any person nor may any copy thereof be provided to any person except upon a written application by such person stating: (i) That person's name, occupation and address; (ii) the name and address of any other person or organization on whose behalf the inspection or copying is requested; and (iii) that such person is aware of the prohibitions on the obtaining or use of the report. Further, any such application for inspection shall be made available to the public throughout the period during which the report itself is made available to the public.

PART 1—[AMENDED]

6. In 47 CFR Part 1, § 1.25 is amended by removing paragraph (a), revising paragraphs (c)–(e) and adding paragraphs (f)–(h) to read as follows:

§ 1.25 Former Commissioners and employees.

(a) [Reserved]

* * * * *

(c) *Restrictions on any former Commission employee's acting as representative as to a particular matter in which the employee personally and substantially participated.* No former Commissioner or Commission employee (including special Government employee) shall knowingly act as agent or attorney for, or otherwise represent, any other person (other than the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication to the Commission on behalf of any other person in connection with any particular Commission matter involving a specific party in which the Commissioner or employee participated personnally and substantially while so employed. See 18 U.S.C. 207(a) and 5 CFR 737.5.

(d)(1) *Two-year restriction on any former Commission employee's acting as representative as to a particular matter for which the employee had official responsibility.* No former Commissioner or Commission employee (including special Government employee), within two years after the cessation of such employment, shall knowingly act as agent or attorney for, or otherwise represent, any other person (other than the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication on behalf of any other person (other than the United States) to the Commission in connection with any particular Commission matter involving a specific party which was actually pending at the Commission and was under his or her official responsibility within one year prior to the termination of such responsibility. See 18 U.S.C. 207(b) and 5 CFR 737.7.

(2) *Two-year restriction on a former senior employee's assisting in representation as to a matter in which the employee participated personally and substantially.* No former Commissioner or senior employee (as defined in paragraph (h)) of the Commission (including special Government employee), within two years after the cessation of such employment, shall knowingly represent or aid, counsel, advise, consult, or assist in representing any other person (other then the United States) by personal presence at any formal or informal appearance before the Commission in connection with any particular Commission matter involving a specific party in which he or she participated personally and substantially as an employee. See 18 U.S.C. 207(b) and 5 CFR 737.9 and 737.33.

(e) *One-year restriction on a former senior employee's transactions with former agency on a particular matter, regardless of prior involvement.* (1) No former Commissioner or senior employee (as defined in paragraph (h)) of the Commission (other than a special Goverment employee who serves for fewer than 60 days in a calendar year), within one year after such employment has ceased, shall knowingly act as agent or attorney for, or otherwise represent, any person (other than the United States) in any formal or informal appearance before, or, with the intent to influence, make any oral or written communication to the Commission on behalf of anyone (including himself or herself) other than the United States in connection with any particular Commission matter (whether or not involving a specific party) which is pending before the Commission or in which the Commission has a direct and substanital interest. See 18 U.S.C. 207(c) and 5 CFR 737.11 and 737.33.

(2) The prohibition of this subsection shall not apply to appearances, communications, or representation by a former Commissioner or employee, who is an elected official of a State or local government, or whose principal occupation or employment is with (i) an agency or instrumentality of a State or local government, (ii) an accredited, degree-granting institution of higher education, as defined in section 1201(a) of the Higher Education Act of 1965, or (iii) a hospital or medical research organization, exempted and defined under Section 501(c)(3) of the Internal Revenue Code of 1954, and the appearance, communication, or representation is on behalf of such government, institution, hospital, or organization. See 18 U.S.C. 207(d)(2) and 5 CFR 737.11(b).

(3) The prohibition contained in this subsection shall not apply to appearances or communications by a

former Commissioner or employee concerning matters of a personal and individual nature; nor shall the prohibition of this subsection prevent a former Commissioner or employee from making or providing a statement which is based on the former Commissioner's or employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received, other than that regularly provided for by law or regulation for witnesses. See 18 U.S.C. 207(i) and 5 CFR 737.11 (h) and (i).

(f) The prohibitions of paragraph (c), (d), and (e) of this section shall not apply with respect to the making of communications solely for the purpose of furnishing scientific or technological information under procedures acceptable to the Commission. See 18 U.S.C. 207(f) and 5 CFR 737.15.

(g) The prohibitions of paragraph (c), (d), and (e) of this section shall not apply if the Commission, in consultation with the Director of the Office of Government Ethics, makes a certification, published in the **Federal Register**, that the former Commissioner or employee has outstanding qualifications in a scientific, technological, or other technical discipline, and is acting with respect to a particular matter which requires such qualifications, and that the national interest would be served by the participation of the former Commissioner or employee. See 18 U.S.C. 207(f) and 5 CFR 737.17.

(h)(1) The phrase "senior employee," when used in this section, means an officer or employee in a position established within the Senior Executive Service (pursuant to the Civil Service Reform Act of 1978) or a position for which the basic rate of pay is equal to or greater than the basic pay rate of GS–17 of the General Schedule prescribed by 5 U.S.C. 5332, and who has significant decisionmaking or supervisory responsibility. Such officers and employees are so designated by the Office of Government Ethics in consultation with the head of the agency. See 5 CFR 737.25 and 737.33.

(2) The phrase "particular Commission matter involving a specific party," when used in paragraphs (c) and (d) of this section, means any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in which the Commission is a party or has a direct and substantial interest.

Note.—Such a matter typically involves a specific proceeding affecting the legal rights of the parties or an isolatable transaction or related set of transactions between identifiable parties. Rulemaking, legislation, the formulation of general policy, standards or objectives, or other action of general application is not such a matter. Therefore, a former Commission employee may represent another person in connection with a particular matter involving a specific party even if rules or policies which he or she had a role in establishing are involved in the proceeding.

(3) The phrase "participated personally and substantially" as used in this section is defined in 5 CFR 737.5(d).

(4) The phrase "official responsibility" as used in this section is defined in 5 CFR 737.7(b).

(i) Nothing in this section shall prevent a former Commissioner or employee from giving testimony under oath or from making statements required to be made under penalty of perjury. See 18 U.S.C. 207(h) and 5 CFR 737.19.

(j) Measurement of the restriction periods contained in this section is outlined in 5 CFR 737.7(e), 737.9(e), and 737.11(j).

(k) If the Commission finds, after notice and opportunity for a hearing, that such former, Commissioner or employee violated the prohibitions of this section, the Commission may prohibit that person from making, on behalf of any other person (except the United States), any informal or formal appearances before, or, with the intent to influence, any oral or written communication to, the Commission on a pending matter of business for a period not to exceed five years, or may take other appropriate disciplinary action. Such disciplinary action shall be subject to review in an appropriate United States district court. See 18 U.S.C. 207(j).

7. In 47 CFR Part 1, § 1.28 is added to read as follows:

§ 1.28 Administrative Enforcement of Improper Post-Employment Activity.

(a) *General.* A violation of § 1.25 of this Part may be cause for appropriate administrative action which may be in addition to any penalty prescribed by law. This section is established to enforce the provisions of § 1.25 of this Part and to implement the provisions of 5 CFR 737.27.

(b) *Initiation of Enforcement Action.* (1) Information regarding a possible violation of § 1.25 of this Part or of 18 U.S.C. 207 by a former Commissioner or former Commission employee may be brought to the attention of the Commission by filing such information with the Designated Agency Ethics Official (see 47 CFR 0.231(i)).

(2) On receipt of information regarding a possible violation of § 1.25 of this Part or 18 U.S.C. 207, and after determining that such information appears substantiated, the General Counsel shall expeditiously provide such information, along with any comments or Commission regulations, to the Director of the Office of Government Ethics and to the Criminal Division, Department of Justice. The Commission shall coordinate any investigation on administrative action with the Department of Justice to avoid prejudicing criminal proceedings, unless the Department of Justice communicates to the Commission that it does not intend to initiate criminal prosecution.

(3) Whenever the Commission has determined after appropriate review that there is reasonable cause to believe that a former Commissioner or Commission employee has violated § 1.25 of this Part or 18 U.S.C. 207, it may designate the matter for an administrative disciplinary proceeding.

(c) *Hearing.* (1) Upon designating such matter for an administrative disciplinary proceeding, the Commission shall provide the former Commissioner or former Commission employee with notice of an intention to institute a proceeding and an opportunity for a hearing. Such notice shall include: (i) A statement of allegations (and the basis thereof) sufficiently detailed to enable the former Commission employee to prepare an adequate defense; (ii) notification of the right to a hearing; and (iii) an explanation of the method by which a hearing may be requested.

(2) If such former Commissioner or Commission employee has failed to request a hearing within the time specified after receiving adequate notice or has waived the opportunity for a hearing, the Commission may take such administrative action as outlined in paragraph (d) of this section.

(3) (i) The presiding official at proceedings under this section shall be the Chairman or an individual designated by the Chairman or by the Commission. (ii) The presiding official at such proceeding must be a Commissioner, a member of the Review Board, an Administrative Law Judge, an attorney employed by the Commission, or a person qualified to practice law as provided in § 1.23 of this Part. The presiding official shall be provided with appropriate administrative and secretarial support by the Managing Director. (iii) The presiding official shall be impartial. No individual who has participated in any manner in the decision to initiate the proceeding may

serve as the presiding official in those proceedings.

(4) The hearing shall be conducted at a reasonable time, date, and place. In setting a hearing date, the presiding official shall give due regard to the former government employee's need for: (i) Adequate time to prepare a defense properly; and (ii) an expeditious resolution of allegations that may be damaging to his or her reputation.

(5) The hearing shall include, at a minimum, the following rights for all parties: (i) To represent oneself or to be represented by counsel; (ii) to introduce and examine witnesses and to submit physical evidence; (iii) to confront and cross-examine adverse witnesses; (iv) to present oral argument; and (v) to a transcript or recording of the proceedings, on request.

(6) In any hearing under this section, the Commission has the burden of proof and must establish substantial evidence of a violation.

(7) (i) The presiding official shall make a determination exclusively on matters of record in the proceeding, and shall set forth in an initial decision all findings of fact and conclusions of law relevant to the matters at issue. (ii) Within 30 days after the initial decision, any party to the proceeding may appeal the decision to the Commission. Unless the Commission orders otherwise, other parties to the proceeding may file comments within 20 days after such appeal is filed, and the party which filed such appeal may file a reply within 10 days after the period for filing comments has expired. The Commission shall base its decision on such appeal solely on the record of the proceedings or those portions thereof cited by the parties to limit the issues. (iii) If the Commission modifies or reverses the initial decision, it shall specify such findings of fact and conclusions of law as are different from those of the presiding official.

(d) *Administrative Sanctions.* The Commission may take appropriate action in the case of any individual who failed to request a hearing after receiving adequate notice or who was found in violation of § 1.25 of this Part, of 5 CFR Part 737, or of 18 U.S.C. 207 after a final administrative decision, by: (1) Prohibiting the individual from making, on behalf of any other person (except the United States), any formal or informal appearance before, or with the intent to influence, any oral or written communication to, the Commission on any matter of business for a period not to exceed five years, which may be accomplished by directing Commission employees to refuse to participate in any such appearance or to accept any such communication; (2) Taking other appropriate disciplinary action.

(e) *Judicial Review.* Any person found to have participated in a violation of § 1.25 of this Part, of 5 CFR Part 737, or of 18 U.S.C. 207 may seek judicial review of the administrative determination.

8. In 47 CFR Part 1, § 1.29 is added to read as follows:

§ 1.29 Current partners of current employees.

No current partner of a current Commissioner or current Commission employee (including a special Government employee) shall act as agent or attorney for anyone (other than the United States) before the Commission in connection with any particular Commission matter in which such Commissioner or employee participates or has participated personally and substantially as a Commissioner or employee, or which is the subject of his or her official responsibility. See 18 U.S.C. 207(g) and 5 CFR § 737.21.

PART 19—[AMENDED]

§ 19.735-101 [Amended]

9. In 47 CFR Part 19, § 19.735-101 is amended by deleting the last two sentences and adding the following: "In accordance with these concepts, this Part sets forth the Commisson's regulations prescribing standards of conduct and responsibilities and governing statements of employment and financial interests for employees and special Government employees. The Commission has delegated to the Chairman responsibility for the detection and prevention of acts, short of criminal violations, which could bring discredit upon the Commission and the Federal service."

10. In 47 CFR Part 19, § 19.735-104 is revised to read as follows:

§ 19.735-104 Issuance and Availability of Commission Regulations.

(a) The regulations in this part have been prepared in accordance with 5 CFR Parts 734, 735, and 737 in order to:

(1) Implement the requirements of the Executive Order and Parts 734, 735, and 737 of Title 5 CFR.

(2) Prescribe additional standards of ethical and other conduct and reporting requirements that are appropriate to the particular functions and activities of the Commission and are not inconsistent with the Executive Order and Parts 734, 735, and 737 of Title 5 CFR.

(b) The Commission shall furnish each new employee and special Government employee with a copy of the Commission's regulations in this part, as revised, at the time of his or her entrance on duty. The Head of each Office and Bureau has the responsibility to secure from every person subject to his or her administrative supervision a statement indicating that the individual has read and is familiar with the contents of the revised order and regulations in this part, and to advise the Managing Director that all persons have stated they are familiar with the revised order and regulations in this part. Each new employee shall execute a similar statement at the time of entrance on duty. Periodically, and at least once a year, the Managing Director shall take appropriate action to insure that the Head of each Office and Bureau shall remind employees subject to his or her administrative supervision of the content of the regulations in this part.

(c) Copies of laws, the Executive Order, and this agency's regulations and instructions relating to ethical and other conduct shall be available in the office of the Designated Agency Ethics Official for review by employees and special Government employees. (See 47 CFR 0.231(i).)

11. In 47 CFR § 19.735-105, paragraphs (a) and (e) are revised to read as follows:

§ 19.725-105 Interpretation and advisory service.

(a) (1) The Chief, Internal Review and Security Division, is designated as the agency's ethics official for purposes of 5 CFR Parts 734 and 737. The General Counsel is designated as legal counselor for the Commission to provide guidance on matters relating to ethical conduct. The General Counsel is to serve as the Commission's designee to the Office of Personnel Management on matters covered by 5 CFR Part 735.

(2) The Office of the General Counsel is responsible for coordination of the Commisson's legal counseling services provided under paragraph (b) of this section and for assuring that legal counseling and interpretation on questions of conflict of interest and other matters covered by this part are available.

* * * * *

(e) At the time of an employee's entrance on duty and at least once each calendar year thereafter, the Commission's employees and special Government employees shall be notified of the availability of counseling services and of how and where these services are available.

§ 19.735-106 [Amended]

12. In 47 CFR, Part 19 is amended by removing § 19.735-106.

§ 19.735-107 [Amended]

13. In 47 CFR 19.735-107, paragraph (c) is amended by removing the phrase "§ 19.735-106(b)" and inserting in its place the phrase "§ 19.735-405(e)".

14. In 47 CFR 19.735-204, paragraph (f) is added to read as follows:

§ 19.735-204 Financial interests.

* * * * *

(f) Procedures for requesting a waiver of the applicability of the above conflict of interest statutes appear at 19.735-412 of this part.

15. In 47 CFR 19.735-210, paragraphs (r) and (s) are added to read as follows:

§ 19.735-210 Miscellaneous statutory provisions.

* * * * *

(r) The Ethics in Government Act of 1978 (92 Stat. 1824 (1978)), as amended (see 93 Stat. 37 and 76 (1979)).

(s) The prohibitions applicable to former Commissioners and employees and their partners. (18 U.S.C. 207) Cross-reference §§ 1.25 and 1.29 of this chapter.

16. In 47 CFR 19.735-306, paragraph (d) is revised and paragraph (e) is removed to read as follows:

§ 19.735-306 Miscellaneous statutory provisions.

* * * * *

(d) Section 207 of Title 18 of the United States Code provides prohibitions relating to special Government employees and their partners respecting appearances before agencies of the United States. See §§ 1.25 and 1.29 of this chapter.

17. In 47 CFR Part 19, § 19.735-403 is revised to read as follows:

§ 19.735-403 Employees required to submit statements.

(a) A "Confidential Statement of Employment and Financial Interests" (FCC Form A-54) shall be required from the following employees of the Commission:

(1) Employees who are in Grades GS-13 through GS-15.

(2) Those employees who are in Grades GS-11 through GS-12 who are Heads or Supervisors or Assistant Heads or Supervisors of field offices.

(3) All purchasing agents.

(4) All employees serving as auditors or accountants, with the principal duty of auditing private enterprises.

(5) All employees in the offices of the Commissioners not subject to the reporting requirements of Subpart E of this Part.

(6) Employees in positions classified below GS-13 may be required to file if the positions they hold meet the criteria established in 5 CFR 735.403 and the requirement to file has been specifically justified by the Commission to the Office of Personnel Management.

(b) A "Confidential Statement of Employment and Financial Interests" shall be required from Commissioners and employees who are subject to separate reporting requirements under Subpart E of this Part or Section 401 of Executive Order 11222, but such statement shall be filed on FCC Form A-54A.

§ 19.735-404 [Removed]

18. In 47 CFR Part 19, § 19.735-404 is removed.

19. In 47 CFR Part 19, § 19.735-405 is revised to read as follows:

§ 19.735-405 Submission and review of employees' statements.

(a) An employee required to submit a statement of employment and financial interests pursuant to § 19.735-403 shall submit that statement on the prescribed form not later than thirty days after his or her entrance on duty.

(b) An employee required to submit a statement of employment and financial interests shall submit that statement to the office of the Managing Director.

(c) An employee required to submit a statement of employment and financial interests will be individually notified of his or her obligation to file.

(d) Financial statements submitted under Subpart D shall be reviewed by the Designated Agency Ethics Official.

(e) When a statement submitted under Subpart D of this part or information from other sources indicates a conflict between the interests of an employee or special Government employee and the performance of his or her services for the Government, the information concerning the conflict or appearance of conflict shall be reported to the Managing Director and the employee or special Government employee concerned shall be provided an opportunity to explain the conflict or appearance of conflict.

(f) When, after explanation by the employee or special Government employee involved, the conflict or appearance of conflict is not resolved, the information concerning the conflict or appearance of conflict shall be reported to the Chairman through the Designated Agency Ethics Official (see 47 CFR 0.231(i)) for appropriate administrative action.

20. In 47 CFR Part 19, Subpart E is added to read as follows:

Subpart E—Financial Reporting Requirements of the Ethics in Government Act

Sec.
19.740 General.
19.741 Persons required to file.
19.742 Review of reports.
19.743 Custody of and public access to reports.

Subpart E—Financial Reporting Requirements of the Ethics in Government Act

§ 19.740 General.

Commissioners and certain senior and policymaking employees, as specified in this Subpart, must file a Financial Disclosure Report annually or as otherwise required by this Subpart. The provisions of this Subpart are issued in accordance with the reporting requirements of the "Ethics in Government Act of 1978," Pub. L. No. 95-521, 92 Stat. 1824 (Oct. 26, 1978), as amended by Pub. L. No. 96-19, 93 Stat. 37 (June 13, 1979). See 5 CFR Part 734.

§ 19.741 Persons required to file.

(a) *Incumbents.* Individuals who have served in the following positions for more than 60 days during any calendar year must file an "Executive Personnel Financial Disclosure Report" (OPM Standard Form 278) on or before May 15 of the succeeding year with the Designated Agency Ethics Official:

(1) Commissioners;

(2) Members of the Review Board;

(3) Administrative Law Judges;

(4) All employees (including special Government employees as defined in 18 U.S.C. 202) whose rate of pay (excluding "step" increases) equals or exceeds the base pay of grade GS-16 of the General Schedule; and

(5) All employees in positions excepted from the competitive service by reason of being of a confidential or policymaking character, such positions to include (but are not necessarily limited to) legal, engineering, confidential and special assistants to the Commissioners and other employees in the excepted service whose positions are policymaking or confidential in character, provided that a person in such position whose rate of basic pay is less than the base pay of grade GS-16 and who has no role in advising or making policy determinations may be excluded from the requirements of this section upon compliance with the requirements of 5 CFR 734.203.

(6) Designated Agency Ethics Official.

(b) The following individuals must file with the Designated Agency Ethics Official an "Executive Personnel Financial Disclosure Report" (OPM Standard Form 278) within the time specified for each:

(1) *Nominees.* Any person nominated to be a member of the Commission must file such report within five days of the

transmittal by the President to the Senate of the nomination of the individual.

(2) *New Entrants.* Persons who have assumed a position described in paragraph (a) of this section must file such report within 30 days of assuming such position, unless the individual has left another Government position described in 5 CFR 734.202 within 30 days of assuming such new position or has filed such report pursuant to category (1) of this paragraph. This requirement shall not apply to an individual who, as determined by the Designated Agency Ethics Official, is not reasonably expected to perform the duties of his office or position for more than 60 days in a calendar year, except that if such individual performs the duties of his or her office or position for more than 60 days in a calendar year such report shall be filed within 15 days of the sixtieth day.

(c) *Termination of Employment.* Persons who have terminated employment in a position described in paragraph (a) of this section must file an "Executive Personnel Financial Disclosure Report" (OPM Standard Form 278) with the Designated Agency Ethics Official within 30 days of termination of employment, unless such individual has accepted employment in another Government position described in 5 CFR 734.202. Such report shall cover:

(1) The preceding calendar year (if the report required by paragraph (a) of this section has not been filed); and

(2) the portion of the calendar year in which such termination occurs up to the date the individual left such position. This paragraph does not apply to an individual who does not perform the duties of his office or position for more than 60 days in a calendar year.

(d) *Waiver.* The Director of the Office of Government Ethics may grant a publicly available request for a waiver of any reporting requirement under this subsection for an individual who is expected to perform or has performed the duties of his or her office or position fewer than 130 days in a calendar year, but only if the director determines that: such individual is not a full-time employee of the Government; such individual is able to provide services specially needed by the government; it is unlikely that the individual's outside employment or financial interests will create a conflict of interest; and public financial disclosure of such individual is not necessary in the circumstances. See 5 CFR 734.205.

(e) *Extensions.* The Designated Agency Ethics Official may, for good cause, grant an extension of time for filing the reports required by this section of up to 45 days. Any other extension must have the approval of the Office of Government Ethics. See 5 CFR 734.201(f).

(f) After being reviewed in accordance with § 19.742 of this Subpart, copies of the reports filed under paragraphs (a)(1), (a)(6), and (b)(1) of this section shall be transmitted to the Director of the Office of Government Ethics.

§ 19.742 Review of reports.

Each report filed under this Subpart shall be reviewed by the Designated Agency Ethics Official (DAEO) within 60 days after such filing. The report filed by the DAEO shall be reviewed by the Chairman (or his or her delegate) prior to transmitting a copy to the Director of the Office of Government Ethics.

(a) If the report is in compliance with applicable laws and regulations, the report shall be so certified by the DAEO.

(b) If additional information is required, the DAEO shall notify the individual of the additional information required and the date by which it must be submitted.

(c) If the DAEO finds reason to believe, based on the information submitted, that the individual may not be in compliance with applicable laws and regulations, the DAEO shall notify the individual and afford him or her a reasonable opportunity for a written or oral response. If, after considering any such response, the DAEO concludes that an individual is not in compliance with applicable laws and regulations, the DAEO shall notify the individual of that opinion and, after an opportunity for personal consultations (if practicable), determine and notify the individual of which steps, if any, would in the DAEO's opinion be appropriate for assuring compliance with such laws and regulations and the date by which such steps should be taken, ordinarily within 90 days. If steps for assuring compliance are not taken by the specified date, the matter shall be referred to the Commission for appropriate action (or, in the case of a Commissioner, to the President). See 5 CFR 734.604.

(d) For purposes of assisting employees, the DAEO shall maintain a list, which shall be available to employees, of those circumstances or situations which have resulted or may result in noncompliance with applicable laws and regulations. The absence of a particular circumstance from such list shall not be construed that such circumstance would be in compliance.

§ 19.743 Custody of and public access to reports.

(a) A copy of a position description shall, if available, be attached by the Designated Agency Ethics Official to each report filed pursuant to this Subpart.

(b) Any report filed pursuant to this Subpart shall be available for public inspection and copying within 15 days after such report is received upon fulfillment of the requirements of § 0.460 of Part 0 of this chapter. Such reports shall not be obtained or used: for any unlawful purpose; for any commercial purpose, other than by news and communications media for dissemination to the general public; for determining or establishing the credit rating of any individual; or for use, directly or indirectly, in the solicitation of money for any political, charitable, or other purpose.

(c) Any report filed pursuant to this Subpart shall be retained by the agency and made available to the public for six years after receipt of the report. After such six-year period the report shall be destroyed unless needed in an ongoing investigation or as otherwise provided by Section 205(d) of the Ethics in Government Act of 1978. See also 5 CFR 734.603(f).

[FR Doc. 83-26501 Filed 9-29-83; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Parts 17, 73 and 74

[BC Docket No. 82-537]

Operating and Maintenance Logs for Broadcast and Broadcast Auxiliary Stations; Correction

AGENCY: Federal Communications Commission.

ACTION: Final Rule; Correction.

SUMMARY: The Commission herein editorially corrects the Appendix to the *Report and Order* previously issued in this proceeding relating to operating and maintenance logs. This action is necessary because we have identified various rule sections that were inadvertently omitted from the Appendix or incorrectly amended. Additionally, other rule sections have been identified as having been amended ambiguously or in a way unintentionally burdensome on the affected licensees. The effect of this action is to ensure that all Part 73 and Part 74 rules reflect the policies adopted earlier in this proceeding.

FOR FURTHER INFORMATION CONTACT: James E. McNally, Jr., Mass Media Bureau, Policy and Rules Division.

Technical and International Branch (202) 632-9660.

Erratum

In the Matter of Operating and maintenance logs for broadcast and broadcast auxiliary stations; BC Docket No. 82-537.

Released: September 22, 1983.

The *Report and Order* in the above entitled matter, adopted on July 14, 1983 and released August 12, 1983, 48 FR 38473, published August 24, 1983, contained several inadvertent mistakes or omissions. These errors are corrected as indicated in the attached Appendix.

Further information on this matter may be obtained from James McNally, Mass Media Bureau, Technical and International Branch (202) 632-9660.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 73—[AMENDED]

The following corrections are made in FR Doc. 83-22400 appearing on page 38473 in the issue of August 24, 1983:

1. On page 38477, in § 73.51, paragraph (e)(2) is corrected to read as follows:

§ 73.51 Determining operating power.

* * * * *

(e) * * *

(2) The value of F applicable to each mode of operation must be entered in the station log with a notation as to its derivation. This factor is to be established by one of the methods described in paragraph (f) of this Section and entered into the station log.

* * * * *

2. On page 38478, § 73.68, paragraph (d) is corrected to read as follows:

§ 73.68 Sampling systems for antenna monitors.

* * * * *

(d) In the event that the antenna monitor sampling system is temporarily out of service, the station may be operated pending completion of repairs for a period not exceeding 60 days without further authority from the FCC, if the base currents, their ratios, and the deviations of those ratios, in percent, from the values specified in the station authorization are determined for each radiation pattern used.

* * * * *

3. On page 38478, paragraph 13 is corrected to read: "13. In § 73.258, paragraph (e) is revised to read as follows:

§ 73.258 Indicating instruments.

* * * * *

(e) In the event that any one of these indicating instruments becomes defective when no substitute which conforms with the required specifications is available, the station may be operated without the defective instrument pending its repair or replacement for a period not in excess of 60 days without further authority of the FCC: *Provided that,* if the defective instrument is the transmission line meter of a station which determines the output power by the direct method, the operating power shall be determined by the indirect method in accordance with § 73.267(c) during the entire time the station is operated without the transmission line meter.

* * * * *

4. On page 38479, the amendatory language in paragraph 16 is corrected to read:

"16. In § 73.295, paragraph (f) is removed in its entirety and marked 'reserved' ".

5. On page 38479, in § 73.340, paragraph (c) is corrected to read as follows:

§ 73.340 Use of automatic transmission systems.

* * * * *

(c) Upon receipt of notification from the FCC, the station can commence full ATS operation. Continuous operation of the station modulation monitor is not required.

* * * * *

6. On page 38479, in § 73.540, paragraph (c) is corrected to read as follows:

§ 73.540 Use of automatic transmission systems.

* * * * *

(c) Upon receipt of notification from the FCC, the station can commence full ATS operation. Continuous operation of the station modulation monitor is not required.

* * * * *

7. FR Doc. 83-22400 on page 38480 is corrected by adding a paragraph 27a to read:

"27a. In § 73.663, the introductory texts of paragraphs (b) and (c) are revised to read as follows:

§ 73.663 Determining operating power.

* * * * *

(b) *Direct method, visual transmitter.* The direct method of power determination for a TV visual transmitter uses the indications of a calibrated transmission line meter (responsive to peak power) located at the RF output terminals of the transmitter. The indications of the calibrated meter are used to observe and maintain the authorized operating power of the visual transmitter. This meter must be calibrated whenever any component in the metering circuit is repaired or replaced and as often as necessary to ensure operation in accordance with the provisions of § 73.1560 of this Part. The following calibration procedures are to be used:

* * * * *

(c) *Direct method, aural transmitter.* The direct method of power determination for a TV aural transmitter uses the indications of a calibrated transmission line meter (responsive to relative voltage, current or power) located at the RF output terminals of the transmitter. The indications of this calibrated meter are used to observe and maintain the authorized aural operating power of the station. This meter must be calibrated whenever any component in the metering circuit is repaired or replaced and as often as necessary to ensure operation in accordance with the provisions of § 73.1560 of this Part. The following calibration procedures are to be used:

* * * * *

8. FR Doc. 83-22400 is corrected on page 38480 by adding a paragraph 28a to read:

"28a. In § 73.682, paragraph (a)(23)(viii) is revised to read as follows:

§ 73.682 Transmission standards

* * * * *

(a) * * *

(23) * * *

(viii) The modulation of the main carrier by subcarriers and the frequency of each subcarrier shall be measured as often as necessary to ensure compliance with paragraph (a)(23) (ii) and (iii) of this section.

* * * * *

9. FR Doc. 83-22400 is corrected on page 38480 by adding paragraph 37a to read:

"37a. In § 73.1540, paragraph (a) is revised to read as follows:

§ 73.1540 Carrier frequency measurements.

(a) The carrier frequency of each AM and FM station and the visual carrier frequency and the difference between the visual carrier and the aural carrier or center frequency of each TV station shall be measured or determined as often as necessary to ensure that they are maintained within the prescribed tolerances.

* * * * *

10. FR Doc. 83-22400 is corrected on page 38481 by adding paragraph 40a to read:

"40a. In § 73.1670, paragraph (c)(2) is revised to read as follows:

§ 73.1670 Auxiliary transmitters.

* * * * *

(c) * * *

(2) The carrier frequency of the auxiliary transmitter must be measured as often as necessary to ensure that it is maintained within the prescribed tolerance.

* * * * *

11. On page 38481, the amendatory language in paragraph 41 is corrected by removing "and (h)" and in the text of § 73.1800, paragraph (h) is removed and paragraphs (a) and (g) are corrected to read as follows:

§ 73.1800 General requirements related to the station log.

(a) The licensee of each station must maintain a station log as required by §§ 73.1810 and 73.1820. This log will be kept by the station employee or employees competent to do so, having actual knowledge of the facts required. All entries, whether required or not by the provisions of this Part, must accurately reflect the station operation. Any employee making a log entry shall sign the log, thereby attesting to the fact that that entry, or any correction or addition made thereto, is an accurate representation of what transpired.

* * * * *

(g) Application forms for licenses and other authorizations may require that certain technical operating and program data be supplied. These circumstances should be kept in mind in connection with formulating the contents of the station log, since it may contain information previously retained in operating and maintenance logs pursuant to rules no longer in effect.

12. A. On page 38481, in § 73.1820, the introductory text of paragraph (a) and paragraph (a)(1)(iii) are corrected to read as follows:

§ 73.1820 Station log.

(a) Entries must be made in the station log either manually by a properly licensed operator in actual charge of the transmitting apparatus, or by automatic devices meeting the requirements of paragraph (b) of this Section. Indications of operating parameters that are required to be logged must be logged prior to any adjustment of the equipment. Where adjustments are made to restore parameters to their proper operating values, the corrected indications must be logged and accompanied, if any parameter deviation was beyond a prescribed tolerance, by a notation describing the nature of the corrective action. Indications of all parameters whose values are affected by the modulation of the carrier must be read without modulation. The actual time of observation must be included in each log entry. The following information must be entered:

* * * * *

(iii) An entry of each test of the Emergency Broadcast System procedures pursuant to the requirements of Subpart G of this Part and the appropriate EBS checklist. In the case of TV and non-commercial, educational FM stations, such entries may be made in the program log. Alternatively, all stations may keep EBS test data in a special EBS log which may be maintained at any convenient location; however, such log shall be considered a part of the station log.

§ 73.1820 [Amended]

B. FR Doc. 83-22400 is corrected on page 38482 by adding a paragraph 42a to read as follows:

"42a. In § 73.1820, the introductory text of paragraph (b) and paragraphs (b)(3) and (b)(5) are revised to read:

(b) Automatic devices accurately calibrated and with appropriate time, date and circuit functions may be utilized to record entries in the station log *Provided:*

* * * * *

(3) The calibration is checked against the original indicators as often as necessary to ensure recording accuracy;

* * * * *

(5) The alarm circuit operates continuously or the devices which record each parameter in sequence must read each parameter at least once during each 30 minute period;

* * * * *"

13. On page 38482, in § 73.1870, paragraph (c)(3) is corrected to read as follows:

§ 73.1870 Chief operators.

* * * * *

(c) * * *

(3) Review of the station records at least once each week to determine if required entries are being made correctly. Additionally, verification must be made that the station has been operated as required by the rules or the station authorization. Upon completion of the review, the chief operator or his designee must date and sign the log, initiate any corrective action which may be necessary, and advise the station licensee of any condition which is repetitive.

* * * * *

PART 74—[AMENDED]

14. On page 38482, in § 74.381, the introductory text of paragraph (a) is corrected to read as follows:

§ 74.381 Station records.

(a) The licensee of each developmental broadcast station must maintain adequate records of the operation, including:

* * * * *

15. FR Doc. 83-22400 is corrected on page 38482 by adding paragraph 53a to read:

"53a. In § 74.465, paragraph (b) is revised to read as follows:

§ 74.465 Frequency monitors and measurements.

* * * * *

(b) Frequency measurements for each transmitter shall be made as often as necessary to ensure proper operation."

16. FR Doc. 83-22400 is corrected on page 38482 by adding paragraph 53b to read

"53b. Part 74 is amended by removing § 74.481."

17. On page 38482, paragraph 57 is corrected by removing "74.781" and FR Doc. 83-22400 is corrected on page 38482 by adding paragraph 58 to read:

"58. Section 74.781 is revised in its entirety to read as follows:

§ 74.781 Station records.

(a) The licensee of a low power TV or TV translator station shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment or improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary

station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.765(c) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years."

18. FR Doc. 83–22400 is corrected on page 38482 by adding a paragraph 59 to read:

"59. In § 74.939, paragraph (i) is revised to read as follows:

§ 74.939 Special rules governing ITFS response stations.

* * * * *

(i) The transmitter of an ITFS response station may be operated unattended provided that the transmissions are observed by the operator on duty at the associated instructional television fixed station, who shall take such steps as may be necessary to correct any condition of improper operation. The overall performance of the ITFS response station transmitter shall be checked as often as necessary to ensure that it is functioning in accordance with the requirements of the Commission's rules. The licensee of an ITFS response station is responsible for the proper operation of the transmitter at all times. The transmitter shall be installed and protected in such manner as to prevent tampering or operation by unauthorized persons.

* * * * *"

19. FR Doc. 83–22400 is corrected on page 38482 by adding a paragraph 60 to read:

"60. In § 74.950, paragraph (e) is revised to read as follows:

§ 74.950 Equipment performance and installation.

* * * * *

(e) The requirements of § 73.687(c)(2) of this Chapter will be considered to be met insofar as measurements of operating power are concerned, if the transmitter is equipped with instruments for determining the combined visual and aural operating power. However, licensees are expected to maintain the operating powers within the limits specified in the rules of this part. Measurements of the separate visual and aural operating powers should be made at sufficiently frequent intervals to ensure compliance with the rules.

* * * * *"

20. FR Doc. 83–22400 is corrected on page 38482 by adding a paragraph 61 to read:

"61. In § 74.962, paragraph (b) is revised to read as follows:

§ 74.962 Frequency monitors and measurements.

* * * * *

(b) The operating frequencies shall be checked as often as necessary to ensure that they are within the prescribed tolerances at all times.

* * * * *"

21. On page 38482, paragraph 57 is corrected by removing "and § 74.1281" and by adding a paragraph 62 to read:

"62. Section 74.1281 is revised in its entirety to read as follows:

§ 74.1281 Station records.

(a) The licensee of a station authorized under this Subpart shall maintain adequate station records, including the current instrument of authorization, official correspondence with the FCC, maintenance records, contracts, permission for rebroadcasts, and other pertinent documents.

(b) Entries required by § 17.49 of this Chapter concerning any observed or otherwise known extinguishment or improper functioning of a tower light:

(1) The nature of such extinguishment or improper functioning.

(2) The date and time the extinguishment of improper operation was observed or otherwise noted.

(3) The date, time and nature of adjustments, repairs or replacements made.

(c) The station records shall be maintained for inspection at a residence, office, or public building, place of business, or other suitable place, in one of the communities of license of the translator or booster, except that the station records of a booster or translator licensed to the licensee of the primary station may be kept at the same place where the primary station records are kept. The name of the person keeping station records, together with the address of the place where the records are kept, shall be posted in accordance with § 74.1265(b) of the rules. The station records shall be made available upon request to any authorized representative of the Commission.

(d) Station logs and records shall be retained for a period of two years."

[FR Doc. 83-26498 Filed 9-29-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

Oversight of the Radio and TV Broadcast Rules; Correction

AGENCY: The Federal Communications Commission.

ACTION: Final rule; Correction.

SUMMARY: In the Order, Oversight of the Radio and TV Broadcast Rules, published in the **Federal Register** on September 15, 1983, at 48 FR 41422, there is an error in item 2 of the Appendix (§ 73.684 Predicting Coverage). It is changed to read correctly.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION:

Released: September 26, 1983.

In the above captioned *Order*, released September 9, 1983, and published in the **Federal Register** on September 15, 1983, at 48 FR 41422, item 2 of the Appendix (pertaining to § 73.684) has two errors:

The section title is corrected to read *"§ 73.684 Prediction of Coverage"*, and the third sentence from the end of paragraph (f) is corrected to read:

(f) * * * In directions where the terrain is such that negative antenna heights or heights below 100 feet for the 2 to 10 mile sector are obtained, an assumed height of 100 feet shall be used for the prediction of coverage. * * *

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-26844 Filed 9-29-83; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 73 and 74

Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This order adopts updating revisions of the Alphabetical Indices to Parts 73 and 74 of the FCC's Radio and TV Broadcast Rules.

DATE: Effective September 26, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632–5414.

List of Subjects in 47 CFR Parts 73 and 74

Radio and TV broadcasting.

Order

In the matter of oversight of the radio and TV broadcast rules.

Adopted: September 13, 1983.
Released: September 28, 1983.

By the Chief, Mass Media Bureau.

1. In this *Order*, the Commission adopts corrective edits and updating revisions of the Alphabetical Indices to Parts 73 and 74 of its rules. 47 CFR Parts 73 and 74.

2. Our experience in alphabetically indexing the broadcast rules in Parts 73 and 74 clearly indicates that this makes possible the location of regulations quickly and easily. This fast access has brought about a better understanding of our rules by broadcasters and practitioners due to their ready availability. We also perceive that providing easy access to the rules has reduced considerably the number of letters and phone calls to the FCC requesting help in rule location, thereby minimizing paperwork and administrative workload on the FCC staff, broadcasters and their legal and engineering advisors.

3. No substantive changes are made herein which impose additional burdens or remove provisions relied upon by licensees or the public. We conclude, for the reasons set forth above, that these revisions to Parts 73 and 74 will serve the public interest.

4. These amendments are implemented by authority designated by the Commission to the Chief, Mass Media Bureau. Inasmuch as these amendments impose no additional burdens and raise no issue upon which comments would serve any useful purpose, prior notice of rule making, effective date provisions and public procedure thereon are unnecessary pursuant to the Administrative Procedure and Judicial Review Act provisions of 5 U.S.C. 553(b)(3)(B).

5. Since general notice of proposed rule making is not required, the Regulatory Flexibility Act does not apply.

6. Therefore, it is ordered, That pursuant to Sections 4(i), 303(r) and 5(d)(1) of the Communications Act of 1934, as amended, and Sections 0.61 and 0.283 of the Commission's Rules, Parts 73 and 74 of the FCC Rules and Regulations are amended as set forth in the attached appendix, effective September 26, 1983.

7. For further information on this *Order*, contact Steve Crane, Mass Media Bureau, (202) 632-5414.

Federal Communications Commission.

James C. McKinney,

Chief, Mass Media Bureau.

Appendix A

The alphabetical index appearing at the beginning of Part 73 is revised and updated to read as follows:

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[FR Doc. 83-26503 Filed 9-24-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL COMMUNICATION COMMISSIONS

47 CFR Part 97

[PR Docket No. 82-624]

Definition and Measurement of Transmitting Power in the Amateur Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction

SUMMARY: The FCC adopted a Report and Order substituting an output power measurement standard for the previous input power standard in the Amateur Radio Service. This erratum corrects one of the accepted standards for output power from a "thru-line" wattmeter to an "in-line" wattmeter.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Private Radio Bureau, Washington, D.C. 20554, (202) 632-4964.

Erratum

In the matter of definition of measurement of transmitting power in the Amateur Radio Service, PR Docket No. 82-624.

Released: September 21, 1983.

1. On July 22, 1983, the Commission released a *Report and Order*, 48 FR 34746 (August 1, 1983) in the above captioned proceeding. In the *Report and Order*, the Commission amended Parts 2 and 97 of its Rules in order to substitute an output power measurement standard for the old input power standard.

2. At paragraph 5 of the *Report and Order, supra*, the Commission chose to recognize two alternative valid measurement standards for output power. The first was the "reading of a thru-line peak radiofrequency (RF) wattmeter, properly matched". "Thru-line" is not accurate or as generic a term as the Commission intended to employ. The term intended in this context was "in-line."

3. Accordingly, that portion of paragraph 5 of the *Report and Order, supra*, which previously read:

(1) The reading of a thru-line peak reading radiofrequency (RF) wattmeter, properly matched, or . . . is corrected to read:

(1) The reading of an in-line peak reading radiofrequency (RF) wattmeter, properly matched, or . . .

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 83-26500 Filed 9-29-83; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 1, 7, and 25

[OST Docket No. 1; Amdt. 1-186]

Organization and Delegation of Powers and Duties; Corrections

AGENCY: Office of the Secretary, DOT.

ACTION: Final rule.

SUMMARY: This amendment corrects three errors in the Regulations of the Office of the Secretary; no substantive change in meaning is intended.

DATE: The effective date of this amendment is September 30, 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.**

The three errors are:

1. In § 1.47(g), the reference to "49 CFR 87.7(d)" should read "40 CFR 87.7(d)".

2. In Appendix H to Part 7, references to the fee table as being in "Subpart H" should be to "Subpart I".

3. In § 25.199(b), the reference to "§ 5.202" should be "§ 25.202".

In consideration of the foregoing, Part 1 of Title 49, Code of Federal Regulations, is amended as follows:

§ 1.47 [Amended]

1. In § 1.47(g), "49 CFR 87.7(d)" is amended to read "40 CFR 87.7(d)".

Part 7, Appendix H [Amended]

2. In Appendix H to Part 7, "Subpart H", wherever it appears, is amended to read "Subpart I".

§ 25.199 [Amended]

3. In § 25.199(b), "§ 5.202" is amended to read "§ 25.202".

Authority: 49 U.S.C. 32; 49 CFR 1.57(l).

Issued in Washington, DC, on September 24, 1983.

James H. Burnley IV,

General Counsel.

[FR Doc. 83-26761 Filed 9-29-83; 8:45 am]

BILLING CODE 4910-62-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 4]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule; response to petitions for reconsideration.

SUMMARY: This notice responds to petitions for reconsideration of the June 2, 1983 notice (48 FR 24690) amending Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, to allow use of a semi-sealed replaceable bulb headlamp system. Corrections are also made to errors appearing in the June notice.

In response to a petition from Ford Motor Company, the requirement that an adjustable aimer adapter be supplied with vehicles equipped with the semi-sealed headlamp system is modified to specify that the aimer adapter be a fixed type. The agency acknowledges that some time is require to modify the suction cup mount on existing mechanical aimers to allow use of the adjustable aimer adapter. The requirement to assure performance on the headlamp connectors after the corrosion test is revised to eliminate an overly stringent requirement, in response to petitions from both Ford and Volkswagen. The requirement reverts to no loss of function as proposed originally. In addition, critical dimensional changes were made to the drawings on the replaceable light source. Also, in response to petitions from Volkswagen and Westfalische Metall Industries, the corrosion test for semi-sealed headlamps is amended to delete the requirement for testing with the bulb removed, and to adopt the test proposed on January 17, 1983 (48 FR 1992). The effect of all these changes is to allow manufacturers to commence manufacturing the new headlamps for their introduction before the end of the year.

Finally, the agency has deleted all dimensions of the standardized replaceable light source that were originally specified only for reference purposes.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On June 2, 1983, NHTSA published a notice amending 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment* (48 FR 24690). The amendment adopted an optional motor vehicle headlighting system consisting of two semi-sealed replaceable bulb headlamps. Each headlamp consists of two discrete components, a lens bonded to a reflector, and a replaceable light source of standardized design. To insure the proper performance of the new headlamp design, certain environmental tests were adopted. Petitions for reconsideration of various aspects of the amendment were filed by Ford Motor Company ("Ford"), General Motors Corporation ("GM"), Sylvania, Volkswagen of America ("VW"), and Westfalische Metall Industries (manufacturer of Hella lighting equipment) ("Hella"). Because the headlamps may incorporate inclined lenses and most existing mechanical aimers are designed for headlamps with vertical lenses, the amendment required that each vehicle manufactured between July 1, 1983, and July 1, 1984, which has the new headlamps system, be furnished with an adjustable adapter to allow use of existing mechanical aiming equipment.

Discussion of Petitions

Corrosion Test (Paragraphs S4.1.1.36(d)(4) and S6.5).

In its notice of proposed rulemaking on January 17, 1983, (48 FR 1992) NHTSA proposed a corrosion test which would involve subjection of a test lamp to a salt spray test in accordance with ASTM B117-73 "Method of Salt Spray (Fog) Testing" for a period of 240 hours, consisting of ten successive 24-hour intervals. During each 24-hour interval, the test chamber salt spray would be activated for 23 hours and deactivated for 1 hour. At the end of the test period, there could not be evidence of internal or external corrosion more than an eight of an inch from sharp edge or any corrosion on the terminals or elsewhere, which would involve loss of function. Further, the lamp would be required to meet the minimum photometric requirements for headlamps at the end of the test.

As NHTSA stated in its June 2, 1983 notice, "One commenter noted that the proposed test would not achieve the objective of ensuring reflectors with good corrosion resistance because the test does not take into account a situation in which a bulb may be removed for an extended period of time." NHTSA adopted a corrosion test requiring removal of the bulb for the one hour of the interval in which the salt spray is deactivated to assure adequate corrosion resistance of reflector surfaces with an accelerated test. In recognition of the fact that the introduction of a salt atmosphere on the inside of the lamp might create a salt deposit on the lens not easily removed, the proposal for photometric performance at the end of the test was not adopted. The strictures against rust or corrosion on the lens and reflector were adopted as proposed. In summary, in adopting the corrosion test NHTSA believed that lens-reflector assemblies needed a corrosion requirement to prevent premature reflector degradation in cheaper parts which might become available.

NHTSA was petitioned by VW and Hella to reconsider the modified corrosion test. VW's objection, and the principal objection by Hella was the requirement that the bulb be removed during the final hour of each of the ten test cycles. Both petitioners object on the grounds that the test was not discussed in the proposal. In VW's opinion, only an all plastic lamp could meet the new corrosion requirements and it does not believe that the agency intended to be design restrictive. It therefore petitioned that the standard be amended to adopt the corrosion test as proposed. It was Hella's position that the requirements do not mirror real world conditions and afford the opportunity of water entry during bulb removal or insertion which could bias the test results.

The agency has considered these comments carefully. Although the test it proposed appeared adequate at the time to judge the performance of a semi-sealed lamp as a whole, the agency adopted a more component-oriented test to ensure adequate reflector performance with an accelerated test. It is evident, however, that at least some commenters believe the subject of corrosion testing should be more fully explored. Because the replacement market for the new headlamps will be minimal during the first year of the lamp's availability, NHTSA is granting the petitions of VW and Hella for reconsideration of the subject, and amending the standard to specify the corrosion test without bulb removal as

proposed. NHTSA is preparing a Notice of Proposed Rulemaking which will propose a bulb removal test for lamps. This NPRM will appear in the near future.

In addition, the agency originally proposed a prohibition against "loss of function" on lamp terminals. This was quantified in the final rule to allow corrosion on terminals "provided there is no voltage drop greater than 3 percent from that measured before the test when measured per paragraph 6.4 of SAE J580 August 1979."

Ford raised a question as to the appropriateness of the electrical test. VW also objected to the adoption of the three percent voltage drop, on the basis that it had not been described in the proposal, and that it was unreasonable. The reason for the objection is that the terminals are similar to those of sealed beam lamps and renewed at each burnout. In VW's opinion, no significant safety problem has occurred, and if some limit on corrosion of the terminals is necessary, the "loss of function" requirement should be sufficient.

NHTSA agrees that the requirements in the Federal Register should be reconsidered and is amending the standard to specify the requirement as proposed. The agency is preparing an NPRM which will propose a new test. This NPRM will appear in the near future.

Accurate Rated Bulb. In its comments on the proposal, GM stated its assumption that NHTSA would use "accurate rated bulbs" in its compliance testing of the new headlamps. In its petition for reconsideration it asked that the photometry specified in paragraph S4.1.1.36(b)(1) be conducted according to paragraph S4.1.1.20 of Standard No. 108 as well as the already-specified paragraph 6.4 of SAE J575 June 80. Paragraph S4.1.1.20 states: "Except for a lamp having a sealed-in bulb, a lamp * * * shall meet the applicable requirements of the standard when tested with a bulb whose filament is positioned within ±.010 inch of the nominal design position specified in SAE Standard J573d, "Lamp Bulbs and Sealed Units," December 1968, or specified by the bulb manufacturer." GM argues that use of such bulbs provides a common basis for evaluating other components, and that in this manner compliance testing on lighting devices made by other laboratories can be repeated and compared.

The bulbs specified in J573d and defined as "accurate rated" have the trade numbers 1156, 1157, and 1157A, and are intended for applications other than headlamps. Sealed beam headlamps are tested "as is" without reference to filament tolerance and must meet the minimum photometric requirements regardless of filament placement. NHTSA believes that this concept has met the need for headlamp safety, and that there is no need to prescribe a filament tolerance of ±.010 for the standardized replaceable light source. The tolerance specified on low beam is ±.015" with the centerline of the high beam to be located within ±.035" of the centerline of the low beam. The semi-sealed headlamp with replaceable light source should be tested photometrically in a manner identical to its fully sealed counterparts. GM's petition is denied.

Replaceable Light Source Dimensions. GM commented that the specifications of the filament are not sufficiently rigorous to define the exact placement of the filament within the bulb assembly, which could present a problem because the headlamp manufacturer may have to certify a lamp using aftermarket bulbs. It requested additional specifications on rotation, slant and snake of the filament, and it also stated that the tolerance of Dimension G in Figure 3–5 (sic) was in error.

The agency is amending the dimensions of Figure 3–6. But GM's petition to adopt additional dimensions is denied; in the agency's view, a minimum standard does not require the additional dimensions suggested. Any vehicle manufacturer, however, may specify that its supplier provide bulbs meeting additional specifications if it wishes.

Sylvania and Ford pointed out various errors and minor changes needed in Figure 3 which specifies dimensions for the standardized replaceable light source. (Sylvania stated that a more accurate way to describe the cap was needed.) The petitions are granted on these points and all the requested changes are being made.

Change in Definition. GM petitioned that the word "bonded" be removed from the definition of replaceable bulb headlamp so that a lens alone could be replaced in the event of breakage. In the development of the final rule, NHTSA considered changing the definition in the manner requested but rejected it because removable lenses introduce additional opportunities for aiming problems due to alignment inaccuracy. Also, there is the opportunity for substitution of lenses designed for off-road vehicles and for other than U.S. beam patterns. Accordingly, GM's petition is denied.

Vibration Test. NHTSA proposed a vibration test with many of the characteristics of that contained in SAE J575 June 80. There were very few comments on the proposal, but it was pointed out that the test differed from that of SAE J575e, already incorporated in Standard No. 108 for headlamps and other lighting devices. Accordingly, the final rule adopted the vibration test currently required for other items of lighting equipment, so as not to burden manufacturers with differing vibration tests requiring different test equipment.

Commenting that this is a "substantive and substantial change" GM claims that the J575e test has been "abandoned by the industry" as "obsolete" and "non-repeatable", and asked NHTSA to adopt the vibration test proposed, or the one specified in SAE J575 June 80.

NHTSA disagrees with GM's characterization of J575e. Although the test in the earlier version may use less modern equipment than the later one, NHTSA continues to regard J575e as more closely approaching on-road vibration characteristics. Further, in adopting the vibration test of J575e, NHTSA considered it a logical outgrowth of the preceding notice and comment period and not such a deviation from the course of the rulemaking as to warrant, in all fairness to the public, a new notice offering opportunity to comment. To impose the same SAE vibration test upon semi-sealed headlamps as is required for all other types of headlamps and lighting equipment, instead of the proposed test containing certain characteristics of a later version of that SAE standard cannot be said either to be unfair or outside the penumbra of the proposed rulemaking. GM's petition is denied.

Tolerance on Wattage and Spherical Candlepower. GM asked for an amendment of paragraph S4.1.1.38(b)(1) for a tolerance of ±12 percent of bulb lumens. Sylvania asked for a ±10% tolerance on lumens, claiming that this is the current industry standard.

Sylvania's petition is granted, and the standard amended to allow a tolerance of ±10%. This should allow industry to comply with reduced costs attributable to lesser bulb rejection. GM also asked for a tolerance of ±7½% on upper and lower beam wattages. The values given are maximum and therefore a tolerance is not appropriate. For this reason, the GM petition is denied.

Windshield Washer Fluid. The agency incorrectly spelled the washer fluid component in paragraph S6.4(b)(4) as "monethinalamine". It is corrected to read "monoethanolamine."

The percentage of this test fluid used in the chemical resistance test was given as 1.5. GM, the manufacturer of

the fluid, states that this is the correct percentage in bulk form, but that when the fluid is diluted with two parts water for normal recommended usage, the correct percentage is 0.5. GM's petition is granted, and an appropriate change is being made.

S4.1.1.38(b) and S6.7.2(c) Minor Amendments. Sylvania requested a clarification that a headlamp assembly in the life test be in the normal operating attitude. It further requested that the 12.8 and 14 volts noted in this section be specifically identified as design and rated voltage, respectively. The agency agrees and clarifying amendments are made.

The agency is also clarifying the heat test procedure to insure that the headlamp achieves maximum head dissipation by being operated on its highest wattage filament.

Paragraph S7 Bulb Deflection Test. Sylvania commented that to allow a permanent deflection of .005 inch after a 4 pound load is more severe than the bulb will experience in practice, and suggested that the requirement be amended to allow deflection of .010 inch after a 2 pound load, which "is more reasonable and economically practical."

The agency does not agree with this suggestion. The danger of misaim due to bulb deflection requires assurance that the bulb will not move in the base during handling and installation.

Paragraph S8 Aiming Adopters. Ford, the only manufacturer currently known to NHTSA who intends to use the new headlamp system during the 1984 model year, has called to NHTSA's attention that paragraph S8 specifies an adjustable adapter for use during the first year rather than a fixed adapter as discussed in the preamble.

NHTSA's specification of the adjustable adapter for the first year was in error, and Ford's petition for substitution of a fixed adapter is granted. The adapter will allow lamps to be aimed mechanically by a mechanical aimer conforming to SAE J602.

It remains the intention of NHTSA that adjustable adapters be available for use when mechanical aimers are modified to allow their use. Although Standard No. 108 is being amended to no longer require adjustable adapters, NHTSA is retaining the requirements for headlamp markings to assist in aiming with adjustable adapters conforming to the design specified in the June amendment (Figure 9) expected to become available by July 1, 1984. GM requested a change that would allow 45 degrees of adjustment. An extreme angle of a headlamp lens, such as 45 degrees, not only reduces light transmittance but also creates a distortion in the beam pattern more likely to create glare. Therefore GM's petition is denied.

Four-lamp Headlamp System. VW asked for an amendment of paragraph S4.1.1.36 which would allow use of a four-lamp replaceable bulb headlamp system with only two bulbs illuminated on either high or low beam. GM, in a letter to the agency after the reconsideration period, inquired whether two bulbs could be used in a single headlamp cavity. The original petition from Ford was based on a two-lamp system and the standard as adopted allows only a two-lamp system with a single dual filament bulb in each headlamp. A number of issues would need to be resolved before allowing use of a dual-filament bulb in a four-lamp configuration, or two dual filament bulbs in a single cavity. These issues involve, in the case of the VW petition, whether only two lamps should be illuminated on high beam (four are presently required) and if so, whether it is important that the front corner of the vehicle be otherwise indicated. These issues also involve simultaneous actuation of light filaments in a headlamp system which could produce excessive illumination and uncertainties in the ability to insure correct simultaneous high beam or low beam aim if the bulb reflector systems are not separate high and low beam units. VW's petition and GM's request are denied.

Deletion of Certain Tests for Glass-Lensed Headlamps. VW petitioned for deletion of certain environmental tests on the basis that they were inappropriate for headlamps with glass lenses. These tests are those covering chemical resistance, temperature, internal heat, and impact.

NHTSA has decided to grant in part and deny in part this petition. The agency does not agree that temperature tests are unnecessary for glass lensed metal reflector lamps. This test checks the expansion and contraction of the seal of the lens to the reflector. As metal is a conductor and glass basically an insulator, a large temperature differential will occur on these lamps, and a test to verify the existence of a good seal is required. On the other hand, all glass lenses should easily pass the chemical and internal heat test and these requirements may be deleted for glass-lensed lamps without affecting the overall quality of the lamp. Accordingly, appropriate amendments are made to paragraph S4.1.1.36(c)(1).

Paragraph S6.8, Humidity test. VW petitioned for deletion of the requirement in the humidity test that the photometric test begin within 10±1 minute after the humidity exposure. Apparently VW's photometric test equipment is not located near the humidity chamber. The purpose of the time restriction is to insure that all photometric testing after a humidity test occur within 2 minutes of each other for repeatability of results. NHTSA is therefore denying VW's petition on this point.

Deletion of Reference Dimensions. Because reference dimensions are advisory and not mandatory, the agency is revising Figures 3–2, 3–6, and 3–8 to delete them, to clarify that manufacturers may choose dimensions that they deem appropriate. These deletions do not affect interchangeability of replacement light sources.

Correction of Errors. Several errors occurred in the rule concerning improper references to Figures and cross-references to test procedures. These are now corrected.

Impact Analyses

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291, "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, as its adoption does not require any person to change current practices under the standard. The original regulatory evaluation for the rule remains valid, and is available in the Docket for examination.

The agency has also considered the impacts of this rule under the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act.

Because motor vehicle manufacturers must make timely decisions with respect to product plans for the 1984-model year, it is hereby found that an effective date earlier than 180 days after issuance of the rule is in the public interest. The changes made by this rule also relieve restrictions, and the rule is effective upon publication in the **Federal Register.**

The engineer and lawyer primarily responsible for this rule are Jere Medlin and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

§ 571.108 [Amended]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices and Associated Equipment*, is amended as follows:

1. The definition of "standardized replaceable light source" contained in Section S3 Definitions is amended by changing "Figure 1" to "Figure 3".

2. In the second sentence of paragraph S4.1.1.36(a)(2), the words "the aiming device locating plate" are amended to read "an aiming device locating plate conforming to Figure 9."

3. Paragraph S4.1.1.36(b) is amended by changing the word "headlight" to "headlamp".

4. Paragraph S4.1.1.36(c) is revised to read:

(c) A headlamp with a glass lens need not meet the following tests of the sections specified: abrasion resistance (S6.2), chemical resistance (S6.4), and impact (S6.9). If, in addition to a glass lens, the headlamp uses a non-plastic reflector, it need not meet the internal heat test of section S6.7.2.

5. Paragraph S4.1.1.36(d)(4) is amended by revising the final sentence to read: "Corrosion may occur on terminals provided there is no loss of function.".

6. Paragraph S4.1.1.36(d)(8) is amended by changing "S6.11" to "S6.9".

7. Paragraph S4.1.1.38(b)(1) is revised as follows:

(1) The general specifications of the bulb shall be:

	Low beam	High beam
Maximum power, watts at 12.8 V (design voltage).	45	65.
Lumens (without black cap) at 12.8 V design voltage.	1,067±10%	1,738±10%.
Average life at 14.0 V rated voltage (life testing is conducted in a finished headlamp assembly placed in the normal operating attitude).	320 hrs	150 hrs.

8. Paragraph S6.1 is amended by adding "S6.5" between "S6.4" and "S6.6".

9. Paragraph S6.2(c)(2) is revised to read:

(2) The abrading pad support shall be equal in size to the pad and the center of the support surface shall be within ±.08 in. (±2 mm) of parallel to the lens surface.

10. Paragraph S6.4(b)(4) is amended by changing "1.5% monethinalamine" to "0.5% monoethanolamine".

11. Paragraph S6.5 is amended by deleting the last sentence.

12. The second sentence of paragraph S6.7.2(c) is revised to read:

(c) . . . The headlamp shall be soaked for one hour at a temperature of 95°F [35°C] and then its highest wattage filament shall be energized for one hour in a still air condition, allowing the temperature to rise from 95°F [35°C].

13. Paragraph S8 is revised to read:

S8. *Mechanical aiming fixed adapters for replaceable bulb headlamps.* Each motor vehicle manufactured on or after July 1, 1983, and before July 1, 1984, which is originally equipped with a replaceable bulb headlamp system, shall be furnished with a pair of fixed headlight aiming adapters for mechanical aimers. Each fixed adapter shall be provided with a lens to suction cup interface that allows the headlamp to be usable with a mechanical aimer. Each adapter when mounted on the headlamp in contact with the aiming pads prescribed by S4.1.1.36(a)(2), shall provide a surface perpendicular to the longitudinal axis of the vehicle so that the lamp may be mechanically aimed by a mechanical aimer conforming to SAE Standard J602, Oct 80, *"Headlamps Aiming Device for Mechanically Aimable Sealed Beam Headlamp Units."*

14. Figures 3–1 through 3–8, Figure 5, Figure 6, and Figure 9–2 are revised, and new Figures 3–10 and 3–11 are added as follows:

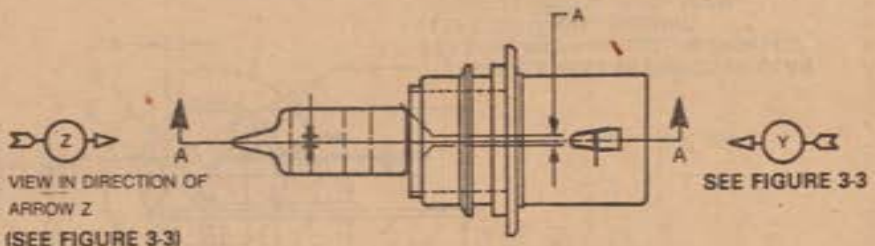
BILLING CODE 4910-59-M

Figure 3

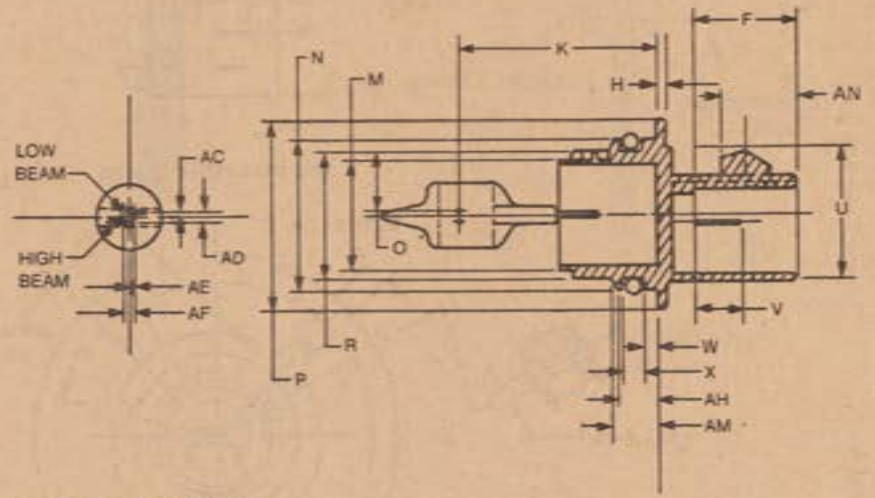
SPECIFICATIONS FOR THE STANDARDIZED REPLACEABLE LIGHT SOURCE

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Figure 3-1



PLAN VIEW OF BULB



FRONT END VIEW OF BULB

SIDE SECTIONAL VIEW OF BULB—(SECTION A)

Note: Unless otherwise specified, a general tolerance of ± 004 in. (0.10 mm) shall apply to all linear dimensions and ±1% shall apply to all angular dimensions specified in Fig. 3.

Figure 3-2

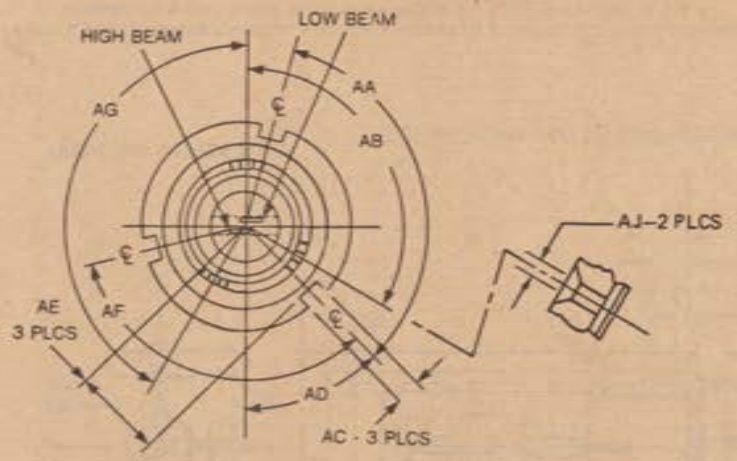
INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Dimensional Specifications
Figure 3-1

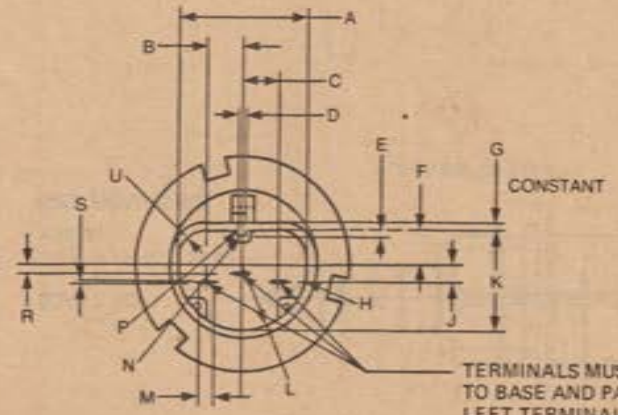
Dimension	Inches	Millimeters
A	.085 to.083 .002 Either Side C_L	2.15 to 2.10 .05 Either Side C_L
F	.906	23.00
H	.079	2.00
K Low Beam -	1.752 ± .015	44.50 ± .38
High Beam -	CL High Beam to be within ± .035" of CL of low beam	
M	.974	24.75
N	(1.335 to 1.331) .002 Either Sice CL	(33.90 to 33.80) .05 Either Side CL
O	.517 ± 0.020	13.13 ± .50
P	1.673	42.50
R	(1.126 to 1.222) .002 Either Side CL	(28.60 to 28.50) .05 Either Side CL
U	1.181	30.00
V	.413	10.50
W	.128	3.25
X	.189	4.80
AC	.045 ± .020	1.15 ± .50
AD	.091 ± .028	2.30 ± .70
AE	.047 ± .020	1.20 ± .50
AF	.094 ± .032	2.40 ± .80
AH	.356	9.05
AM	.415	10.54
AN	.673	17.10

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Figure 3-3



VIEW Z - FROM BULB END



VIEW Y - FROM CONNECTOR END

TERMINALS MUST BE PERPENDICULAR TO BASE AND PARALLEL WITHIN ±1.5°
LEFT TERMINAL–GROUND
RIGHT TERMINAL–HIGH BEAM
CENTER TERMINAL–LOW BEAM

Figure 3-4

Interchangeability Drawing
Headlamp Bulb Assembly

Dimensional Specifications
Figure 3-3

Letter	Inches	Millimeters
AA	120°	120°
AB	120°	120°
AC	.197	5.0
AD	44° 30°	44° 30°
AE	.722	18.35
AF	120°	120°
AG	150°	150°
AJ	.138	3.50
A	1.024	26.00
B	.289 ± .010	7.35 ± .25
C	.289 ± .010	7.35 ± .25
D	.055	1.40
E	.059	1.50
F	.278	7.05
G	.059	1.50
J	.142 ± .010	3.60 ± .25
K	.807	20.50
L	.531 R	13.50 R
M	.118	3.00
R	.075 ± .010	1.90 ± .25
S	.025 ± .002	.63 ± .25
U	.222 R	5.65 R

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
HALOGEN CAPSULE

Figure 3-5

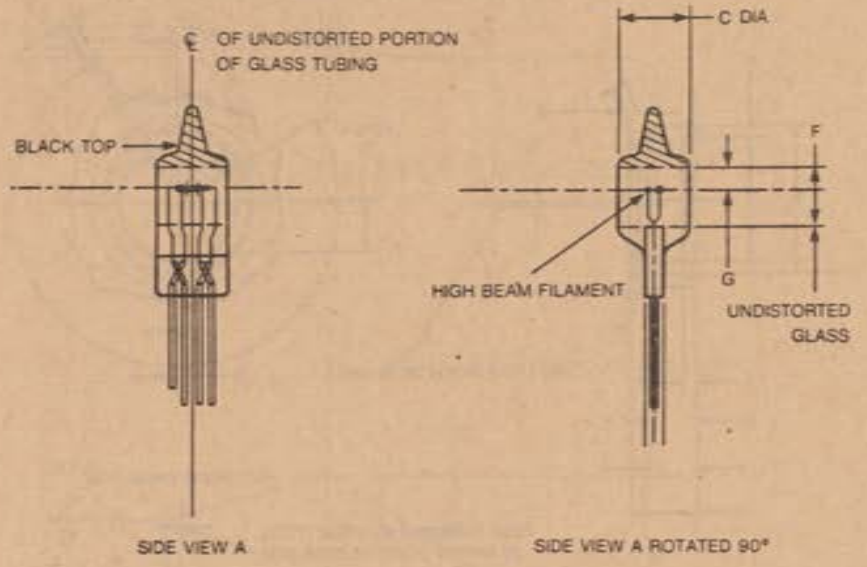


Figure 3-6

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
HALOGEN CAPSULE

Dimensional Specifications
Figure 3-5

Letter	Inches	Millimeters
C	.579 ± .012	14.7 ± .50
F	.472 min. undistorted glass	12.0 min. undistorted glass
G	.197 min. (maximum dimension to cover glass distortion line)	5.0 min. (maximum dimension to cover glass distortion line)

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
SOCKET (IN REFLECTOR)

Figure 3-7

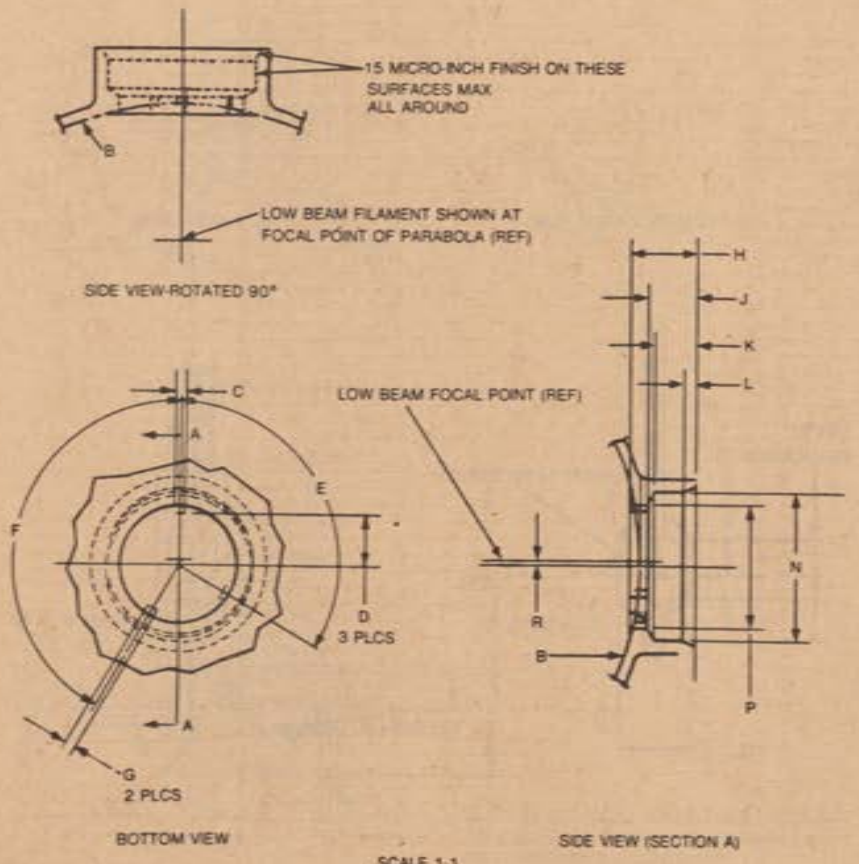


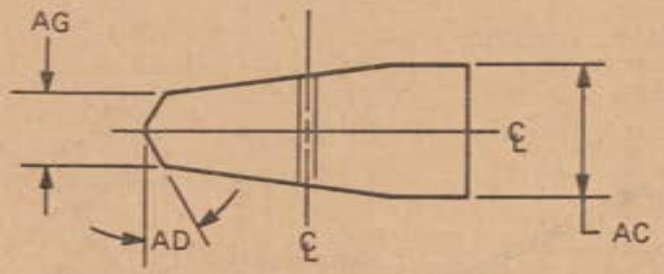
Figure 3-8

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY
SOCKET (IN REFLECTOR)

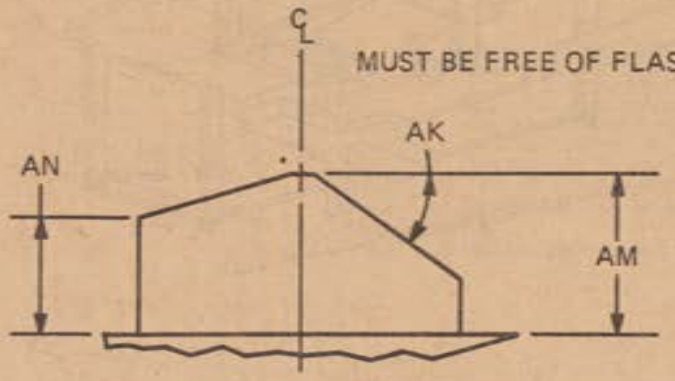
Dimensional Specifications
Figure 3-7

Letter	Inches	Millimeters
B	Ref Line Lamp Parabola	Ref Line Lamp Parabola
C	.079 ± .002 *.002 Either Side of CL	2.00 ± .05 .05 Either Side of CL
D	.502	12.75
E	120°	120°
F	150°	150°
G	.079	2.00
H	.596	15.15
J	.433	11.00
K	.374	9.50
L	.108	2.75
N	(1.350 to 1.346) .002 Either Side of CL	(34.30 to 34.20) .05 Either Side of CL
P	(1.132 to 1.128) .002 Either Side of CL	(28.75 to 28.65) .05 Either Side of CL
R	.045	1.15

Figure 3-10
INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY



EXPLODED VIEW W FOUR TIMES SIZE



EXPLODED VIEW OF LOCKING FEATURE

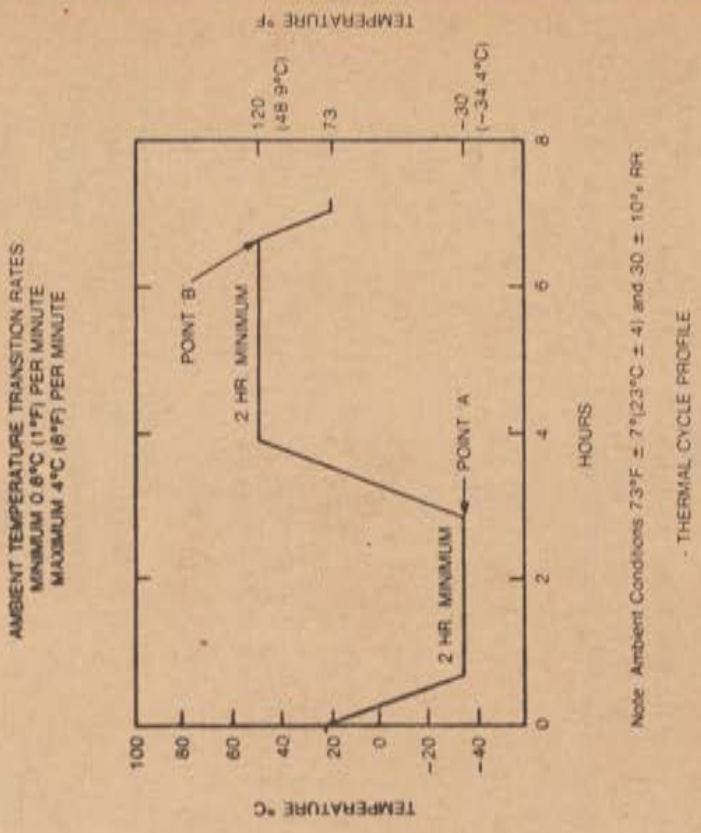
Figure 3-11

INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

Dimensional Specifications
Figure 3-10

Letter	Inches	Millimeters
AC	.179	4.55
AD	30°	30°
AG	.098	2.50
AK	35°	35°
AM	.217	5.50
AN	.157	4.00

Figure 6



Note: Ambient Conditions 73°F ± 7°(23°C ± 4) and 30 ± 10% RH

THERMAL CYCLE PROFILE

Figure 5

ABRASION TEST FIXTURE

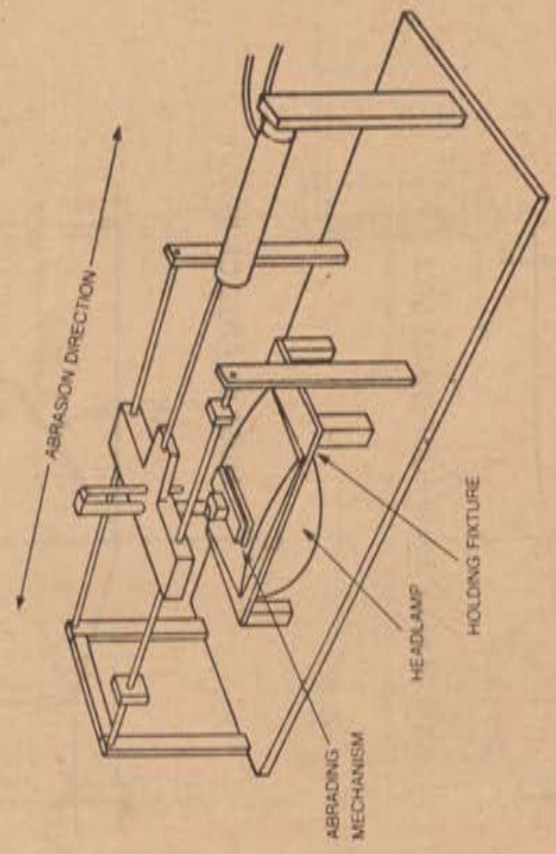


Figure 9-2

DIMENSIONAL SPECIFICATIONS FOR
ADJUSTABLE LOCATING PLATES
FOR USE WITH A MECHANICAL HEADLAMP AIMING DEVICE

(Group I and Group II Aiming Pad Locations)

Dimension	Locating Plate For Group I Aiming Pad Location		Locating Plate For Group II Aiming Pad Location	
	Millimeters	Inches	Millimeters	Inches
A	147.30 ± 0.75	5.80 ± .030	104.00 ± 0.75	4.09 ± .030
B	73.65 ± 0.75	2.90 ± .030	76.00 ± 0.75	2.99 ± .030
C	157.00 ± 0.75	6.18 ± .030	171.00 ± 0.75	6.73 ± .030
D	120.10 ± 0.75	4.73 ± .030	84.33 ± 0.75	3.32 ± .030
E	60.50 ± 0.50	2.38 ± .020	60.00 ± 0.50	2.36 ± .020
F	128.00 ± 0.75	5.04 ± .030	137.16 ± 0.75	5.40 ± .030
G	64.00 ± 0.50	2.52 ± .020	68.58 ± 0.50	2.70 ± .020
H	12.70 ± 0.50	0.50 ± .020	12.70 ± 0.50	0.50 ± .020
J	9.50 ± 0.50	0.37 ± .020	9.50 ± 0.50	0.37 ± .020

Note Concerning Adjustable Locating Plates:

Each of the two adjustable legs is capable of being extended, and locked in position, in increments of .10 in.(2.54 mm) with each increment measured from the '0' seating plane (perpendicular to the H-V axis of the lamp) with a maximum tolerance of + .01 in. (+ 0.25 mm). The incremental positions extending out from the '0' seating plane are identified by whole numbers, i.e., '0', '1', '2', '3', through a minimum of '37' for the vertical adjustable leg and a minimum of '20' for the horizontal adjustable leg.

BILLING CODE 4910-59-C

(Secs. 103, 114, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1403, 1407); delegations of authority at 49 CFR 1.50 and 501.7)

Issued on September 26, 1983.

Diane K. Steed,

Deputy Administrator.

[FR Doc. 83-26674 Filed 9-27-83; 10:09 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1104, 1110, 1115, 1130, 1131, 1137, 1141, 1142,1152 and 1160

[EX Parte No. 55; Sub-55]

Revision and Redesignation of the Rules of Practice

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: At 47 FR 49534, November 1, 1982, in Ex Parte 55 (Sub-No. 55), the Commission published rules revising and redesignating all its procedures and regulations governing the conduct of formal cases which come before it. This document contains technical amendments which correct certain minor errors in the text and revise statutory citations and Code of Federal Regulation references in various parts of 49 CFR Chapter X.

A more significant change is being made in Part 1141 *Procedures to Calculate Interest Rates* to conform that provision to the prior Commission rules.

We are also codifying Commission procedures with regard to the submission of confidential information in Commission proceedings. Since these amendments are only minor technical changes, public comment is not being requested.

DATES: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: James H. Bayne, 202-275-7429.

SUPPLEMENTARY INFORMATION: On November 1, 1982, at 47 FR 49534 the Commission published rules revising and redesignating all of its procedural regulations governing the conduct of formal cases which come before the Commission. The purpose of this decision is to make certain minor corrections to those rules. In this decision we also are correcting certain Code of Federal Regulation citations and updating statutory references to reflect the codification of the Interstate Commerce Act, as 49 U.S.C. Subtitle IV.

Several of the changes which require explanation are discussed below.

Part 1104—Pleadings; Generally

In § 1104.12 *Service of Pleadings and Papers* a portion of the fourth sentence in paragraph (a) was inadvertently omitted. The complete sentence should read "If service is made on the Commission in person, and personal service on other parties is not feasible, service should be made by first-class or express mail."

The Commission has recently experienced an increase in the number of filings in which a party has requested that certain of the materials submitted be kept confidential. For example, in several recent proceedings instituted by rail carriers seeking review of decisions of State regulatory authorities, the carriers have submitted copies of transportation contracts which, under Commission regulations, are confidential. These submissions have highlighted the need for a special procedure for dealing with them and with the accompanying requests for confidentiality. Physical segregation and clear labeling are essential for an agency which handles a large volume of material, most of which is of public record. Our clerical personnel need clear warning of sensitive documents and an easy manner of assuring that they are not inadvertently exposed to public scrutiny. In addition, segregation allows easy return of confidential material which is not essential to the decisional process.

In No. 39174, *Petition of Burlington Northern Railroad Company For Review of a Decision of the Railroad Commission of Texas Rail Rate Board Pursuant to 49 U.S.C. 11501* (not printed), served April 25, 1983, we asked parties to segregate material for which a protective order was being requested. We repeated that request more recently in Ex Parte No. 449, *Filing of Pleadings and Applications*, 48 FR 34474 (July 29, 1983). However, since we anticipate that the problem of identifying such submissions will be a continuing one, we have concluded that the segregation requirement should be the subject of a formal rule.

Since this is merely a codification of our existing procedure, we do not believe it is necessary to require notice and comment on this addition. The provision does not work any undue hardship on the public, since it provides the only reasonable way for parties to ensure that confidential material is treated properly.

Part 1110—Procedures Governing Informal Rulemaking Proceedings

It is necessary to amend § 1110.9 *Petition for exemption.* We are deleting the word "exemption" from the title and text of that section and inserting in lieu thereof the word "waiver." This change does not alter the substantive meaning of the rule. It merely clarifies that relief from any regulation developed by the Commission may be acquired through the waiver process in individual cases, where appropriate. This amendment also will distinguish petitions for waivers, which seek relief from our regulations from petitions for exemption which seek relief from portion of 49 U.S.C. Subtitle IV pursuant to 49 U.S.C. 10505 or 49 U.S.C. 11343(e).

Part 1115—Appellate Procedures

It is necessary to make a minor change in § 1115.3 *Commission actions other than initial decisions.* Section 1115.3(f) presently provides that any rail proceeding will become effective 30 days after service, "unless the acting body provides for the action to become effective at an earlier date." The Commission regularly provides for decisions to become effective at various points in time longer than 30 days. Therefore, that portion of the section previously quoted will be changed to read "unless the acting body provides for the action to become effective at a different date."

Part 1141—Procedures To Calculate Interest Rates

In our previous decision we added a new part 1141 which was to reflect the procedure for calculating interest which was previously set forth in *Notice of Revised Procedure to Calculate Interest* (not printed), decided April 14, 1977. McCarthy, Sweeney, & Harkaway, the party, who requested the addition of this provision has brought to our attention the need to modify the provision to reflect the distinction between the date used to base interest levels for investigation proceedings and the date used for complaint proceedings and to specify which of the two treasury bill rates is applicable. We will modify the provision to reflect that the interest rate level for complaint cases shall be determined by the date the first unlawful charge is paid and for investigation cases it shall be the date the carrier submits its statement accounting for all amounts received under the increase. See 49 U.S.C.

10707(d)(1). The investment rate for Treasury bills is to be used. With the addition of these two statements, Part 1141 will now accurately reflect the procedure set forth in our 1977 decision.

The remaining changes are minor technical changes which require no discussion.

Notice and Comment requirements of the Administrative Procedure Act, 5 U.S.C. 553, do not apply because all of these amendments are either corrections or minor technical amendments. These changes are not controversial. It would be impractical, unnecessary and contrary to the public interest to request comments on such minor technical matters.

This decision will not significantly affect the quality of the human environment or the conservation of energy resources.

We certify that this action will not have a significant economic impact on a substantial number of small entites because it only involves minor corrections and technical changes.

We adopt the revisions to 49 CFR Chapter X, set forth in the Appendix.

List of Subjects

49 CFR Parts 1104, 1110, 1115, 1130, 1131 and 1160

Administrative practice and procedure.

49 CFR Parts 1137, 1141 and 1152

Railroads.

49 CFR Part 1142

Buses.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Dated: September 23, 1983.

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

Agatha L. Mergenovich,

Secretary.

Appendix

Title 49 of the Code of Federal Regulations is amended as follows:

PART 1104—PLEADINGS; GENERALLY

(1) Section 1104.12 is amended by revising paragraph (a) to read as follows:

§ 1104.12 Service of pleadings and papers.

(a) *Generally.* Every document filed with the Commission should include a certificate showing simultaneous service upon all parties to the proceeding. Service on the parties should be by the same method and class of service used in serving the Commission, with charges, if any, prepaid. One copy should be served on each party. If service is made on the Commission in person, and personal service on other parties is not feasible, service should be made by first-class or express mail. When a party is represented by a practitioner or attorney, service upon the practitioner is deemed to be service upon the party.

* * * * *

(2) A new § 1104.14 is added to read as follows:

§ 1104.14 Protective orders to maintain confidentiality.

(a) *Segregation of confidential material.* A party submitting materials which it believes are entitled to be kept confidential and not made part of the public docket should submit these materials as a separate package, clearly marked on the outside "Confidential materials subject to a request for a protective order."

(b) *Requests for protective orders.* A request that materials submitted to the Commission be kept confidential should be submitted as a separate pleading and clearly headed "Motion for protective order."

PART 1110—PROCEDURES GOVERNING INFORMAL RULEMAKING PROCEDURES

(3) Section 1110.9 is revised to read as follows:

§ 1110.9 Petition for waiver.

Any person may petition the Commission for a permanent or temporary waiver of any rule. Petitions should be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423, and should identify the rule involved and the arguments in favor of granting the waiver.

PART 1115—APPELLATE PROCEDURES

(4) Section 1115.3 is amended by revising paragraph (f)(1) to read as follows:

§ 1115.3 Commission actions other than initial decisions.

* * * * *

(f) * * *

(1) In a rail proceeding, the action, if not stayed, will become effective 30 days after it is served, unless the acting body provides for the action to become effective at a different date. On the day the action is served parties may initiate judicial review.

* * * * *

PART 1130—INFORMAL COMPLAINTS

§ 1130.1 [Amended]

(5) In paragraph (a) of § 1130.1 the reference to "49 CFR 1131.3 and 49 CFR 1131.5" is revised to read "49 CFR 1131.1".

PART 1131—FORMAL RATE COMPLAINTS, RAIL INTRASTATE PETITIONS AND INVESTIGATIONS

§ 1131.2 [Amended]

(6) In paragraph (a) of § 1131.2 the reference to "[49 CFR 1130.3 (b) and (c)]" is revised to read "[49 CFR 1130.2 (b) and (c)]".

PART 1137—PROCEDURES RALATING TO RAILROAD REVITALIZATION AND REGULATORY REFORM ACT OF 1976

§ 1137.2 [Amended]

(7) In paragraph (i) of § 1137.2 the reference to "section 20, Part 1 of the Interstate Commerce Act" is revised to read "[49 U.S.C. 11145" and "section 15(18) of the Act" is revised to read "49 U.S.C. 10728".

PART 1141—PROCEDURES TO CALCULATE INTEREST RATES

(8) Section 1141.1 is revised to read as follows:

§ 1141.1 Procedures to calculate interest rates.

Interest rates to be computed following a Commission decision shall be the average yield (investment rate) of marketable securities of the United States Government having a duration of 90 days. The interest rate level shall be determined by:

(a) The date that statement is filed accounting for all amounts received under the new rates in investigation [*See* 49 U.S.C. 10707(d)(1)], or

(b) The date the first unlawful charge is paid, for all other proceedings.

PART 1142—SPECIAL RULES FOR FILING AND HANDLING COMPLAINTS AGAINSTS INTERSTATE BUS RATES AND FARES UNDER THE ZONE OF RATE FREEDOM [49 U.S.C. 10708 (D)(4) AND 10708 (D)(5), SECTION 11 OF THE BUS REGULATORY REFORM ACT OF 1982]

§ 1142.1 [Amended]

(9) In paragraph (a) of § 1141.1 the words "the General Rules of Practice" are revised to read "49 CFR Part 1131"

PART 1152—ABANDONMENT AND DISCONTINUANCE OF RAIL LINES AND RAIL TRANSPORTATION UNDER 49 U.S.C. 10903

§ 1152.1 [Amended]

(10) In paragraph (a) of § 1152.1 the statutory reference in the first sentence "49 U.S.C. 10903" is revised to read "49 U.S.C. 10901".

§ 1152.2 [Amended]

(11) In paragraph (g) of § 1152.2 the reference to "section 5(j)(2) of the Department of Transportation Act (49 U.S.C. 1654)" is revised to read "49 U.S.C. 1654(5)(j)(2)".

§ 1152.22 [Amended]

(12) In paragraph (d)(3) of § 1152.22, the reference to "Exhibit I" is revised to read "Exhibit 1".

(13) In paragraph (f) of § 1152.22, the reference to "§ 1105.12 (b) and (c)" is revised to read "1105.7 (b) and (c)".

(14) In paragraph (g) of § 1152.22, the reference to "sections 13a (a) and (2) of the Act, as amended," is revised to read "49 U.S.C. 10908 and 10909".

§ 1152.24 [Amended]

(15) In paragraph (e)(4) of § 1152.24, the reference to "section 1a of the Act" is revised to read "49 U.S.C. 10904".

§ 1152.27 [Amended]

(16) In paragraph (f) of § 1152.27, the reference to "Exhibit I" is revised to read "Exhibit 1".

§ 1152.28 [Amended]

(17) In paragraph (d) of § 1152.28, the reference to "section 1a(6) of the Act" is revised to read "49 U.S.C. 10905".

(18) In paragraph (f) of § 1152.28, the reference to "section 1a of the Act" is revised to read "49 U.S.C. 10905".

PART 1160—HOW TO APPLY FOR OPERATING AUTHORITY

§ 1160.10 [Amended]

(19) Paragraph (c) of § 1160.10, is amended by revising the words "ICC's Section of Operating Rights" to read "Office of Proceedings, Motor Section".

§ 1160.66 [Amended]

(20) Paragraph (a) of § 1160.66 is amended by revising the words "Section of Operating Rights" to read "Office of Proceedings, Motor Section".

[FR Doc. 83-26749 Filed 9-29-83; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Part 1142

[Ex Parte No. MC-162]

Procedures for Complaints Against Bus Carrier Rates and Fares

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: By decision served November 19, 1982, and published in the **Federal Register** on November 24, 1982 (47 FR 53282), this Commission issued final rules to implement subsection 11(c) of the Bus Regulatory Reform Act of 1982 (Bus Act). That subsection required the Commission to establish expedited procedures for filing and handling complaints against effective bus rates or fares established under the zone of rate freedom on the grounds that they are unreasonably high or low. This decision reopens the proceeding for the purpose of modifying the final rules contained at 49 CFR Part 1142. Modifications to the rules are adopted which provide that (1) applicant file its case-in-chief with the complaint; (2) the contents of the complaint conform to the requirements for formal complaints set forth in the Commission's Rules of Practice; (3) in view of statutory time constraints on such proceedings, the scope of discovery is limited to relevant information that is readily available so that defendant need not prepare cost, traffic, financial, economic or other data not previously prepared; and (4) the complainant's reply to the carrier may include evidence obtained in discovery. Further, the rules are modified to include an additional statutory citation in the caption at 49 CFR Part 1142 that was omitted inadvertently and to delete a term to make clear that the complaint process extends to all bus rates and fares governed by the zone of rate freedom and subject to Commission jurisdiction.

EFFECTIVE DATE: This decision is effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT:

Barbara Reideler (202) 275-7982

or

Howell I. Sporn (202) 275-7691

SUPPLEMENTARY INFORMATION: On November 19, 1982, we adopted final rules in this proceeding to implement subsection 11(c) of the Bus Regulatory Reform Act of 1982. Subsection 11(c), 49 U.S.C. 10708(f), permits parties to file complaints challenging the reasonableness of effective bus rates or fares established under the zone of rate freedom (ZORF). The final rules were published in the **Federal Register** on November 24, 1982 (47 FR 53282) and are set forth at 49 CFR Part 1142. The American Bus Association (ABA) appealed that decision and requested that we reopen the proceeding in order to modify the final rules.

Background

The Bus Act at Section 11 establishes a zone within which passenger carriers may raise or lower bus rates or fares without being subject to protest and investigation or suspension on the grounds that such rates are unreasonably high or low. The zone expands by specified percentages over a 3-year period. After three years, the zone becomes unlimited and the Commission may not suspendor investigate any proposed rate on the basis of reasonableness, unless the proposed rate is established collectively pursuant to an agreement approved by the Commission under 49 U.S.C 10706(b). Protests may be filed seeking investigation or suspension of proposed rates on the grounds that such rates are discriminatory or predatory. Additionally, Congress provided at 49 U.S.C. 10708(f) that parties may also file complaints challenging the reasonableness of effective rates or fares established within the ZORF, and, after three years, of any effective rate or fare. The Bus Act provides that complaints are to be filed in accordance with the complaint provision at 49 U.S.C. 10701 and that they be decided by the Commission within 90 days.

On October 7, 1982, we proposed rules to govern the filing and disposition of complaints against effective ZORF rates. The rules were adopted with certain modifications at 47 FR November 19, 1982. The final rules provide that (1) opponents of ZORF rates must file a formal complaint and, within 20 days, submit a verified statement of supporting facts which constitutes the case-in-chief; (2) defendants must file their case-in-rebuttal within 20 days thereafter, and complainants may file replies within 10 days after that; (3) the Commission's discovery procedures are available to complainant, who must file any discovery request at the same time as the complaint; and (4) responses to discovery requests are due from defendant within five days, and must provide material, records, data and other information that is relevant and not privileged.

The Petition

The ABA argues that the final rules fail to implement properly the statutory complaint provision and effectively deny carriers the benefits of ZORF

pricing. It contends that the rules convert the complaint process, in which the complainant bears the burden of proving the unreasonableness of an assailed rate, into an investigation and suspension proceeding under 49 U.S.C. 10708(b), in which the carrier bears the burden of proof, by requiring the carrier to justify a challenged ZORF rate to the same extent and in essentially the same manner as it would justify a rate change subject to investigation or suspension. This, petitioner contends, stems from the fact that the rules establish an informal proceeding which gives opponents of ZORF rates an unqualified right of discovery that enables them to file "postcard" complaints containing only general allegations of unreasonableness and then permits them to justify the complaint solely on evidence adduced in discovery. The ABA fears that this will lead to fishing expeditions in which complainants may then "fish" through the carrier's files for such evidence. Further, the ABA contends that this process improperly encourages the filing of complaints.

Discussion and Conclusion

We find the ABA's concerns to be justified. We are reopening this proceeding to modify the final rules accordingly, as described fully below. We will also modify the rules to include certain minor and technical corrections. In our decision of November 19, 1982, we noted the difficulty in establishing final rules that reconcile the statutory goals of encouraging full use of the ZORF while at the same time preserving the complaint remedy and ensuring the prompt disposition of such complaints. In modifying the proposed rules, we did not intend to establish procedures which unduly burdened carriers seeking to take advantage of the ZORF or which could be used to subvert the complaint and discovery process.

First, the ABA requests that the filing procedures at 49 CFR 1142.1 be modified in order to identify specifically the contents of the formal complaint and to require complainant to file its case-in-chief with the complaint. The final rules provide at paragraph (a) of § 1142.1 for the filing of a formal complaint. The contents of a formal complaint are established at 49 CFR 1111.1(a) in the Commission's Rules of Practice. In keeping with the requirement of formality, we are modifying the rules at § 1142.1 to include at paragraph (b) a description of the contents of the complaint that is the same as is now applicable to other formal complaints under the Rules of Practice and which otherwise governs the contents of the complaints filed in these proceedings.

Further, we will amend § 1142.1 to include at paragraph (c) the requirement that complainant file its verified statement of facts and argument with the complaint rather than 20 days thereafter as now called for. Unlike other formal complaint proceedings governed by the Rules of Practice, these complaints must be decided in 90 days. It is for this reason that our rules provide for the filing of complainant's case-in-chief and of defendant's case-in-rebuttal in connection with the processing of the complaint itself and not under a subsequent order setting modified procedure or oral hearing. Regulations governing other Commission proceedings with 90-day statuory deadlines for disposition, however, require submission of the case-in-chief at the outset. The change which requires the filing of evidence at the same time as the complaint is filed not only eliminates the 20-day delay period and assures disposition within 90 days, but also makes clear that the complainant has the burden of proof, limits the possibility of fishing expeditions and harassment, and facilitates defendants' ability to respond to appropriate discovery requests. In reexamining our rules, we are forced to concur in the ABA's concern that our rules provided an invitation to parties to file complaints without having the evidence to back them up, and then using discovery to try to locate such evidence. While we are sympathetic to the difficulties complainants face in bringing such complaints, we must also try to accommodate Congress' desire for full use of the ZORF and its clear requirement that the burden of proof be on the complainant.

Our discovery procedures will still be available for legitimate information-gathering requests to back up the evidence submitted with the complaint. The final rules provide at 49 CFR 1142.4 for discovery by the complainant, so long as the request is filed at the same time as the complaint and is limited to information that is relevant and not privileged. But any discovery permitted in these proceedings must reflect the requirement that defendant respond within five days and must not have the effect of shifting the burden onto defendants to justify their rates. Accordingly, § 1142.4 also will be modified to limit the scope of the material that can be sought by a complainant in discovery to that which is reasonably available and would not require defendant carriers to prepare and produce cost, traffic, financial, economic, or other data not previously prepared.

The fundamental change being adopted is that a complainant must, with the complaint, submit a verified statement containing evidence in support of the complaint. This would generally include cost of service, rate or fare comparisons, or other information that is used to determine the reasonableness of a rate or fare. As we noted in our earlier decision, although Congress precluded the Commission from addressing the reasonableness of ZORF rates or fares in an investigation or suspension proceeding, it nonetheless intended that concerns about reasonableness be regulated through the complaint mechanism once the rate becomes effective. Thus, the scope of information used by a complainant and obtainable from a defendant carrier in discovery may involve the same type of data that the carrier used to justify the reasonableness of a rate proposal not filed within the ZORF. While a carrier may have gathered data and information before filing a ZORF rate or fare that reflects upon its reasonableness, one of the purposes of Section 11 of the Bus Act is to enable carriers to make rate adjustments without compiling the evidence required for rate justification in a suspension case. Thus, such data may not be readily or reasonably available for a 5-day response to a discovery request. We conclude that in creating the ZORF, and requiring rapid decisions on ZORF complaints, Congress intended that carriers not routinely gather such data and we would be thwarting Congress' intention in that regard if we effectively require collection of such data to satisfy discovery requests.

Obviously, the modified rules mean that information cannot be obtained in discovery in time to use with the complaint. We, therefore, adopt petitioner's further suggestion to modify the rule at 49 CFR 1142.3 to permit complainant to include in its reply to the carrier's answer whatever information is obtained in discovery. If a complainant thereby includes such new evidence in the record at this stage of the proceeding, we would waive our regular rule against replies to replies in order to permit defendant the opportunity to respond. Other minor modifications are included in the rules in order that they correctly reflect these changes.

Finally, we seek to clarify any misimpression as to whether the final rules permit automatic discovery or require the complainant to obtain an order first from the Commission. The final rules provide for discovery to be governed by our standard discovery rules at 49 CFR 1114.21, except to the

extent otherwise specified. As indicated at § 1114.21(b), written interrogatories and requests for admission may be used without complainant filing a petition and obtaining prior Commission approval. Any other discovery procedures may be used only if the Commission first enters a decision approving them. Because of the 90-day deadline, we adopted an expedited time frame for conducting discovery that varies from the standard discovery procedures. Complainant is required to file the request either directly with defendant or the Commission, as applicable, at the same time the complaint is filed. Defendant is allowed only five days to respond to complainant's request. Response deadlines to discovery under Commission order would be set in the order. In all other matters regarding discovery, the Commission's standard discovery rules prevail.

The ABA points out a technical problem in the regulations adopted, which is that the caption to the rules should include reference to 49 U.S.C. 10708(e) to take note of an additional statutory ZORF provision. In our decision, we stated that the Bus Act permits complaints challenging not only the reasonableness of rates established under the 3-year zone mechanism at 49 U.S.C. 10708(d)(4) and 10708(d)(5), but those established after the zone mechanism expires pursuant to 10708(e). Failure to include reference to that subsection in the final rules was inadvertent and the caption is modified accordingly at this time.

Although not noted by the ABA, an additional minor correction to the final rules is required. Complaints under Section 11 of the Bus Act may be filed challenging the reasonableness of all ZORF rates or fares of a passenger carrier operating pursuant to a certificate issued by this Commission. Under the Bus Act, the Commission may issue certificates governing solely intrastate operations. Carriers are required, within 30 days of commencing such intrastate operations, to take all necessary action to establish rates under the laws of the State, but the initial rates are established with this Commission and remain in effect until permanent rates are established with the State. Consequently, such initial rates may be raised or lowered under the ZORF provisions and, therefore, may be subject to complaints under these rules. We are, therefore, eliminating the interstate limitation which appears in the caption of these rules and at § 1142.1(a).

This decision will not affect the quality of the human environment or conservation of energy resources.

The final notice in this proceeding concluded that the rules would have no significant economic impact on a substantial number of small entities. The purpose and effect of the modifications to the rules adopted here is to reduce regulation. They impose no new reporting or other requirements directly or indirectly on small entities. Thus, we reaffirm our finding in the final rules.

It is ordered:

The decision in this proceeding, served November 19, 1982, and the final rules contained there are modified as discussed above.

Title 49 of the Code of Federal Regulations is amended as set forth in the Appendix to this decision.

This decision is issued pursuant to 49 U.S.C. 10321, 10708(f), and 11701 and 5 U.S.C. 553.

List of Subjects in 49 CFR Part 1142

Administrative practice and procedure, Buses.

Decided: September 22, 1983.

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

Agatha L. Mergenovich,

Secretary.

Appendix

Part 1142 of Chapter X, Title 49 of the Code of Federal Regulations is amended by revising Part 1142 to read as follows:

PART 1142—SPECIAL RULES FOR FILING AND HANDLING COMPLAINTS AGAINST BUS RATES AND FARES UNDER THE ZONE OF RATE FREEDOM [49 U.S.C. 10708(d)(4), 10708(d)(5), 10708(e), SECTION 11 OF THE BUS REGULATORY REFORM ACT OF 1982]

Sec.

1142.1 Filing of complaint.
1142.2 Answer by defendant.
1142.3 Reply by complainant.
1142.4 Discovery.
1142.5 Copies.

Authority: Section 11(c) of the Bus Regulatory Reform Act of 1982, Pub. L. 97-261, 96 Stat. 1102; 49 U.S.C. 10321, 10708(f), and 11701; and 5 U.S.C. 553.

§ 1142.1 Filing of complaint.

(a) A person seeking the cancellation of an effective rate or fare published by an intercity motor carrier of passengers under provisions of the zone of rate freedom shall file a formal complaint. The complaint may challenge only the reasonableness of the rate or fare under these special rules. Complaints on other grounds, such as discrimination or predatory practices, shall be filed under other sections of the Rules of Practice.

(b) A formal complaint must contain the correct, unabbreviated names and addresses of each complainant and defendant. It should set forth briefly and in plain language the facts upon which it is based. It should include specific reference to pertinent statutory provisions and Commission regulations, and should advise the Commission and the defendant fully in what respects these provisions or regulations have been or are violated or will be violated. The complaint should contain a detailed statement of the relief requested. Relief in the alternative or of several different types may be demanded, but the issues raised should not be broader than those to which complainant's verified statement is directed.

(c) Complainant's verified statement of facts and argument shall be filed simultaneously with its complaint, and they shall constitute complainant's case-in-chief. Whatever evidence is relied upon shall be set forth in sufficient detail to support the complaint, such as cost of service, rate or fare comparisons, or other information which may be pertinent (such as type of service rendered, distance traveled, or patronage experienced).

(d) Complainant shall serve a copy of its complaint and a copy of its verified statement on defendant on the same day that these pleadings are filed with the Commission. Such service and filing shall comply with 49 CFR 1104.12.

§ 1142.2 Answer by defendant.

The answer to the complaint shall contain the entire case-in-rebuttal, consisting of defendant's verified statement of facts and argument. It shall be filed within 20 days of the filing by complainant of the complaint and the verified statement. Defendant shall serve a copy of its statement on complainant on the same day it is filed with the Commission. Such service and filing shall comply with 49 CFR 1104.12.

§ 1142.3 Reply by complainant.

Complainant may file a reply to defendant's answer within 10 days after the defendant's answer is due. The reply may include evidence obtained by the complainant in response to a request for discovery. Defendant may file a reply within 5 days after complainant's reply is due to such evidence obtained on discovery which is not contained in the complaint and which complainant seeks to include in the record at this time. A reply shall be served on the parties on the same day it is filed with the

Commission and comply with 49 CFR 1104.12.

§ 1142.4 Discovery.

Discovery procedures shall be available to the complainant pursuant to our rules at 49 CFR 1114.21, so long as the request is made at the same time the complaint is filed and seeks relevant information needed to support the complaint. Unless otherwise directed by the Commission, defendant (a) shall respond within 5 days, and (b) shall produce relevant information which is readily available. Defendant shall not be required to prepare and produce cost, traffic, financial, economic or other data not previously prepared. Defendant shall not be required to produce privileged information.

§ 1142.5 Copies.

An original and 10 copies of the complaint, statements, answer, replies, and discovery requests shall be furnished for the use of the Commission.

[FR Doc. 83-26750 Filed 9-29-83; 8:45 am]
BILLING CODE 7035-01-M

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49 CFR Parts 1300, 1303, and 1305

[Docket No. 37517]

Reduction of the Notice Period for Filing Railroad Tariffs

AGENCY: Interstate Commerce Commission.

ACTION: Notice of final rules.

SUMMARY: The Commission is adopting as final rules, with minor modifications, the proposed rules originally published at 46 FR 1324 (January 6, 1981). These rules implement the rail tariff notice provisions set forth at 49 U.S.C. 10762(c)(3) which permit rail carriers to file increased rates or new rates on 20 days' notice and to file reduced rates on 10 days' notice.

DATES: The final rules will become effective September 30, 1983.

FOR FURTHER INFORMATION CONTACT: William P. Geisenkotter (202) 275-7739.

SUPPLEMENTARY INFORMATION: The Commission instituted this rulemaking to implement section 216 of the Staggers Rail Act of 1980, Pub. L. No. 96-448 (Staggers Act), appearing at 49 U.S.C. 10762(c)(3). In a notice published at 46 FR 1324 (January 6, 1981), the Commission proposed revisions to the tariff publication regulations at 49 CFR 1300, 1301, 1303, and 1305. The notice gave a due date for comments and provided that "[u]nless otherwise modified by the Commission, [the proposed] rules will become effective upon publication in the **Federal Register**."

The Association of American Railroads (AAR) and four shipper parties submitted comments.[1] These new rules, although now in effect by the terms of the original notice, never appeared as formal changes in the Code of Federal Regulations. The purpose of this notice and the accompanying Commission decision is to discuss the comments submitted in response to the original notice of proposed rules and to adopt the interim rules as final rules.

The tariff rules proposed in Docket No. 37321 (48 FR 31265, July 7, 1983) would replace those currently codified in parts 1300-1310. We have adopted the rules accompanying this decision rather than wait for the outcome of Docket No. 37321, however, because of the need to address the comments submitted in this proceeding, to remove any uncertainty surrounding these rules, and to publish these currently effective regulations in the Code of Federal Regulations.

These rules shall become effective without further notice upon publication in the **Federal Register.** Good cause exists for this action which will clarify the regulations in this area by removing the pre-Staggers Act regulations from the Code of Federal Regulations, [which have not been in effect since 1981], and providing for the publication of the interim rules. The Commission and carriers have used the interim rules since 1981 and no substantial modification of the interim rules has been made. Therefore, no adverse public impact will result.

Additional information is contained in the Commission's decision in this proceeding. To obtain a copy of the full decision write to: T.S. Infosystems, Inc., Room 2227, Interstate Commerce Commission, Washington, D.C. 20423, or call (202) 289-4357 or toll free (800) 424-5403.

The final rules will not have a significant economic impact on a substantial number of small entities. In accordance with section 604 of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, a final regulatory flexibility analysis is provided in the Commission's decision.

The final rules will not significantly affect the quality of the human environment or the conservation of energy resources.

[1] Geo. A. Hormel & Co., Oscar Mayer & Co., and The Rath Packing Company (jointly, hereinafter referred to as "meatpackers"); Nevada Power Company; The Millers' National Federation (MNF); Sea-Land Service, Inc. and Sea-Land Freight Service, Inc. (Sea-Land).

List of Subjects in 49 CFR Parts 1300, 1303, 1305

Freight, Railroads.

Authority: 49 U.S.C. 10762 and 5 U.S.C. 553.

Dated: September 26, 1983.

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

Agatha L. Mergenovich,

Secretary.

Appendix

Chapter X of Title 49 of the Code of Federal Regulations is amended as follows:

PART 1300—FREIGHT TARIFFS: RAILROADS, WATER CARRIERS, AND PIPELINE COMPANIES SUBJECT TO SECTION 6 OF THE INTERSTATE COMMERCE ACT AND CARRIERS JOINTLY THEREWITH

1. Paragraph (h) of § 1300.3 is revised to read as follows:

§ 1300.3 Contents of tariff title page.

* * * * *

(h) On every tariff or supplement in which rates, rules or regulations are made effective on less than statutory notice under authority of the Commission, notation that it is issued on —— days' notice under the authority of ———— (here show the authority).

* * * * *

2. Paragraphs (d)(3), (e)(11) and (h) of § 1300.9 are revised to read as follows:

§ 1300.9 Amendments and supplements.

* * * * *

(d) * * *

(3) Matter brought forward without change from one supplement to another must be designated "Reissued" in distinctive type and, except as authorized in 1300.10(i), must show the original effective date and the number of the supplement or tariff from which it is reissued; or it must be uniformly indicated by the letter T in a square when reissued from another tariff or from a supplement to another tariff and by numerals commencing with 1 in squares when reissued from a prior supplement to the same tariff. Such symbols must be printed in distinctive type and shown in a conspicuous manner, and an explanation thereof must be made in the tariff or supplement in which the symbols are used. Examples: "1 Reissued from ICC No. ———, (or Supplement No. ——— to ICC No. ———), effective (date upon which item became effective in former tariff or supplement to another tariff ———); "1 Reissued from Supplement No. 1, effective ————, 19—," and

so on numerically, the figures of the symbols always representing the number of the supplement to the same tariff from which the reissued item is brought forward. If items in a tariff or supplement are made effective on dates other than the general effective date shown on the title page, reissue of such items may be indicated in later publications by showing a letter suffix or other symbol in connection with, and as a part of, the letter T or the numerals in squares as authorized in this paragraph. When the reissued item became effective in a supplement to another tariff, the ICC number of that tariff must also be given.

* * * * *

(e) * * *

(11) Changes must be indicated as required by § 1300.2(a).

* * * * *

(h) *Supplement to tariff filed but not yet effective.*

After a tariff is filed on statutory notice canceling another tariff, a supplement to the tariff to be so canceled may be issued to become effective before the general effective date of the new tariff. When such supplement adds to or changes the rates or provisions which were brought forward unchanged in the new tariff, the supplement shall also be issued as a supplement to the new tariff and be given the ICC numbers of both the tariff in effect and the new tariff. In other words, such items must be a supplement both to the old and new tariffs and copies must be posted and filed accordingly. Only one such supplement may be in effect at any time.

* * * * *

§ 1300.10 [Amended]

3. The words "thirty days" are revised to read "statutory" in the last sentence of § 1300.10(i)(1) and the words "rule 10(i) of Tariff Circular No. 20" are revised to read "49 CFR 1300.10(1)" in the first sentence of § 1300.10(i)(2).

§ 1300.14 [Amended]

4. The words "30 days' " are revised to read "statutory" in the first sentence of § 1300.14(f)(4).

Paragraph (a) of § 1300.14 is revised to read as follows:

§ 1300.14 Statutory notice: additional procedure in filing tariffs.

(a) Except as otherwise authorized by the Commission, and except with regard to railroad contract rates filed under 49 U.S.C. 10713 (§ 1300.300 of this part), the notice period for tariff publications shall be:

(1) 30 days for tariffs issued by non-rail carriers;

(2) 20 days for rates or provisions published by rail carriers in connection with new service or changes resulting in increased rates or decreased value of service; and

(3) 10 days for changes published by rail carriers resulting in decreased rates or increased value of service, or changes resulting in neither increases nor reductions.

* * * * *

§ 1300.54 [Removed]

6. Section 1300.54 is removed.

§ 1300.58 [Amended]

7. The following revisions, additions and removals are made in § 1300.58:

(a) "Section 6" is revised to read "Section 10762" in the title of § 1300.58 and in the first sentence of § 1300.58(a).

(b) The phrase "a notice of less than 30 days" is revised to read "less than statutory notice" in the third sentence of § 1300.58(a).

(c) Remove the phrase "Tariff Circular 20" and the parentheses from around the words "this part" in the second sentence of § 1300.58(b).

(d) Remove the phrase "sixth section" from the first sentence of § 1300.58(c) and revise the words "30 days' " to read "statutory" in the first sentence of § 1300.58(c).

(e) Remove the phrase "the sixth" from the last sentence of § 1300.58(c) and add "10762" after "section" in the same sentence.

(f) Remove the word "sixth" in the second sentence of § 1300.58(d) and add "10762" between "section" and "application" in the same sentence.

(g) Remove the phrase "Tariff Circular 20" and the parentheses from around the words "this part" in the first sentence of § 1300.58(e) and revise "6" to read "10762" in the first sentence under "Form of Application" in § 1300.58(e).

PART 1303—PASSENGER SERVICE SCHEDULES: RAIL AND WATER CARRIERS

8. Paragraph (g) § 1303.11 is removed and reserved and paragraph (f)(1) of § 1303.11 is revised to read as follows:

§ 1303.11 Filing tariffs; rejections.

* * * * *

(f) *Period of Notice.* (1) Except as otherwise authorized by the Commission, and except with regard to contract rates filed under Section 10713 of the Act, the notice period for tariff publications shall be:

(i) 30 days for tariffs issued by non-rail carriers;

(ii) 20 days for rates or provisions published by rail carriers in connection with new service or changes resulting in increased rates or decreased value of service; and

(iii) 10 days for changes published by rail carriers resulting in decreased rates or increased value of service, or changes resulting in neither increases nor reductions.

(g) [Reserved]

* * * * *

PART 1305—POSTING TARIFFS AT STATIONS

9. Section 1305.5 is revised to read as follows:

§ 1305.5 Time of posting.

Except as otherwise provided, each tariff shall be posted at least 30 days prior to its effective date. When the Interstate Commerce Act or the Commission permits a different notice period for filing, the tariff publication shall be posted at least that number of days before the effective date.

[FR Doc. 83-26748 Filed 9-30-83; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Parts 1 and 2

Definitions and Field Organization; Updating Field Organization Description

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service is publishing an administrative update to reflect field organization changes and to remove gender specific wording in Parts 1 and 2. These changes are administrative and editorial in nature and are done as a matter of reader convenience in conjunction with the next revised edition (October 1, 1983) of Title 50, Code of Federal Regulations.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Arthur J. Ferguson, Office of Information Resources Management, Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-653-7499.

SUPPLEMENTARY INFORMATION: On October 1, 1982, eighteen area offices, established in 1976 as components of line management in the Service, were closed. That organizational decision was based generally on an identified need to streamline and shorten the chain of command to field stations, to increase operational responsibility, accountability, and liaison in the

regional offices, and to reduce management operating costs in future years. Another field organization change upgraded the former Alaska Area Office to a regional office status.

Since this update is purely for reader convenience, it is not a rule as contemplated in Executive Order 12291, or the Act of September 19, 1980 (94 Stat. 1164; 5 U.S.C. 601), commonly cited as the "Regulatory Flexibility Act." Therefore, the provisions of that Executive order and act are not applicable to this final rule. Further, it is the general policy of the Department of the Interior to allow time for interested parties to take part in the rulemaking process. However, this rule is entirely administrative and editorial in nature and for the benefit of the public. Therefore, notice and public procedure are unnecessary and contrary to the public interest. The Service also finds that "good cause" exists within the terms of 5 U.S.C. 553(d)(3) of the Administrative Procedure Act, and this rule will, therefore, take effect immediately upon publication.

List of Subjects in 50 CFR Parts 1 and 2

Organization and functions (Government agencies).

PART 1—DEFINITIONS

Accordingly, 50 CFR Part 1 is amended as follows:

1. Section 1.4 is revised to read as follows:

§ 1.4 Director.

"Director" means the Director, U.S. Fish and Wildlife Service or the authorized representative of such official.

2. Section 1.5 is revised to read as follows:

§ 1.5 Officer in Charge.

"Officer in Charge" means any person in charge of a national fish hatchery, national wildlife refuge, research center, or other U.S. Fish and Wildlife Service installation, or the authorized representative of such official.

3. Section 1.7 is revised to read as follows:

§ 1.7 Regional director.

"Regional director" means the official in charge of a region of the U.S. Fish and Wildlife Service or the authorized representative of such official.

4. Section 1.8 is revised to read as follows:

§ 1.8 Secretary.

"Secretary" means the Secretary of the Interior or the authorized representative of such official.

§ 1.9 [Removed]

5. Section 1.9 "Area manager" is removed.

6. 50 CFR Part 2 is revised to read as follows:

PART 2—FIELD ORGANIZATION

Sec.
2.1 Regional offices.
2.2 Locations of regional offices.

Authority: 5 U.S.C. 301.

§ 2.1 Regional offices.

The program operations of the U.S. Fish and Wildlife Service are performed at various types of field installations, such as ecological services stations, endangered species stations, fishery assistance offices, national fish hatcheries, national wildlife refuges, research laboratories and wildlife assistance offices. Generally, field installations are responsible to the regional director who has jurisdiction over Service activities in the State(s) encompassed by the region. Unless otherwise stated for a particular matter in the regulations, all persons may secure from the regional offices information or make submittals or requests, as well as obtain forms and instructions as to the scope and contents of papers or reports required of the public.

§ 2.2 Locations of regional offices.

The geographic jurisdictions and addresses of the U.S. Fish and Wildlife regional offices are as follows:

(a) Portland Regional Office (Region 1—comprising the States of California, Hawaii, Idaho, Nevada, Oregon and Washington), 500 N.E. Multnomah Street, Suite 1692, Portland, Oregon 97232.

(b) Albuquerque Regional Office (Region 2—comprising the States of Arizona, New Mexico, Oklahoma and Texas), 500 Gold Avenue, SW, Room 9018, (P.O. Box 1306), Albuquerque, New Mexico 87103.

(c) Twin Cities Regional Office (Region 3—comprising the States of Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin), Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

(d) Atlanta Regional Office (Region 4—comprising the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee; and Puerto Rico and the Virgin Islands), Richard B. Russell Federal Building, Room 1200, 75 Spring Street, SW, Atlanta, Georgia 30303.

(e) Boston Regional Office (Region 5—comprising the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia; and the District of Columbia), One Gateway Center, Suite 700, Newton Corner, Massachusetts 02158.

(f) Denver Regional Office (Region 6—comprising the States of Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah and Wyoming), 134 Union Boulevard (P.O. Box 25486), Denver Federal Center, Denver, Colorado 80225.

(g) Alaska Regional Office (Region 7—comprising the State of Alaska), 1011 E. Tudor Road, Anchorage, Alaska 99503.

Dated: September 20, 1983.

G. Ray Arnett,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 83-26683 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 30923-194]

Atlantic Tuna Fisheries

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

ACTION: Rule-related notice; closure.

SUMMARY: NOAA issues this notice to close the fishery for giant Atlantic bluefin tuna conducted by vessels permitted in the General category east of a line at 72°50'W. longitude. Closure of this segment of the fishery is necessary because heavy landings from this area threaten to consume the overall quota for Atlantic bluefin tuna. Upon closure, vessels permitted in this category will be prohibited from retaining giant Atlantic bluefin tuna captured in the area east of the above coordinates for the remainder of the 1983 fishing season.

EFFECTIVE DATE: 0001 hours local time September 28, 1983.

FOR FURTHER INFORMATION CONTACT: William G. Jerome, Jr., 617/281-3600, ext. 325, or David S. Crestin, 617/281-3600, extension 253.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971-971h) regulating the take of Atlantic bluefin tuna by persons and vessels subject to

U.S. jurisdiction were published in the **Federal Register** on June 17, 1983 (48 FR 27745).

Section 286.22(a) of the regulations provides for an annual quota of 650 short tons (st) of giant Atlantic bluefin tuna to be taken by vessels permitted in the General category in the Regulatory Area. The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the total catch of Atlantic bluefin tuna will equal any quota under § 285.22. The Assistant Administrator, further, is authorized under § 285.20(b)(1) to prohibit the fishing for, or retention of, Atlantic bluefin tuna by the type of vessels subject to the quotas. The Assistant Administrator has determined, based on the reported catch of giant Atlantic bluefin tuna of 650 st, that the annual quota of giant Atlantic bluefin tuna available to vessels permitted in the General category in 1983 has been attained. The Assistant Administrator is also authorized under § 285.22(g), to release amounts from the reserve for inseason adjustments to increase the quota for any fishery segment.

The unanticipated high catch rate of giant bluefin tuna has undermined the intent of the regulation to permit the traditional giant bluefin tuna fishery to occur in the New York Bight area. To allow this traditional fishery and ensure that the limited overall quota of Atlantic bluefin tuna accorded to United States fishermen is used to the maximum extent practicable, the closure will be limited to the area east of a straight line originating at the southern coast of Long Island at 72°50'W. longitude (approximately the town of Moriches) and running SSE 150° true. Closure of this segment of the fishery is necessary because continuing good weather conditions and the distribution of giant Atlantic bluefin tuna is making them readily available to fishermen and a significant risk of exceeding the overall quota of Atlantic bluefin tuna exists.

Under this inseason adjustment authority, the balance of giant Atlantic bluefin tonnage which has not been harvested is hereby transferred to the General category to be taken in the area described. Due to a lag in reporting of giant bluefin tuna landings, the exact amount available is not known. Despite this, an amount sufficient to proceed for a reasonable period exists. This year, only five giant bluefin tuna have been caught west of 72°50'W. longitude in the General category. The record catch of giant bluefin tuna in this fishery was about 25 tons. Use of the inseason adjustment authority will allow fishermen a reasonable opportunity to fish without risking exceeding the overall quota. Therefore, fishing for, and retention of, giant Atlantic bluefin tuna by vessels in the General category east of 72°50'W. longitude must cease at 0001 Eastern Daylight Time on September 28, 1983.

The effects of this closure on the participants in the fishery were considered in the design of the final regulations. This action is taken under the authority specified at 50 CFR 285.20(b)(1), and is taken in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 285

Administrative practice and procedure, Fish, Fisheries, Fishing, Imports, International operations, Penalties, Reporting and recordkeeping requirements.

(16 U.S.C. 971 *et seq.*)

Dated: September 27, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-26707 Filed 9-27-83; 11:42 am]

BILLING CODE 3510-22-M

MARINE MAMMAL COMMISSION

50 CFR Part 540

Information Security; Correction

AGENCY: Marine Mammal Commission.

ACTION: Final Rule; Correction.

SUMMARY: This document corrects an erroneous citation to a portion of Part 540 which was amended by a final rule that was published December 10, 1982 (47 FR 55488–55489). The references in the final rule to § 540.3(a)(2) should have been to the third sentence of § 540.3(a), since there is no § 540.3(a)(2) as it appears in 50 CFR.

FOR FURTHER INFORMATION CONTACT: Robert Eisenbud, General Counsel, Marine Mammal Commission, 1625 I Street NW., Room 307, Washington, D.C. 20006, (202) 653–6237.

§ 540.3 [Amended]

Accordingly, the third sentence of 50 CFR 540.3(a) reads as follows:

"Requests for declassification shall be acted upon promptly providing that the request reasonably describes the information which is the subject of the request for declassification."

Dated: September 27, 1983.

John R. Twiss, Jr.,

Executive Director.

[FR Doc. 83-26763 Filed 9-29-83; 8:45 am]

BILLING CODE 6820-31-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 611 and 655

[Docket No. 30920-192]

Foreign Fishing, and Atlantic Mackerel, Squid, and Butterfish Fisheries

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

ACTION: Final rule.

SUMMARY: NOAA issues a final rule to implement Amendment No. 3 to the Fishery Management Plans for Atlantic Mackerel, Squid, and Butterfish Fisheries. This rule will provide a single regime for managing the Atlantic mackerel, squid, and butterfish fisheries until 1986. The regulations are intended to promote development and orderly operation of the U.S. fishery.

EFFECTIVE DATE: September 28, 1983, through March 31, 1986.

ADDRESS: Copies of the Fishery Management Plan for the Atlantic Mackerel, Squid, and Butterfish Fisheries, the environmental assessment, regulatory impact review, and the regulatory flexibility analysis are available from Executive Director, Mid-Atlantic Fishery Management Council, Room 2115 Federal Building, 300 South New Street, Dover, Delaware, 19901–6790.

FOR FURTHER INFORMATION CONTACT: Salvatore A. Testaverde, 617–281–3600, extension 273.

SUPPLEMENTARY INFORMATION: The Assistant Administrator for Fisheries, NOAA (Assistant Administrator) approved Amendment No. 3, which provided one plan for the management of fisheries formerly managed under the following fishery management plans: Squid Fishery of the Northwest Atlantic Ocean (approved June 6, 1979, extended indefinitely on July 3, 1980, at 45 FR 45296); Mackerel Fishery of the Northwest Atlantic Ocean (approved July 3, 1979, extended through March 31, 1983, on April 9, 1982, at 47 FR 15341); and the Fishery Management Plan for Atlantic Butterfish (approved November 9, 1979, also extended through March 31, 1983, on April 9, 1982, at 47 FR 15341).

The new plan created by Amendment No. 3, the Fishery Management Plan for the Atlantic Mackerel, Squid, and

Butterfish Fisheries (FMP) was prepared by the Mid-Atlantic Fishery Management Council (Council). It extends the management of the Atlantic mackerel, squid, and butterfish fisheries under a single management regime for three fishing years, ending on March 31, 1986. The management unit is all Atlantic mackerel (*Scomber scombrus*), squid (*Loligo pealei* and *Illex illecebrosus*) and butterfish (*Peprilus triacanthus*), under U.S. jurisdiction, excluding the Gulf of Mexico and the Caribbean Sea.

In addition to merging management of the mackerel, squid, and butterfish fisheries and extending their regulations for three more years, key changes from the individual fishery management plans include: (1) The Secretary of Commerce will make annual determinations of the optimum yields (OYs) and the amounts apportioned among the component parts of the OYs; and (2) the total allowable levels of foreign fishing (TALFFs) for butterfish and mackerel are specified as percentages of amounts of the species allocated for foreign fishing in other fisheries. The procedure and criteria for determination of these amounts by the Secretary are discussed in detail below. Final initial annual specifications for the 1983–84 fishing year of optimum yields, domestic annual harvests (DAH), domestic annual processing (DAP), TALFF, and Reserves were published on July 20, 1983 (48 FR 33001), following a 30-day comment period.

The FMP also adopts the Voluntary Three-Tier Fishery Information Collection System (Three-Tier System) to collect data in the domestic squid, mackerel, and butterfish fisheries. The first two tiers (voluntary dealer/processor reports and interviews of vessel captains by National Marine Fisheries Service (NMFS) port agents) were approved by the Office of Management and Budget (OMB). The third tier (voluntary reporting of specific tow information from a rotating sample of vessels) will be implemented at a later time; until then, § 655.5 is reserved. The Three-Tier System will provide uniform reporting procedures for all domestic fisheries within this area. The FMP and these regulations also require the Regional Director, in consultation with the Council, to continue to survey processors on anticipated processing capacity and the extent to which they intend to process the regulated species. This survey has been approved by OMB under the current FMPs for use through December 31, 1983 (OMB Control #0648–0114).

The Assistant Administrator approved the FMP on October 14, 1982. An emergency interim rule implemented the FMP for 90 days effective April 1, 1983 (48 FR 14554, April 4, 1983). The emergency interim rule proveded a 45-day period for public review and comment on the FMP and regulations, ending on May 19, 1983. The emergency interim rule was extended for an additional 90-day period through September 27, 1983 (48 FR 29703, June 28, 1983).

The preamble to the emergency interim rule provided a detailed discussion of the management measures imposed by the FMP. The discussion is not repeated here. This final rule is essentially identical to the emergency interim rule, with several minor changes for clarity and to respond to public comments. The changes do not represent any significant differences in the provisions imposed under the emergency interim rule. Comments received on the rule, and NOAA's responses, are discussed below.

Response to Public Comment

Written comments were submitted by the Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, the U.S. Coast Guard, the National Fisheries Institute, the Atlantic Offshore Fishermen's Association, the Government of Japan, the Association of Spanish Fishermen (ANAVAR), and the Japan Deep Sea Trawlers Association. A mailgram was received from the National Federation of Fishermen.

Comment 1: The Mid-Atlantic Fishery Management Council, the New England Fishery Management Council, the National Fisheries Institute, the Atlantic Offshore Fishermen's Association, and the National Federation of Fishermen stated that § 655.21(b)(1) of the interim regulations, pertaining to the determinations of annual OYs for squids, is inconsistent with the intent of the FMP as approved by the Assistant Administrator. The commenters maintained that the Council intended to have wide ranging flexibility in setting the annual OY's for squids, including the ability to adjust OYs to respond to biological and socio-economic circumstances in order to achieve the objectives of the FMP. The commenters argued that the constraint on the flexibility in setting annual OYs contained in § 655.21(b)(1) is inconsistent with the intent of the Council.

The Council suggested that the inconsistency could be remedied by revising the language of § 655.21(b)(1) to permit the setting of an "initial OY," which could then be adjusted for biological and socio-economic reasons based on the application of criteria which could be identified in the revised regulations.

Response: A review of Amendment No. 3 and its record shows that the Council has broad-ranging objectives for the FMP, with emphasis on improving the position of the U.S. fishing industry in the three fisheries covered by the FMP. Neither the FMP nor its record, however, contains the degree of flexibility indicated by the commenters for setting the annual OYs for squids.

NOAA has concluded that no foundation exists in the FMP to permit wider ranging flexibility in setting the annual OYs for squids than the flexibility incorporated in the interim regulations at § 655.21(b)(1). Flexibility provisions as contained in the FMP and implemented in this section allow the Secretary to lower OYs by as much as 7,000 and 5,000 metric tons (mt) of *Loligo* and *Illex* squids, respectively, in the event that either initial DAH or both in a given year will not reach these levels. In this circumstance, the annual OYs could be less than the maximum OYs only by the amount which the domestic harvests fall below 7,000 or 5,000 mt. The mechanism also effectively limits the maximum potential TALFFs for the two squid species to 37,000 and 25,000 mt, respectively.

No criteria or other mechanisms were provided in the FMP, however, to permit additional adjustments to the squids' OYs based on biological and socio-economic factors. The suggestion of the Mid-Atlantic Council to revise § 655.21(b)(1) to provide for "initial OYs" adjusted for biological and economic reasons based on identifiable criteria is being prepared by the Council as an amendment to the FMP.

Comment 2: Criticism was also raised by some of the above commenters to the designation of the Secretary rather than the Regional Director as the official to set final annual amounts under § 655.22(d). Commenters stated that this was at variance with the intent of the Council, which had designated in its FMP that the Regional Director would be the official responsible for setting annual amounts after consultation with the Council and after publication of notice and an invitation to comment on proposed amounts.

Response: No substantial effect is anticipated on determinations of the initial annual amounts because of the procedure outlined in § 655.22. Inseason adjustment authority will be exercised by the Regional Director, subject to the Secretary's approval. These decisions will be based on the Council's recommendations as to the annual

amounts and information determined by the Regional Director to be appropriate for consideration. Public comments will be important factors in determining of the final initial annual amounts. Thus, the substantive nature of the procedure for determining the initial annual amounts remains basically regional in nature.

Comment 3: The Atlantic Offshore Fishermen's Association criticized the characterization in the preamble to the interim regulations of the years "1978–84" as a "trial period for domestic fishermen" during which "(t)heir performance . . . will be analyzed carefully before DAH is determined for the 1984–85 fishery year".

Response: The reference to the years "1978–84" in the April 4th preamble was a typographical error which should have read "1983–84". Since under the normal procedure, harvesters' performance in prior years is a standard reference point for setting annual amounts (§ 655.22(e)(3)), the intended reference in the preamble to 1983–84 as a "trial year" does not constitute a substantive change in the operation of the FMP.

Comment 4: ANAVAR challenged the validity of the interim regulations on the grounds that there was no basis for invoking section 305(e) of the Magnuson Act for promulgating regulations on a emergency basis for management of the squid fisheries. In the presumed absence of grounds for emergency promulgation of regulations, ANAVAR argued that the publication of the regulations was in violation of the Administrative Procedure Act, 5 U.S.C. 553 (b) and (c), for failure to provide notice and opportunity to comment upon the regulations prior to their being placed in effect.

Response: The explanation provided in the "Emergency Action" section of the preamble to the April 4th, interim regulations, indicated that the terms of Amendment No. 1 to the squid plan would constrain the operation of the fishery in fishing year 1983–84. Particularly, the prior management regime would have limited approval of joint ventures for *Illex* to 13,000 mt because subsequent determinations indicated that of the total DAH and reserve, 5,000 mt were needed for DAP. At the same time, applications for joint ventures for *Illex* totalled over 42,000 mt. Under the interim regulations, NOAA had authority to approve *Illex* joint ventures for 22,100 mt, or 9,100 mt over the amount approvable under the former squid plan. Delaying implementation of the interim regulations but continuing management of the fishery under Amendment No. 1 to the squid plan would thus have inhibited an opportunity for full utilization of the fishery during the 1983–84 fishing year. The preamble to the interim rule provided adequate grounds for invoking section 305(e) of the Magnuson Act.

Moreover, the record of preparation of the FMP shows that there was opportunity for public comment on the terms of the FMP. The FMP was discussed at open meetings of the Council and at public hearings held by the Council in September, 1981. Subsequent revisions were discussed at Council meetings. Since the basis of the regulation is contained in its authorizing FMP, there was sufficient opportunity to comment on these regulations prior to emergency implementation.

Comment 5: Japan Deep Sea Trawlers Association also challenged the validity of the promulgation of the interim regulations. This association stated that the interim regulations contained a material change, a "floating" OY for squids, which had not been submitted for public hearing as required under the Magnuson Act.

Response: The interim regulations contain OY specifications for squid which may differ from, but which have substantially the same effect as those appearing in the Council's September, 1981, hearing document. No material change was made in the interim regulations which would have violated the Magnuson Act. The hearing draft discussed OY specifications of 44,000 mt and 30,000 mt for *Loligo* and *Illex*, respectively. That draft proposed minimum DAHs of 7,000 mt and 5,000 mt for the two species. Thus, under conditions of minimum U.S. harvest, maximum TALFFs of 37,000 mt and 25,000 mt would be available. In the interim regulations, instead of setting minimums for DAH, the same allowances for domestic harvest were built into the OY calculations. This was done by limiting TALFFs plus reserves to maximums of 37,000 mt and 25,000 mt and allowing the OYs for each species to be adjusted between the maximum TALFFs and the maximum OYs, if domestic harvest levels fell below minimum DAHs. Amounts available for foreign allocations and for domestic harvests remained the same; therefore, no material change was made by this change in the FMP.

The foreign commenters may have assumed the procedures for OY calculations for squids in the interim regulations were more flexible squid OY calculation methods. Such procedures had been discussed by the Council but were not included in the interim rule. The FMP and the interim rule do not allow the high degree of flexibility to vary from the maximum OYs for squids (44,000 mt *Loligo*, 30,000 mt *Illex*), as is suggested by the comments of the Government of Japan, and Japan Deep Sea Trawlers Association.

Comment 6: ANAVAR challenged NOAA's conclusion that the interim regulations are not a major rule under E.O. 12291. The Japan Deep Sea Trawlers made similar comments as to the adequacy of the draft regulatory impact review (RIR) analysis.

Response: Analysis provided by the Council in the final RIR prepared for the FMP supports NOAA's initial determination that the interim regulations are not a major rule within E.O. 12291. The Council's estimates of calculable costs totalled $5.4 million, including over $400,000 of loss of foreign fees and $5 million for loss of purchases of U.S. goods and services by foreign vessels. The Council concluded, based on a detailed analysis of market conditions and trends, that prices to consumers could be lower and that the competitive position of U.S. industry would be enhanced by implementation of the FMP.

In its comment, ANAVAR referred to a $43–45 million dollar value for potential loss of foreign fishing fees, presumably in relation to this FMP. This figure approximates the total of all foreign fishing fees for all fisheries in all sections of the country, not just fees related to the three Northwest Atlantic fisheries covered by the FMP.

Comment 7: ANAVAR criticized the squid regulations as violating provisions of the Magnuson Act requiring optimum utilization of species. ANAVAR specifically cited two provisions included in the regulations as potentially wasteful of the squid resources and wished to have provisions adopted which would require additional apportionments to TALFFs.

Response: NOAA concludes that the regulations are consistent with the Magnuson Act. ANAVAR first criticized as potentially wasteful, the flexibility to set 5,000 and 7,000 mt minimum DAHs in the OY calculations for *Illex* and *Loligo*, respectively. Landing statistics for fishing year 1982–83 indicate it is likely that these amounts will be caught by domestic harvesters since 5,772 mt of *Illex* and 4,894 mt of *Loligo* were caught by domestic harvesters by the end of fishing year 1982–83. Preliminary catches in the 1983–84 fishing year indicate U.S. fishermen have harvested over 8,700 mt of *Loligo* and 4,200 mt of *Illex*. The projected needs for domestic processors (DAP) and for joint venture processing (JVP) have caused NOAA to set initial annual estimates of DAHs for fishing year 1983–84 at 27,100 mt for

Illex and 22,000 mt for *Loligo*. NOAA believes there is a potential to achieve the estimates this year, especially because of the lack of *Illex* availability in Canadian waters. Shortfalls in these harvests, however, may occur and be taken into account in future DAH projections.

This response also applies to the comments of the Government of Japan and of Japan Deep Sea Trawlers Association, who objected to "floating OYs" for squids. As discussed in an earlier response, the flexibility in the OY calculation is limited under the interim regulations which embody the FMP; also, if domestic harvests continue at recent levels, it is unlikely that the "floating OYs" as provided in the FMP will operate frequently to establish minimum domestic harvests. Moreover, the maximum TALFFs of 37,000 mt and 25,000 mt for *Loligo* and *Illex*, respectively, which are part of the OY calculations described above, are not restrictive on foreign allocations when compared to recent foreign catches of these species.

ANAVAR and the Japan Deep Sea Trawlers Association also commented that a provision should have been included to permit the reallocation of unused portions of DAH to TALFF. Section 655.22 sets our procedures for determining the initial annual amounts including DAH, for squid, mackerel, and butterfish. This procedure requires NOAA consideration of various sources of information, consultation with the affected Regional Fishery Management Councils, public notice and comment on proposed amounts, and evaluation of all data and comments. Information pertaining to the DAP and JVP portions of DAH is also included in this review process. Since the DAH's are based on substantive data and reviews by various parties, a reallocation mechanism is not necessary. Reserves were created in Amendment No. 1 to the squid plan to account for uncertainties in the U.S. catch and in prior years substantial amounts were released to TALFF. The total combined TALFF and reserve amounts were not harvested by foreign vessels in any year, however.

Two of ANAVAR's comments were directed specifically at the methods for calculating TALFF. ANAVAR claimed that a disproportionately small amount of the potential annual TALFF allocations are made available at the outset of the fishing year because (1) § 655.21 with regard to squid requires half of the difference between OY and DAH to be assigned to reserve; and, (2) section 201(e)(1)(C) of the Magnuson Act which limits to 50 percent of the annual allocation, the amount which may initially be allocated to TALFF. Under the squid regulations, foreign fishing vessels have only a putative claim to the reserve portion of the difference between OY and DAH at the beginning of the fishing year. This reserve would first be available to supplement DAH, depending upon the experience of the fishing year. Thus, the reserve amounts should not be considered a withheld portion of the annual TALFF at the beginning of the fishing year, as ANAVAR has done.

Section 201(e)(1)(C) of the Magnuson Act is a statutory embodiment of an existing policy under which the last 50 percent of the aggregate annual foreign allocations to a foreign nation are distributed only after that nation has demonstrated a willingness to take steps which are beneficial to the United States and its fishing interests. To this extent, the actual effect of the statute on TALFF allocations is influenced by the foreign nation itself. Also, the statute allows allocations in excess of the initial 50 percent to accommodate discrete needs of a particular fishery. Thus, the restrictiveness of the Magnuson Act's allocations provisions specifically applicable to this FMP are not as rigid as described by ANAVAR.

ANAVAR and Japan Deep Sea Trawlers Association criticized the lack of an automatic regulatory provision for reallocating from reserve to TALFF. This criticism overlooks the requirements for NOAA to perform evaluative reviews which are not automatic in nature incident to reallocating reserve to TALFF. NOAA must gather and evaluate data to make an accurate projection of domestic annual harvest for the remaining portion of the fishing year. These evaluations cannot be performed on an "automatic" basis as suggested by ANAVAR, and require the procedures included in § 655.23 for developing and issuing public notice on projections of the U.S. harvest.

Japan Deep Sea Trawlers Association also challenged the inclusion of joint venture harvest in projections of the domestic harvests for the entire fishing year on the grounds that the joint venture projections may not be reliable. NOAA does not accept a characterization of joint venture projections as unreliable. Projections are based upon data on the proposed joint ventures that are reviewed by both the Councils and the agency, and which are available for public comment prior to approval. [See 48 FR 33001, July 20, 1983. Final Initial Annual Specifications for the Squids, Atlantic Mackerel, and Butterfish fisheries.]

ANAVAR's criticisms of the interim regulations appear to assume that each metric ton identified for annual harvest in OY must be marked for domestic harvest by a point in time in the fishing year or be immediately apportioned to TALFF. This assumption is not correct. Achieving OY is not a quota but a goal. The management measures adopted for achieving OY on an annual basis need only approximate its achievement. Also, the OY which by definition can incorporate a number of objectives for the fishery, may be implemented by measures which favor the U.S. fishermen over foreign fishermen for the harvesting of certain species. Thus, NOAA concludes that ANAVAR's comment is in error in that taking steps to minimize foreign allocations is not contrary to provisions of the Magnuson Act.

Comment 8: ANAVAR and Japan Deep Sea Trawlers Association argued that reduced squid OYs and foreign allocations run counter to NOAA's trade policies and to its obligations under GIFAs and the Trade Act of 1974, 19 U.S.C.A. 2118.

Response: The OYs for squid have only limited flexibility to range between the maximum TALFFs and the maximum OYs for *Illex* (i.e., between 25,000 mt and 30,000 mt) and *Loligo* (i.e., between 37,000 mt and 44,000 mt). The maximum TALFFs of 25,000 mt and 37,000 mt, respectively, are not restrictive and provide a generous margin for foreign allocations unless restricted by high DAH levels which must take precedence over the TALFFs. For the 1983–84 fishing season, DAHs have been set at higher levels than in previous years because of projected demands for domestic harvests for domestic processing and joint ventures. See notice, final initial annual specifications, (48 FR 33001, July 20, 1983). Resulting lower foreign allocations are, therefore, consitent with the Magnuson Act and are not in violation of NOAA's fishery trade policies and obligations.

Comment 9: Japan Deep Sea Trawlers Association raised a number of objections to the specifications for butterfish. It objected to the specification of OY as the sum of DAH plus an incidental level TALFF. The Government of Japan and Japan Deep Sea Trawlers Association both criticized limiting the butterfish TALFF to an incidental catch level.

Response: The butterfish specifications in the FMP continue to reflect the objectives adopted in the butterfish plan promulgated in 1980, (45 FR 71358, October 28, 1980), i.e., to promote the growth of the export market

while providing foreign harvesters sufficient TALFF to pursue other fisheries in which butterfish is intermixed. The statute allows for incorporation of social, economic, and biological factors in the specification of OY. In this case, the OY is expressed as a sum of DAH and TALFF sufficient for the foreign incidental catch in other fisheries in order to promote export markets for the U.S. fishing industry.

Fostering growth in the U.S. butterfish fishery is continued as an objective in this plan. Domestic harvests have grown in recent years and were especially high in the 1982–83 fishing year. Interest of domestic processors in processing butterfish has grown as is evident from statements made at open Council meetings in which proposed joint ventures for butterfish were discussed. Domestic processors stated that they could process all butterfish harvested by U.S. harvesters. These statements were acknowledged in the initial annual specifications for butterfish for the 1983–84 fishing year. The specifications provide that joint ventures for butterfish, which would have a greater priority than that assigned to foreign fishing, would be considered only if domestic shoreside landings had concluded. The Japan Deep Sea Trawlers Association's comment that a "surplus" will exist, to which it should be granted access, is not correct because demand for the species for domestic processing has grown and there may be additional markets for U.S. fishermen if shoreside landings are terminated.

The TALFF level adopted is adequate to meet the incidental catch levels of foreign harvesters in intermixed fisheries. (Background Paper No. 2 prepared by the Mid-Atlantic Council, revised November, 1982.)

Comment 10: The Government of Japan and the Japan Deep Sea Trawlers Association both objected to § 655.21(b)(2) under which the TALFF for mackerel may be calculated at the incidental catch level. This term applies in both Case (1) for calculation of mackerel values if the spawning stock size is less than or equal to 600,000 mt and in Case (2) when the spawning stock size exceeds 600,000 mt if OY minus DAH is less than 10,000 mt.

Response: The TALFF for mackerel is reduced to incidental catch levels to promote the growth of the U.S. commercial fishery, including the fishery for export. If foreign nations are not permitted to harvest mackerel directly, they will have a greater incentive to purchase the fish from U.S. harvesters and processors. Reducing the foreign allocations to the incidental level also provides an incentive for developing joint ventures in this fishery. Recent experience shows that these ventures are developed randomly throughout the year and that their catch requirements cannot be forecast. Reducing the TALFF to the incidental catch level ensures that a sufficient DAH is available for these joint ventures to proceed immediately if they are approved. Sufficient U.S. harvesting capacity is available which could enter the fishery to harvest mackerel not apportioned to TALFF.

Comment 11: The Government of Japan commented that the closure provision in § 655.24 should not be applied to the foreign fishery.

Response: The closure provision of § 655.24 was not intended to apply to foreign fisheries and this has been clarified in the final rule. The regulation requires closure of the respective U.S. fisheries if U.S. fishermen have harvested 80 percent of the allowable domestic harvest. Accordingly, § 655.24 would not constrain foreign fishermen from harvesting a TALFF which had already been allocated.

Other Comments

Written comments were also received from the U.S. Coast Guard. Additionally, one verbal comment was received concerning definition of joint venture from the Division of Marine Fisheries, Commonwealth of Massachusetts. Changes were recommended to provide consistent regulations throughout the Northwest Atlantic Area. A number of comments were received concerning definitions in § 655.2. The commenters suggested adding the definitions of "fish" and "owner", and revising the wording for "fishing trip", "operator" and "joint venture harvest." Technical revisions were also made to clarify §§ 655.4(a)(b)(2)(xi), 655.6(b), 655.7, and 655.8(c)(2).

Additionally, the NMFS added to § 655.3 information on the Submarine Cable Act and the Large Mesh Area under the optional settlement.

Classification

The Administrator determined that implementation of Amendment No. 3 is necessary for the conservation and management of the Atlantic mackerel squid, and butterfish fisheries and that it is consistent with the Magnuson Act and other applicable law.

A final regulatory impact review prepared by the Council supported a determination by NOAA's Administrator that these regulations do not constitute a major rule requiring a regulatory impact analysis under Executive Order 12291. The General Counsel of the Department of Commerce certified to the Small Business Administration that the rule will not have a significant economic impact on a substantial number of small entities. (Summary published at 48 FR 14555, April 4, 1983.) As a result, a regulatory flexibility analysis was not prepared.

The Council prepared an Environmental Assessment (EA) in accordance with the National Environmental Policy Act for this FMP amendment and concluded that there will be no significant impact on the environment as a result of this rule. Copies of the EA can be obtained from the Council at the address above.

This rule contains a collection of information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by the Office of Management and Budget, OMB Control Numbers 0648–0114 (until December 31, 1983) and 0648–0097 (until March 31, 1986). Section 655.5, Recordkeeping and reporting requirements, has been reserved pending the full implementation of the provisions of the NMFS Three Tier Fishery Information Collection System to be used under this FMP. Section 655.4, Vessel permits, has been approved by OMB, OMB Control Number 0648–0097 (until March 31, 1986).

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management programs of nine states on the eastern United States coast. This determination was submitted for review by the responsible State agencies under section 307 of the Coastal Zone Management Act. The Council received no negative findings from any of the nine states.

These final regulations must be effective on September 28, 1983, to continue management of the Atlantic mackerel, squid and butterfish fisheries. The regulations which would be contained at § 611.51 provide authority for current joint venture fisheries for *Loligo* and *Illex* squids. Additionally, unless final regulations are promulgated, there would be no codified regulatory authority to manage the foreign *Loligo* squid fishery which is expected to begin this fall. Therefore, a lapse in the regulations would have a detrimental effect on both U.S. and foreign fishermen. To avoid such a lapse, the Assistant Administrator finds for good cause that it would be contrary to the public interest to delay the effective date of these regulations for the 30-day period otherwise required under § 553(d) of the Administrative Procedure Act. Therefore, these regulations are effective September 28, 1983.

List of Subjects in 50 CFR Part 655

Administrative practice and procedure, Fish, Fisheries, Reporting and recordkeeping requirements.

Dated: September 27, 1983.

Carmen J. Blondin,

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

For the reasons set out in the preamble, the interim rule published on April 4, 1983 (48 FR 14554) amending 50 CFR Parts 611, 655, 656 and 657 is adopted as final with the following changes:

PART 655—ATLANTIC MACKEREL, SQUID, AND BUTTERFISH FISHERIES

1. The authority citation for 50 CFR Part 655 is as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. Section 655.2 is amended by revising the title of the definition "*Operator*" to read "*Owner*" and the title of the definition "*Fishing trip*" to read "*Fishing trip or trip*", by adding in appropriate alphabetical order new definitions for "*Fish*" and "*Operator*", and by revising the definition of "*Joint venture harvest*" to read as follows:

§ 655.2 Definitions.

* * * * *

Fish includes Atlantic mackerel (*Scomber scombrus*), squid (*Loligo pealei* and *Illex illecebrosus*), and Atlantic butterfish (*Peprilus triacanthus*).

Joint venture harvest means U.S.-harvested Atlantic mackerel, squid, or butterfish transferred to foreign vessels in the FCZ or in the internal waters of a State. Transfers to foreign vessels in the internal waters of a State are governed under Section 306(c), of the Magnuson Act, foreign fish processing in internal waters.

Operator, with respect to any vessel, means the master or other individual on board and in charge of that vessel.

* * * * *

3. Section 655.3 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 655.3 Relation to other laws.

* * * * *

(c) Fishing vessel operators shall exercise due care in the conduct of fishing activities near submarine cables. Damage to submarine cables resulting from intentional acts or from the failure to exercise due care in the conduct of fishing operations subjects the fishing vessel operator to the criminal penalties prescribed by the Submarine Cable Act (47 U.S.C. 21) which implements the International Convention for the Protection of Submarine Cables. Fishing vessel operators also should be aware that fishing operations may not be conducted at a distance of less than one nautical mile from a vessel engaged in laying or repairing a submarine cable, or at a distance of less than one quarter nautical mile from a buoy intended to mark the position of a cable when being laid, or when out of order, or broken.

(d) Vessels fishing within the Large Mesh Area (47 FR 43705, October 4, 1982) for Atlantic mackerel, squid, and butterfish with cod-end mesh size of less than five and one-half inches must apply to fish under the optional settlement program under the interim groundfish regulations at 50 CFR 651.22 (47 FR 43705, October 4, 1982).

4. Section 655.4 is amended by revising paragraph (a) to read as follows:

§ 655.4 Vessel permits.

(a) *General.* Any vessel of the United States which catches 100 pounds or more each of Atlantic mackerel, *Illex*, *Loligo*, or butterfish per trip must have a permit issued under this section.

* * * * *

5. Section 655.6 is amended by revising paragraph (b) to read as follows:

§ 655.6 Vessel identification.

* * * * *

(b) *Numerals.* The official number must contrast with the background and be in block Arabic numerals at least 18 inches in height for vessels equal to or over 65 feet, and at least 10 inches in height for all other vessels over 25 feet in length.

* * * * *

6. Section 655.7 is changed by redesignating paragraphs (d) through (m) as paragraphs (e) through (n) and adding a new paragraph (d) to read as follows:

§ 655.7 General prohibitions.

* * * * *

(d) To make any false statement, written or oral, to an authorized officer, concerning the taking, catching, landing, purchase, sale, or transfer of any mackerel, squid, or butterfish.

* * * * *

7. Section 655.8 is amended by revising paragraph (c)(2) to read as follows:

§ 655.8 Enforcement.

* * * * *

(c) * * *

(2) Provide a safe ladder, illumination, and a safety line when necessary or requested by the authorized officer to facilitate boarding and inspection; and

* * * * *

8. Section 655.21 in changed by revising paragraph (b)(1)(iii) to read as follows:

§ 655.21 Allowable levels of harvest.

* * * * *

(b) * * *

(1) * * *

(iii) "For *Illex*, TALFF plus Reserve equals 30,000 mt minus initial DAH, or 25,000 mt, whichever is less. For *Loligo*, TALFF plus Reserve equals 440,000 mt minus initial DAH, or 37,000 mt, whichever is less. TALFF and Reserve initially will be equal amounts. If a larger TALFF is required for incidental catch, releases will then be made to it from the reserve as needed.

* * * * *

9. Section 655.24 is amended by revising paragraph (a) to read as follows:

§ 655.24 Closure of the fishery.

(a) *General.* The Secretary shall close any domestic fishery in the FCZ for any species when U.S. fishermen have harvested 80 percent of the allowable domestic harvest (see § 655.21(c)), if such closure is necessary to prevent the allowable domestic harvest from being exceeded. The closure will be in effect for the remainder of the fishing year.

* * * * *

[FR Doc. 83-26790 Filed 9-27-83; 4:59 pm]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 30429-72]

Ocean Salmon Fisheries off the Coasts of Washington, Oregon, and California; Correction

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

ACTION: Emergency interim rule and request for comment; correction.

SUMMARY: This document corrects an emergency interim rule for the ocean salmon fisheries off Washington, Oregon, and California, that was published on May 11, 1983 (48 FR 21135).

FOR FURTHER INFORMATION CONTACT: Donna D. Turgeon, 202-634-7432.

The following correction is made on page 21142, first column, under paragraph (9). The last line is changed to read "paragraph (b)(1) of this section."

Dated: September 27, 1983.

Carmen J. Blondin,

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

[FR Doc. 83-26850 Filed 9-29-83; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 661

[Docket No. 30429-72]

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

Correction

In FR Doc. 83-11985 beginning on page 21135 in the issue of Wednesday, May 11, 1983, make the following correction:

In § 661.25, on page 21146, second column, ninth line, "or acknowledgment" should have read "of acknowledgment".

BILLING CODE 1501-01-M

Proposed Rules

Federal Register
Vol. 48, No. 191
Friday, September 30, 1983

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1098, 1007 and 1097

[Docket Nos. AO-184-A45, AO-366-A22 and AO-219-A38]

Milk in the Nashville, Tennessee, Georgia and Memphis, Tennessee, Marketing Areas; Hearing on Proposed Amendments to Tentative Marketing Agreements and Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public hearing on proposed rulemaking.

SUMMARY: This joint hearing is being held to consider proposals by two cooperative associations to amend the Nashville, Tennessee, Georgia and Memphis, Tennessee milk orders. One proposal would amend the Nashville, Tennessee milk order by pooling a distributing plant under the order until the third consecutive month in which more than fifty percent of such plant's route disposition was made in another federal order area. Another proposal would amend the Georgia milk order to facilitate the proposed Nashville, Tennessee amendment. Othe proposals would amend the location adjustment provisions of the Memphis, Tennessee order. Proponents say that the requested order changes are needed to insure orderly marketing in the area.

DATE: The hearing will convene on Tuesday, November 15, 1983.

ADDRESS: The hearing will be held at the Hilton Airport Inn, 1 International Plaza Drive, Nashville, Tennessee 37217, beginning at 9:30 a.m. local time.

FOR FURTHER INFORMATION CONTACT: Martin J. Dunn, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

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

Notice is hereby given of a public hearing to be held at the Hilton Airport Inn, 1 International Plaza Drive, Nashville, Tennessee 37217, beginning at 9:30 a.m., local time, on Tuesday, November 15, 1983, with respect to the proposed amendments to the tentative marketing agreements and to the orders, regulating the handling of milk in the Nashville, Tennessee, Georgia and Memphis, Tennessee marketing areas.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendments, hereinafter set forth, and any appropriate modifications thereof, to the tentative marketing agreements and to the orders.

Evidence also will be taken to determine whether emergency marketing conditions exist that would warrant omission of a recommended decision under the rules of practice and procedure (7 CFR Part 900.12(d)) with respect to proposals Nos. 1, 2, 3 and 4.

Actions under the Federal milk order program are subject to the "Regulatory Flexibility Act" (Pub. L. 96-354). This act seeks to ensure that, within the statutory authority of a program, the regulatory and information requirements are tailored to the size and nature of small businesses. For the purpose of the Federal order program, a small business will be considered as one which is independently owned and operated and which is not dominant in its field of operation. Most parties subject to a milk order are considered as a small business. Accordingly, interested parties are invited to present evidence on the probable regulatory and informational impact of the hearing proposals on small businesses. Also, parties may suggest modifications of these proposals for the purpose of tailoring their applicability to small businesses.

The proposed amendments, as set forth below, have not received the approval of the Secretary of Agriculture.

Proposed by Dairymen, Inc.

Proposal No. 1

Amend § 1098.7 *Pool Plant* of the Nashville, Tennessee Milk Marketing Order by adding the following provision in paragraph § 1098.7(d)(2) just prior to the words "and provided further":

"*Provided*, that such a distributing plant located within the Nashville, Tennessee marketing area shall be a pool plant under this order until the third consecutive month in which more than 50 percent of such route disposition is made in such other marketing area:"

Proposal No. 2

In § 1007.7(e) of the Georgia milk order add a new paragraph to read as follows:

"A distributing plant qualified pursuant to paragraph (a) of this section which also meets the pooling requirements of another Federal order and from which there is a greater quantity of route disposition, except filled milk, during the month in this marketing area than in such other Federal order marketing area but which plant is, nevertheless, fully regulated under such other Federal order."

Proposal No. 3

Amend § 1097.52 *Plant Location Adjustments for Handlers* of the Memphis, Tennessee Milk Marketing Order by:

(a) Adding the following new language to the schedule contained within § 1097.52:

"In the state of Tennessee and 50 or more miles from the city hall in Memphis * * *" "Subtract 9 cents."

(b) Revise the current language of the schedule contained within § 1097.52 which reads "Outside the State of Mississippi * * *" to read as follows:

"Outside the states of Mississippi and Tennessee and 50 but less than 60 miles from the city hall in Memphis * * * "Subtract 9 cents."

Proposed by Associated Milk Producers, Inc.

Proposal No. 4

Amend § 1097.52 *Plant Location Adjustments for Handlers* of the Memphis, Tennessee milk marketing order by adding the following new language to the schedule contained in § 1097.52:

"In the State of Tennessee and more than 60 miles from the city hall in Memphis, Subtract 9 cents."

Proposed by the Dairy Division, Agricultural Marketing Service:

Proposal No. 5

Make such changes as may be necessary to make the entire marketing agreements and the orders conform with any amendments thereto that may result from the hearing.

Copies of this notice of hearing and the order may be procured from the Market Administrator, P.O. Box 18030, Louisville, Kentucky 40218; Market Administrator, P.O. Box 49025, Atlanta, Georgia 30359; Market Administrator, P.O. Box 470563, Tulsa, Oklahoma 74147 or from the Hearing Clerk, Room 1077, South Building, United States Department of Agriculture, Washington, D.C. 20250, or may be there inspected.

Copies of the transcript of testimony taken at the hearing will not be available for distribution through the Hearing Clerk's Office. If you wish to purchase a copy, arrangements may be made with the reporter at the hearing.

From the time that a hearing is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decisional process are prohibited from discussing the merits of the hearing issues on an ex parte basis with any person having an interest in the proceeding. For this particular proceeding the prohibition applies to employees in the following organizational units:

Office of the Secretary of Agriculture
Office of the Administrator, Agricultural Marketing Service
Office of the General Counsel
Dairy Division, Agricultural Marketing Service (Washington office only)
Office of the Market Administrator, Nashville, Tennessee Marketing Area
Office of the Market Administrator, Georgia Marketing Area
Office of the Market Administrator, Memphis, Tennessee Marketing Area

Procedural matters are not subject to the above prohibition and may be discussed at any time.

List of Subjects in 7 CFR Parts 1098, 1007, and 1097

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C. on September 26, 1983.

Eddie F. Kimbrell,

Deputy Administrator, Commodity Services.

[FR Doc. 83-26735 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 83-NM-73-AD]

Airworthiness Directives: Airbus Industrie Model A300 B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203 and B4-203 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes an airworthiness directive (AD) that would require inspection for corrosion and cracks, and repair or modifications, if needed, of certain main landing gear hinge arms on the Airbus Industrie model A300 B2 and B4 series airplanes. It would also require replacement of the main landing gear shock absorber sliding rod attachment fitting. Corrosion and cracks have been found in these components. If left uncorrected, these conditions could lead to landing gear failure.

DATE: Comments must be received no later than November 15, 1983.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France or may also be examined at the address shown below.

Submit comments to: FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-73-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington, telephone (206) 767-2530. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket and be submitted in duplicate to the address specified below. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 83-NM-73-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

The French Direction Generale de l'Aviation Civile has classified certain Airbus Industrie (AI) and Messier-Hispano-Bugatti (MHB) service bulletins as mandatory.

These service bulletins specify actions necessary to solve the following service difficulties on the main landing gear:

A. Cracks were detected during the cyclic testing of the attachment fittings of the main landing gear shock absorber sliding rod. These cracks occurred after 15,000 simulated landings. The results of these tests determined the life limits for these components; however, a modification will eliminate the life limit restriction on these components. (References: AI A300-32-148 and MHB 470-32-172 service bulletins)

B. Corrosion has been found on the outer surface of the actuating cylinder side trunnion in the radius which transitions the trunnion with the hinge arm. Repetitive inspections are prescribed to detect corrosion and/or cracks. Installation of a special seal allowing proper lubrication of the trunnion is also prescribed. (References: AI A300-32-328, MHB 470-32-386, AI A300-32-326 and MHB 470-32-385 service bulletins)

C. When rework was being done on certain hinge arms which required the stripping of a chrome plated surface, it was found that the base metal showed some burning on the lateral inboard trunnion. This indicated a faulty grinding process during the manufacture of these arms. This condition could lead to the formation of cracks. Therefore, inspection for cracks is prescribed. If the cracks are beyond allowable limits, the

arms must be replaced. (References: AI A300-32-365 and MHB 470-32-442 service bulletins)

This airplane is manufactured in France and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable airworthiness bilateral agreement.

Since these conditions are likely to exist or develop on airplanes of this model registered in the United States, an AD is proposed that would require the inspections, repairs, or modifications described above.

It is estimated that 8 U.S. registered airplanes would be affected by this AD, that it would take approximately 284 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Repair parts are estimated at $4,700 per airplane. Based on these figures, the total cost impact of this AD to the U.S. operator is estimated to be $128,480. For these reasons, the proposed rule is not considered to be a major rule under the criteria of Executive Order 12291. No small entities within the meaning of the Regulatory Flexibility Act would be affected.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

PART 39 [AMENDED]

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new Airworthiness Directive:

Airbus Industrie: Applies to the model A300 B2-1A, B2-1C, B4-2C, B2K-3C, B4-103, B2-203 and B4-203 series airplanes, certificated in all categories. To prevent failure of certain main landing gear components, within 120 days after the effective date of this AD or prior to the accumulation of the number of landings specified in each paragraph below, whichever occurs later, accomplish the following, unless previously accomplished:

A. Prior to the accumulation of 13000 landings, replace the shock absorber sliding rod attachment fittings, part numbers C61643-4 and C61643-5, with reinforced components in accordance with the instructions of Messier-Hispano-Bugatti (MHB) Service Bulletin 470-32-172, Revision 1, dated June 10, 1983, for aircraft having the serial numbers specified in Airbus Industrie (AI) Service Bulletin A300-32-148, Revision 1, dated December 29, 1978.

B. Prior to the accumulation of 5,000 landings, inspect the trunnion on the actuating cylinder side of the hinge arm, part number C65381-2, in accordance with the instructions of Messier-Hispano-Bugatti Service Bulletin 470-32-386, Revision 1, dated September 30, 1981 on airplanes having serial numbers specified in AI Service Bulletin A300-32-328, dated August 31, 1981.

1. If no corrosion is found, install a seal to improve the lubrication of the hinge arm trunnion in accordance with the instructions of MHB Service Bulletin 470-32-385, dated August 14, 1981 (related to AI Service Bulletin A300-32-326, dated August 31, 1981), and repeat the above inspections at intervals not to exceed 2,000 landings.

2. If corrosion or cracks are found, remove the corrosion and cracks in accordance with the instructions of MHB Service Bulletin 470-32-386, revision 1, dated September 30, 1981 and install the seal in accordance with paragraph B.1, above. Repeat the above inspections at intervals not to exceed 250 landings.

Note.—If the depth of material removed when performing the rework of subparagraph B.2 is greater than one millimeter from the original profile, replace the hinge arm prior to further flight.

C. Prior to the accumulation of 6,500 landings and thereafter at intervals not to exceed 400 landings, inspect the lateral inboard trunnion of the hinge arms, part numbers C65381-2 and C65381-4, for cracks in accordance with the instructions of MHB Service Bulletin 470-32-442, dated March 31, 1983, for aircraft having serial numbers specified in AI Service Bulletin A300-32-365, dated June 27, 1983.

1. For hinge arms that have incorporated modification MHB 595 in the trunnion located in the inboard position on the actuating cylinder side, the time limit is to be counted from the date of reconditioning. For all the other cases, the time limit is to be counted from the day the arm was put into service.

2. Termination of the repetitive inspection requirements is attained when the actions described in paragraph 2.C of MHB Service Bulletin 470-32-442, on the inboard, outboard, and forward trunnions are accomplished.

D. Alternate means of compliance which provide an equivalent level of safety may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD. (Sections 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); and 14 CFR 11.85).

Note.—For the reasons discussed earlier in the preamble, the FAA has determined that this document (1) Involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility act that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. A regulatory evaluation has been prepared and has been placed in the public docket.

Issued in Seattle, Washington on September 16, 1983.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 83-26557 Filed 9-29-83; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 230

[Release No. 33-6487, File No. S7-994]

Securities; Reporting and Recordkeeping Requirements; Proposed Revisions to Rule 145

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rulemaking.

SUMMARY: The Commission today is publishing for comment two proposed amendments to Rule 145 [17 CFR 230.145] under the Securities Act of 1933 to provide that certain persons receiving securities in registered business combination transactions shall not be deemed underwriters and may freely transfer such securities if they are not affiliates of the issuer and: (1) Have beneficially owned the securities for at least three years; or (2) have beneficially owned the securities for at least two years and the issuer meets the public information requirements of paragraph (c) of Rule 144 [17 CFR 230.144].

DATE: Comments must be received on or before November 11, 1983.

ADDRESSES: Interested persons should submit three copies of their comments to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549 and should refer to File No. S7-994. All submissions will be made available for public inspection at the Commission's Public Reference Section, Room 1024, 450 Fifth Street NW Washington, D.C.

FOR FURTHER INFORMATION CONTACT: H. Steven Holtzman or Mary M. Jackley, at (202) 272-2644, Office of Small Business Policy, Division of Corporation Finance, Securities and Exchange Commission, 450 Fifth Street NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 145 [17 CFR 230.145] under the Securities Act of 1933 [15 U.S.C. 77a *et seq.* (1976 and Supp. IV 1980)] ("Securities Act") provides that certain transactions involving business combinations, such as mergers, consolidations and

acquisitions of assets, which are submitted for the vote or consent of security holders, are subject to the registration requirements of the Securities Act. Paragraph (c) of Rule 145 provides that persons who are affiliates[1] of entities which are acquired in Rule 145 transactions shall be deemed to be underwriters, within the meaning of Section 2(11) of the Securities Act, of the securities received by them in such transactions. Notwithstanding the provisions of paragraph (c), a person shall not be deemed to be an underwriter if: (1) The securities are sold in compliance with certain provisions of Rule 144 [17 CFR 230.144]; [2] or (2) such person is not an affiliate of the issuer and has held the securities for at least two years, and the issuer has been a reporting company under the Securities Exchange Act of 1934 [15 U.S.C. 78a *et seq.*] (1976 and Supp IV, 1980) ("Exchange Act") and has filed all required reports for the preceding 12 months.[3]

In a companion release also published today,[4] the Commission announced the adoption of an amendment to Rule 144(k) to remove, as a prerequisite to sales of restricted securities by non-affiliates who have held securities for three years, the requirement that current information be publicly available regarding the issuer. One letter commenting on the proposed amendment to Rule 144 noted that the proposal would establish theoretically less stringent resale requirements for restricted securities received in a business combination conducted pursuant to a transactional exemption under the Securities Act than for registered securities acquired in a transaction subject to Rule 145. A former affiliate of an acquired company, for example, who is not an affiliate of the acquiring company after the transaction would be able to freely transfer securities received in the exempt transaction after a three year holding period. Pursuant to Rule 145(d), the same person receiving registered securities would be able to freely transfer such securities after a three year holding period only if the issuer has been a reporting company for one year.

The Commission believes that such a distinction between the resale provisions applicable to securities received in business combinations conducted pursuant to a transactional exemption and securities received in a business combination registered under the Securities Act is neither necessary nor appropriate. Accordingly, it is proposed that paragraph (d) of Rule 145 be amended to provide that any person who is not an affiliate of the issuer and has held registered securities acquired in a transaction subject to Rule 145 for at least three years shall not be deemed to be an underwriter with respect to the sale of such securities.[5] In addition, in order to further coordinate the resale provisions applicable to securities received in business combinations, the Commission proposes to amend paragraph (d)(2) of Rule 145 to permit the resale of securities by non-affiliates after a two year holding period if the issuer meets the current public information requirements in Rule 144(c). The proposal would permit resales if the issuer is a reporting company, as currently required, or if the issuer makes adequate current information available pursuant to Rule 15c2-11 [17 CFR 240.15c2-11] under the Exchange Act.[6]

II. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an initial regulatory flexibility analysis in accordance with 5 U.S.C. 603 regarding the revision of Rule 145.

The analysis notes that the Rule 145 amendment is being proposed in order to make more consistent the resale provisions of Rule 145(d) and Rule 144. The objective of the proposed revision to Rule 145 is to alleviate an undue restriction on the resale of securities acquired in a registered business combination by a non-affiliate of the issuer which have been beneficially owned for at least three years.

The objective of the Commission was to implement the specific coordinating amendment consistent with the recent revision of Rule 144. Other suggested changes to the rule may be considered at such time as a comprehensive review of other aspects of Rule 145 may be undertaken. The Commission believes the increased benefits of the proposed revision to Rule 145 outweigh any disadvantages and, therefore, deems it appropriate to consider the proposals contained herein.

A copy of the initial regulatory flexibility analysis may be obtained by contacting Steven H. Holtzman or Mary M. Jackely, in the manner specified above.

III. Statutory Basis

The amendment to Rule 145 is being proposed by the Commission pursuant to Sections 2(11), 4(1), 4(4), and 19(a) of the Securities Act.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; sec. 209, 48 Stat. 908; secs. 1–4, 68 Stat. 683; sec. 12, 78 Stat. 580; sec. 308(a)(2), 90 Stat. 57; (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a))

List of Subjects in 17 CFR Parts 230

Reporting and recordkeeping requirements, Securities.

Text of Proposals

Pursuant to Section 19(a), the Commission proposes to amend Chapter II of Title 17 of the Code of Federal Regulations as follows:

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

1. By revising paragraph (d) of § 230.145 as follows:

§ 230.145 Reclassification of securities, mergers, consolidations and acquisitions of assets.

* * * * *

(d) *Resale provisions for persons and parties deemed underwriters.* Notwithstanding the provisions of paragraph (c), a person or party specified therein shall not be deemed to be engaged in a distribution and therefore not to be an underwriter of registered securities acquired in a transaction specified in paragraph (a) of this section if: (1) Such securities are sold by such person or party in accordance with the provisions of paragraphs (c), (e), (f) and (g) of § 230.144; (2) such person or party is not an affiliate of the issuer and has been

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[1] An "affiliate" of an entity is defined in Rule 405 [17 CFR 230.405] under the securities Act as "a person that directly or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the [entity]."

[2] Paragraph (d) of Rule 145 permits resales by underwriters of Rule 145 securities in accordance with paragraphs (c), (e), (f) and (g) of Rule 144. Those paragraphs require that there be current public information available about the issuer of the securities, that the amount of securities sold during any three month period not exceed certain specified limits, and that the securities be sold in brokers' transactions.

[3] Rule 145(d).

[4] Release No. 33-6488 (September 23, 1983).

[5] Commentators are directed to Release No. 33-6472 (July 8, 1983) [48 FR 32357] for a discussion of the background and operation of the amendment to Rule 144.

[6] For companies whose securities are traded, Rule 15c2-11 currently requires brokers who initiate trading in a security through the submission or publication of priced quotations in quotation media to maintain certain minimum current information about the issuer of the security and to make such information available to investors upon request. The Commission recently proposed amendments to Rule 15c2-11 which, if adopted, would require any broker who initiates trading in a security through priced or unpriced entries in the pink sheets to maintain the specified information. The National Daily Quotation Service known as the "pink sheets," is an interdealer quotation system which provides the principal quotation medium for infrequently traded securities of lesser known issuers, or as a supplement to more active securities traded in the NASDAQ system, an automated quotation system. Release No. 34-19673 (April 14, 1983) [48 FR 17111].

the beneficial owner of the securities for at least two years as determined in accordance with paragraph (d) of § 230.144, and the issuer meets the requirements of paragraph (c) of § 230.144; or (3) such person is not, and has not been for at least three months, an affiliate of the issuer and has been the beneficial owner of the securities for at least three years as determined in accordance with paragraph (d) of § 230.144.

* * * * *

By the Commission.

George A. Fitzsimmons,

Secretary.

September 23, 1983

[FR Doc. 83-26811 Filed 9-29-83; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 141

[Docket No. RM83-11-000]

Revision of Monthly Report of Cost and Quality of Fuel For Electric Plants; Form No. 423

September 26, 1983.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to revise its Form No. 423, "Monthly Report of Cost and Quality of Fuels for Electric Plants," prescribed in 18 CFR 141.61. The revisions are proposed in response to petitions for rulemaking which recommend the collection of certain additional data on the form concerning utility fuel purchases, and in consideration of the Commission's need for more data on the form.

The Commission, therefore, proposes to collect information on the moisture content of coal purchased by utilities, the cost of transporting coal, and the price and quality of fuel when it enters and when it leaves a central storage facility.

DATE: Comments are due November 25, 1983.

ADDRESSES: Comments to this Notice of Proposed Rulemaking should be addressed to the Secretary, Federal Energy Rgulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM83-11-000.

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

SUPPLEMENTARY INFORMATION:

I. Background

The Federal Energy Regulatory Commission (Commission) proposes to revise its Form No. 423, "Monthly Report of Cost and Quality of Fuels for Electric Plant".[1] The revisions are proposed in response to petitions for rulemaking that request certain changes in the information requirements of Form No. 423.

Form No. 423 provides monthly information on the availability, cost, and quality of fossil fuels for electric utilities pursuant to the Federal Power Act.[2] The information is used by the Commission to evaluate fuel quality and costs in electric rate cases, and also to evaluate the fuel purchase practices of electric utilities pursuant to the requirements of section 205(f) of the Federal Power Act, 16 U.S.C. 824d(f).[3]

On October 5, 1982, the Commission issued a final rule in Docket No. RM82-4-000 which revised Form No. 423.[4] The final rule raised to 50 MW the threshold that triggers the filing of the form, eliminated the requirement for non-steam-electric facilities to file it, made several amendments to its instructions, and reduced the number of copies required to be filed. In response to requests from commenters for the addition of certain data respecting the descriptions of the fuel purchased by electric utilities, the Commission stated that it did not consider the value of the additional data to outweigh the increased reporting burden on utilities. The Commission added, however, that it may consider suggestions for the additional information in the future.

II. Petitions for Rulemaking

On December 15, 1982 the Commission received similar petitions for rulemaking to amend Form No. 423 from the Virginia State Corporation Commission and the Florida Public Service Commission ("petitioners").[5] The petitioners request the addition of many of the data to Form No. 423 that had been suggested in the earlier proceeding to revise Form No. 423 (Docket No. RM82-4-000). The data items requested by petitioners are:

(1) The mine seam from which the coal supplies were produced. The petitioners say that this information would give state commissions and this Commission a complete, proximate quality analysis of the coal, which is important in comparing delivered coal prices. They add that this information is currently available to all utilities and would, therefore, pose no additional reporting burdens.

(2) The moisture content of the coal to the nearest 0.1%. The petitioners state that this information is also needed for a proximate quality analysis of the coal, is available to all utilities, and could be reported by the companies without additional burden.

(3) A breakdown of the information on the cost of fuel delivered to the utility plant into both the mode of transportation utilized and the cost per unit of fuel delivered. The petitioners say that this breakdown would allow regulatory agencies to separate fuel costs into F.O.B. mine and F.O.B. point-of-purchase (oil) and into delivered price components. They note that this information is also readily available to the utilities and would not add a significant reporting burden.

(4) Either separate disclosure of fuel supplied by subsidiary or affiliate suppliers or, alternatively, a requirement that subsidiary or affiliate suppliers be treated as central storage facilities. The petitioners claim that this revision is needed because the information on the current form is inadequate for reporting subsidiary acquisitions of fuel from suppliers and sales of the fuel to the parent company. This is because the form now shows that the fuel originates from the subsidiary.

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[1] FERC Form No. 423 (attached as the Appendix to this Notice of Proposed Rulemaking) will not be printed in the **Federal Register**. Copies of this notice, including the appendix, are available at the Federal Energy Regulatory Commission, Division of Public Information, 825 North Capitol Street, NE., Room 1000, Washington, D.C. 20426 (202) 357-8055.

The Commission also notes that the regulations at 18 CFR 141.61 which prescribe the filing of Form No. 423 need not be revised to include the changes to the form proposed in this rule. Therefore, the regulatory text is not included in this document.

[2] The Commission is authorized to regulate electric utilities engaged in interstate commerce under Part II of the Federal Power Act, 16 U.S.C. 792-828c. This authority was transferred to the Commission from its predecessor, the Federal Power Commission, under Section 402 of the Department of Energy Organization Act, 42 U.S.C. 7172(b). The Commission collects the information in Form No. 423 under sections 304 and 311 of the Federal Power Act pursuant to a delegation of authority from the Secretary of Energy to the Commission (Delegation Order No. 0204-1 (October 1, 1977)).

[3] Section 205(f) requires the Commission to periodically review fuel purchase practices and policies under automatic adjustment clauses in order to promote the efficient use of fuel and energy resources, and to evaluate the justness and reasonableness of rates charged by electric utilities.

[4] Order No. 264, 47 FR 44,722 (October 12, 1982).

[5] The petitions were filed under Rule 207 of the Commission's Rule of Practice and Procedure 18 CFR 385.207 (1983).

The petitioners stress that both state utility commissions and this Commission need these data items to determine the reasonableness of fuel purchases and transportation costs.

In addition, the petitioners note that the data should be supplied in connection with the requirements of section 209 of the Federal Power Act, 16 U.S.C. 824h. Section 209 provides for cooperation between this Commission and state commissions regarding rate structure, costs, accounts, charges, practices, classifications, and regulations of public utilities subject to he jurisdiction of this Commission and State commissions. Section 209(c) requires the Commission to make such information and reports available to state commissions as would assist them in their regulation of public utilities.

The petitioners add that Form No. 423 is the only nationwide source of fuel quality and purchase price. They assert that the form would need only minor modifications to provide this Commission and state commissions with the information needed for effective regulation of the utilities.

The Commission received twenty-two comments in support of the December 15th petitions.[6] The majority of the comments repeat the same arguments supporting the changes to Form No. 423 that are raised in the Florida and Virginia petitions. Two commenters offer additional reasons for the revisions. The first commenter states that the information reduces the occurrence of duplicative, conflicting, ill-timed, and fluctuating filings. The commenter claims that the revisions to Form No. 423 would result in a savings for utility customers becasue the states also could use the data on the form rather than having to bear the expense of collection the same information themselves. The other commenter cites the rapid increases in the costs of transporting coal as a reason for requiring the separate disclosure of fuel transportation costs. The commenter says that transportation costs comprise a large portion of the delivered price of coal and that a separate report of transportation charges is necessary for this Commission and state commissions to assess the impact of those charges upon delivered fuel prices, consumer electric bills, and the demand for electricity.

III. Discussion and Summary of Proposed Changes

A. Changes Proposed by Petitioners

The Commission now believes that Form No. 423, as revised by the October 5, 1982 final rule, should be expanded to provide additional data for use in making its electric rate determinations. The Commission has carefully considered the suggested changes in light of its own need for the data, and has decided that certain changes could improve the usefulness of the report to the Commission. As a result, the Commission proposes the following changes to Form No. 423.

First, the Commission proposes to adopt the petitioners' suggestion to insert a new column (m) under "Quality (As Received)" to report the moisture content of the coal to the nearest 0.1%. The moisture content, when combined with the already-required data on the sulfur and ash content of the coal, will enhance the Commission's understanding of the quality of the coal used by the utility. This information will also help the Commission calculate the ash- and moisture-free heat content of the coal, which is necessary to determine boiler efficiencies. Both suppliers and users of coal routinely determine the mositure content of the coal. Therefore, a requirement to report moisture content on Form No. 423 will add an insignificant reporting burden to the utilities. That burden should be clearly outweighed by the benefit derived from the Commission's collection and use of the data.

Second, the Commission proposes to require the price of fuel both at its source and at its destination. This breakdown will permit the Commission to distinguish between the production components and transportation components of the cost of coal. The Commission needs this information in connection with its rate cases to determine if the price of the coal that a utility purchases is reasonable in comparison to other available coals. The utilities already have these cost data on hand. About 90 percent of the coal purchased by utilities is subject to written contracts which, of cource, specify the price of the coal.[7]

The Commission will not propose the collection of some of the data items that the petitioners want to include in Form No. 423 because the Commission does not believe that all of the suggested changes are necessary for its own decisionmaking processes or to meet its obligations under section 209(c) of the Federal Power Act. Among these items is the mine seam from which the coal was produced. Such specific information regarding the source of the coal is not needed from all utilities on a monthly basis for the Commission rate decisions. Rather, the Commission needs data regarding the quality of the coal, which either is currently reported on the form or would be reported under the proposed revisions. Information on the source of the coal would not necessarily indicate its quality as well. Furthermore, the Commission already collects a great deal of fuel source data for its decisionmaking purposes from other sources. Therefore, the Commission believes that this information on mine seam is not necessary in the Form No. 423.

The Commission also will not propose a requirement to report the mode of transporting the purchased fuel. This information would complicate the form unnecessarily. This is because a shipment of fuel could be transported under a variety of modes. The proposed requirement to identify the price of the fuel at its source and then again at its destination will include the costs of the various transportation modes and these data are sufficient for the Commission's needs.

Finally, the Commission will not propose to require a separate disclosure of fuel supplied by a subsidiary or affiliate. The Commission already collects similar information as part of its "Investigation of Practices Under Automatic Adjustment Clauses" prescribed in Docket No. IN79–6 (issued April 26, 1979).[8] Therefore, a collection

[6] Alabama Public Service Commission; Arizona Corporation Commission; People of the State of California, and Public Utilities Commission of the State of California; Georgia Public Service Commission; Idaho Public Utilities Commission; Indiana Public Service Commission; Kansas Corporation Commission; Commonwealth of Kentucky Public Service Commission; Public Service Commission of the State of Maryland; State of Michigan, and Michigan Public Service Commission; Mississippi Public Service Commission; Missouri Public Service Commission; New Jersey Board of Public Utilities; New Mexico Public Service Commission; North Carolina Utilities Commission; Public Utility Commissioner of Oregon; Pennsylvania Public Utility Commission; Public Utility Commission of Texas; State of Utah; Public Service Commission of West Virginia (notice of intervention); State of Wisconsin Public Service Commission; National Association of Regulatory Utility Commissioners.

[7] On February 24, 1983, the Interstate Commerce Commission issued a Notice of Proposed Policy to establish guidelines for railroad coal rates, whereby railroads could raise coal rates 15 percent per year above the rate of inflation ("Coal Rate Guidelines, Nationwide", Ex Parte No. 347 (Sub-1), 48 FR 8362 (February 28, 1983)). These ICC guidelines would affect the coal prices of all electric utilities that currently depend on railroad transportation. Because existing competitive balances may change as a result of the ICC guidelines, the collection of the coal transportation data should be particularly helpful to the Commission in deciding the rates of these utilities.

[8] The information collected in Docket No. IN79–6 is required under section 205(f)(2) of the Federal Power Act, 16 U.S.C. 824(f)(2).

of subsidiary or affiliate supply data on Form No. 423 would be unnecessarily duplicative.

The Commission recognizes that the state commissions may benefit from the collection of data that the Commission does not propose to adopt in this rule. However, under its burden reduction program, the Commission only collects those data that it needs for its own regulatory purposes. Of course, the Commission will make available to state commissions and to the public the information that it collects in Form No. 423. The state commissions may collect any other data they need under their own authority.

B. Changes Proposed by Commission

The Commission proposes another change to Form No. 423 that was not suggested by the petitioners. This is a revision to General Instruction III to provide more detailed data regarding fuel in a central storage facility.

Under the current requirement, only the first delivery into an interconnected central storage facility-plant complex must be reported. If fuels are commingled in an intermediate storage facility and only deliveries of fuel into the facility are reported, it is difficut to determine which fuel price should be assessed to each plant that later acquires the fuel. The proposal would provide that, if there is commingling of fuels, the fuel would be reported by qualify and price as it enters the facility, and by quality and price on a weighted average as it is removed from the facility to a particular plant.* This information is readily available to the utilities that use central storage facilities. Therefore, this requirement should not pose a significant reporting burden to these utilities. The change will provide the Commission with more exact pricing data that is useful in its ratemaking determinations regarding the utilities that use central storage facilities.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612) requires certain statements, descriptions, and analyses of proposed rules that will have "a significant economic impact on a substantial number of small entities". Pursuant to section 605(b) of the RFA, the Commission certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Virtually all electric utility companies required to file Form No. 423 are large entities having annual operating revenues over $1 million. In addition, this rule, if promulgated, should have an insignificant effect on the filing burden on these electric utility companies because they already collect the required information for other purposes.

V. Paperwork Reduction Act Statement

The Paperwork Reduction Act (PRA), 44 U.S.C. 3501–3520 (Supp. IV 1980) and the Office of Management and Budget's (OMB) regulations, to be codified at 5 CFR 1320.13 require that OMB approve certain information collection requirements imposed by agency rule. The proposed information collection requirements of Form No. 423 are being submitted to OMB for its approval. Interested persons can obtain information on these provisions by contacting the Office of the General Counsel, Rulemaking and Legislative Analysis, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 (Attention: Cathy Ciaglo, (202) 357–8033). Comments on the information collection provisions of this rule can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

VI. Written Comment Procedure

The Commission invites interested persons to submit written data, views and other information concerning the matters set out in this notice. An original and 14 copies of such comments should be filed with the Commission by November 25, 1983. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426 and should reference Docket No. RM83–11–000.

All written submissions in this rulemaking will be placed in the Commission's public files and will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

(Department of Energy Organization Act, 42 U.S.C. 7101–7352; E.O. 12009, 3 C.F.R. 142; Federal Power Act, 16 U.S.C. 792–828c; Public Utility Regulatory Policies Act, 16 U.S.C. 2601–2645.)

List of Subjects in 18 CFR Part 141

Electric Power, Reporting and Record keeping requirements Statements and reports (schedules).

In consideration of the foregoing, the Commission proposes to amend Form No. 423.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83–26538 Filed 9–29–83; 8:45 am]

BILLING CODE 6717–01–M

* Thus, Instruction III would be revised to read as follows: Central storage facilities should be treated as a plant requiring a report if subsequent shipments from the facility to the utility's plants cause the original shipments to lose their identity. In that event, identify the weighted average of both receipts of deliveries into a central storage facility on one page, and then shipments from the facility to individual plants on the pages used for the plant report (in addition to any other shipments to that plant). The latter entry will require filling out only columns (i) through (o), using weighted averages and identifying the central storage facility in column (h).

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 203, 213, 220, 221, 234, 235, and 240

[Docket No. R–83–1015]

Single Family Mortgage Insurance Programs

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would make the following programmatic and administrative changes in HUD's single family mortgage insurance programs: (1) Permit the insurance of mortgages covering a leasehold if the lease has a period of not less than 10 years to run beyond the maturity date of the mortgage; (2) authorize insuring a mortgage on a property without clear title in communities with outstanding claims to ownership claims to ownership of land by an American Indian Tribe if class litigation on the subject involving at least 50 defendants were filed before April 1, 1980; (3) remove the "remaining economic life" restriction on the mortgage term; (4) permit the mortgagee to foreclose on a defaulted rehabilitation first lien loan under the same terms and conditions that apply to the basic insured mortgage loan; (5) permit a mortgage insured under the program to exceed the maximum mortgage limits by up to 10 percent if the increase is needed to make the dwelling accessible to, or usable for, a physically handicapped owner-occupant and (6) eliminate a redundant requirement for an FHA or VA inspection contained in the regulations dealing with mortgage

insurance in urban renewal and concentrated development areas.

DATES: Comments must be received by: November 29, 1983.

ADDRESS: Interested persons are invited to submit comments regarding this rule to the Office of General Counsel, Rules Docket Clerk, Room 10278, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410. Comments should refer to the above docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at the above address.

FOR FURTHER INFORMATION CONTACT: John J. Coonts, Director, Single Family Development Division, Department of Housing and Urban Development, Room 9270, 451 Seventh Street, SW., Washington, D.C. 20410, (202) 755-6720 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: Before enactment of the Housing and Community Development Act of 1980 (HCD Act of 1980), mortgages covering a leasehold could be insured under the National Housing Act only if the lease had a period of not less than 50 years to run from the date the mortgage was executed. Section 306 of the HCD Act of 1980 authorizes insurance where the lease has a period of not less than 10 years to run beyond the maturity date of the mortgage. This change would be incorporated in §§ 203.37 (basic home mortgage insurance), 213.525 (individual properties released from a cooperative project mortgage) and 234.65 (insurance of one-family condominum units).

Section 333 of the HCDA of 1980 deletes, from certain insuring authorities in the National Housing Act, references to the use of "remaining economic life" as one of the underwriting criteria for determining the maximum term of an insurable mortgage. This proposed rule would implement this provision by removing the term "remaining economic life" from 24 CFR 203.17 [basic home mortgage insurance), 220.101 (home mortgage insurance in urban renewal and concentrated development areas), 221.30 (home mortgage insurance for low and moderate income families), 221.65 (conversion to family unit ownership in low and moderate income housing projects), 234.25 (insurance of one-family condominium units), 235.22 (home ownership for lower-income families) and 240.16 (homeownership purchases of fee simple title). The Department, consistent with the direction of the conferees [See H.R. Rep. No. 1420, 96th Cong., 2d Sess. 136] would continue to use "remaining economic life" as a factor in determining the value of the property.

In addition to deleting the reference to "remaining economic life", § 221.30 would be amended to delete the express requirement for an FHA or VA inspection since inspection is a prerequisite to approval for mortgage insurance and § 221.30(b) (as revised by this rule) contains approval for mortgage insurance prior to construction as a condition for extending the mortgage maturity to 35 or 40 years.

Section 321 of the HCD Act of 1980 made a technical amendment to permit mortgagees to foreclose upon defaulted Section 203(k) rehabilitation loans which are secured by a first mortgage, in the same manner as is authorized for foreclosures under the FHA's basic Section 203(b) home insurance program. Under prior law, only HUD could foreclose on these loans. Procedures under prior law for the settlement of claims on Section 203(k) loans secured by other than a first mortgage are not changed. The amendments to §§ 203.473, 203.476 and 203.477 (insurance of rehabilitation loans) would implement Section 321.

Section 328 of the HUD Act of 1980 authorizes the Secretary, notwithstanding any other provision of Title II of the National Housing Act, to insure under Section 203(b) (as modified by this special provision) a mortgage which meets both the requirements of this provision and such criteria as the Secretary may prescribe to further provision's purpese. The authority may be used only in communities where the Secretary determines that:

(1) Temporary adverse economic conditions exist throughout the community as a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band or nation;

(2) These ownership claims are reasonably likely to be settled, by court action or otherwise; and

(3) 50 or more individual homeowners were joined as parties defendant or were members of a defendant class prior to April 1, 1980, in litigation involving Indian claims to ownership of land in the community under the Articles of Confederation, the Trade and Intercouse Act of 1790 or any similar State or Federal law.

Insurance would be available without regard to the limitations in Title II of the National Housing Act relating to marketability of title, and without regard to any other statutory restriction which the Secretary determines to be contrary to the purpose of this authority, but only if the mortgagor is an owner-occupant of a home in a community specified above.

This new insurance authority would be implemented by adding a new § 203.43g.

Section 206(a)(4) of the HCD Act of 1980 permits the Secretary to insure a mortgage under Section 235 which involves a principal obligation which exceeds, by not more than 10 percent, the maximum limits specified under section 235, if the mortgage relates to a dwelling unit to be occupied by a physically handicapped person and the Secretary determines that this action is necessary to reflect the cost of making the dwelling accessible to and usable by that person. This rule would add new §§ 235.32 (homeownership) and 235.331 (cooperative units) to implement Section 206(a)(4).

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the Rules Docket Clerk at the address set forth above.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulations. 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.

This rule was listed at 48 FR 18071 as H-44-81 in the Department's Semiannual Agenda of Regulations, published on April 25, 1983 (48 FR 18054) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The following numbers identify the programs, as listed in the Catalog of Federal Domestic Assistance, affected by this regulation change: 14.117, 14.118, 14.108, 14.126, 14.122, 14.120, 14.166, 14.133, 14.105, 14.130.

Information collection requirements contained in this regulation (§ 203.476) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511) and have

been assigned OMB control number 2502-0051.

Pursuant to the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule makes changes which should be beneficial to all program participants including small entities.

List of Subjects

24 CFR Part 203

Home improvement, Loan programs—housing and community development, Mortgage insurance, Solar energy.

24 CFR Part 213

Mortgage insurance, Cooperatives.

24 CFR Part 220

Home improvement, Mortgage insurance, Urban renewal, Rental housing, Loan programs—housing and community development, Projects.

24 CFR Part 221

Condominiums, Low and moderate income housing, Mortgage insurance, Displaced families, Single family housing, Projects Cooperatives.

24 CFR Part 234

Condominiums, Mortgage insurance, Homeownership, Projects, Units.

24 CFR Part 235

Condominiums, Cooperatives, Low and moderate income housing, Mortgage insurance, Homeownership, Grant programs; housing and community development.

24 CFR Part 240

Mortgage insurance, Fee title purchase.

Accordingly, the Department proposes to amend 24 CFR Parts 203, 213, 220, 221, 234, 235, and 240 as follows:

PART 203—[AMENDED]

§ 203.17 [Amended]

1. In § 203.17, paragraph (e) is proposed to be removed.

2. Section 203.37 is proposed to be revised to read as follows:

§ 203.37 Nature of title to realty.

A mortgage, to be eligible for insurance, must be on real estate held in fee simple, or on leasehold under a lease for not less than 99 years which is renewable, or under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.

3. In Part 203, a new § 203.43g is proposed to be added to read as follows:

§ 203.43g Eligibility of mortgages in certain communities.

(a) A mortgage which meets the requirements of this subpart shall be eligible for insurance without regard to the limitation in this part relating to marketability of title under the following conditions:

(1) The mortgagor is an owner-occupant of the property.

(2) The defect or potential defect in title is a direct and primary result of outstanding claims to ownership of land in the community by an American Indian tribe, band, group or Nation.

(3) Fifty or more individual owners were joined as parties defendant or were members of a defendant class before April 1, 1980 in litigation involving claims to ownership of land in the community in which the property is located by an American Indian tribe, band, group or Nation pursuant to a dispute involving the Articles of Confederation, the Trade and Intercourse Act of 1790 or any similar State or Federal law.

(4) Such ownership claims are reasonably likely to be settled by court action or otherwise.

(5) Temporary adverse economic conditions exist throughout the community as a direct and primary result of such claims.

(b) Mortgages complying with the requirement of this subpart as modified by this section shall be the obligation of the Special Risk Insurance Fund.

4. Section 203.473 is proposed to be revised to read as follows:

§ 203.473 Claim procedure.

(a) A claim for insurance benefits on a loan secured by a first mortgage shall be made, and insurance benefits shall be paid, as provided in §§ 203.350 through 203.404.

(b) A claim for insurance benefits on a loan secured by other than a first mortgage shall be made, and insurance benefits shall be paid, as provided in §§ 203.474 through 203.478; however, the lender may not, except with the approval of the Commissioner, proceed against the security and also make claim under the contract of insurance, but shall elect which method it desires to pursue.

5. Section 203.474 is proposed to be revised to read as follows:

§ 203.474 Maximum claim period.

A claim for insurance benefits on a loan secured by other than a first mortgage shall be filed within one year from the date of default, or within such additional period of time as may be approved by the Commissioner.

6. In § 203.476 introductory paragraph is proposed to be revised and a new sentence is proposed to be added to the end of the section, to read as follows:

§ 203.476 Claim application and items to be filed.

The claim for reimbursement on a loan secured by other than a first mortgage shall be made upon an application form prescribed by the Commissioner. The application shall be accompanied by:

* * * * *

(Approved by the Officer of Management and Budget under OMB control number 2502-0051.)

7. In § 203.477, paragraph (c) is proposed to be revised to read as follows:

§ 203.477 Certification by lender when loan assigned.

* * * * *

(c) The mortgage transaction did not involve a first mortgage and the mortgage is prior to all mechanics' and materialmen's liens filed of record, regardless of when such liens attach, and prior to all liens and encumbrances other than a first mortgage, or defects which may arise except such liens or other matters as may have been approved by the Commissioner.

* * * * *

PART 213—[AMENDED]

8. Section 213.525 is proposed to be revised to read as follows:

§ 213.525 Nature of title to realty.

A mortgage, to be eligible for insurance, must be on real estate held in fee simple, or on leasehold under a lease for not less than 99 years which is renewable, or under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.

PART 220—[AMENDED]

9. In § 220.101, paragraph (c) is proposed to be revised to read as follows:

§ 220.101 Mortgage provisions.

* * * * *

(c) The loan shall have a maturity satisfactory to the Commissioner not less than 5 nor more than 20 years from the date of the beginning of the amortization.

PART 221—[AMENDED]

10. Section 221.30 is proposed to be revised to read as follows:

§ 221.30 Maturity of mortgage.

The mortgage shall provide for complete amortization not to exceed 30 years from the date of the beginning of amortization of the mortgage, except that such maturity may be 35 or 40 years in the following instances:

(a) In the case of a displaced family, if it is determined by the Commissioner that the mortgagor is not able to make the required payments under a mortgage having a shorter amortization period.

(b) In the case of any other mortgagor, if it is determined by the Commissioner that the mortgagor is an owner-occupant of the property and is not able to make the required payments under a mortgage having a shorter amortization period, and the dwelling was approved for mortgage insurance by the Commissioner before the beginning of construction, or approved for guaranty, insurance, or direct loan by the Administrator of Veterans Affairs before such construction.

PART 221.65—[AMENDED]

11. In § 221.65, paragraph (d)(3) is proposed to be revised to read as follows:

§ 221.65 Eligibility requirements for low- and moderate-income purchaser of family unit in condominium.

* * * * *

(d) * * *

(3) It shall provide for complete amortization within 40 years from the beginning of amortization.

* * * * *

PART 234—[AMENDED]

12. In § 234.25, paragraph (c)(2) is proposed to be revised to read as follows:

§ 234.25 Mortgage provisions.

* * * * *

(c) * * *

(2) Have a maturity satisfactory to the Commissioner of not more than thirty years from the date of the beginning of amortization, except that the term may be up to 35 years from the date of the beginning of amortization in either of the following instances:

* * * * *

13. Section 234.65 is proposed to be revised to read as follows:

§ 234.65 Nature of title.

A mortgage, to be eligible for insurance, shall be on a fee interest in, or on a leasehold interest in, a one-family unit in a project including an undivided interest in the common areas and facilities, and such restricted common areas and facilities as may be designated. To be eligible, a leasehold interest shall be under a lease for not less than 99 years which is renewable, or under a lease having a period of not less than 10 years to run beyond the maturity date of the mortgage.

PART 235—[AMEMDED]

14. In § 235.22, paragraph (d) is proposed to be revised to read as follows:

§ 235.22 Mortgage provisions.

* * * * *

(d) *Maturity.* The mortgage shall provide for complete amortization not to exceed 30 years from the date of the beginning of amortization of the mortgage.

15. A new § 235.32 is proposed to be added to read as follows:

§ 235.32 Increased maximum mortgage amount for physically handicapped persons.

If the mortgage relates to a dwelling to be occupied by a handicapped person as defined in § 235.5(c)(2), the dollar amount limitation set forth in § 235.25 or § 235.30 may be increased in such amount as may be necessary to reflect the cost of making the dwelling accessible to and usable by such person, but not to exceed 10 percent of such limitation.

16. A new § 235.331 is proposed to be added to read as follows:

§ 235.331 Increased maximum mortgage amount for physically handicapped persons.

If the mortgage relates to a dwelling unit to be occupied by a handicapped person as defined in § 235.5(c)(2), the otherwise applicable dollar amount limitation set forth in § 235.330 may be increased in such amount as may be necessary to reflect the cost of making the dwelling unit accessible to and usable by such person, but not to exceed 10 percent of such limitation.

PART 240—[AMENDED]

17. In § 240.16, paragraph (c) proposed to be revised to read as follows:

§ 240.16 Mortgage provisions.

* * * * *

(c) *Maturity of mortgage.* The mortgage shall have a maturity satisfactory to the Commissioner but not less than five nor more than 20 years from the date of the beginning of amortization.

(Sec. 211, National Housing Act (12 U.S.C. 1715b), Sec. 7(d) of the Department of HUD Act, 42 U.S.C. 3535(d).

Dated: September 1, 1983.

Philip Abrams,

Assistant Secretary for Housing—Federal Housing Commissioner.

[FR Doc. 83-26662 Filed 9-29-83; 8:45 am]

BILLING CODE 4210-27-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Ch. 1

[OPP-00168; PH-FRL 2441-5]

FIFRA Scientific Advisory Panel; Partially Closed Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule related notice.

SUMMARY: There will be a three-day meeting of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel to review a final rule on 40 CFR Part 158, "Pesticide Registration Data Requirements;" review of a paper, "Oncogenic Potential: Guides for Analysis and Evaluation of Long-Term Rodent Studies;" and a registration submission covered by court order. The meeting will be open to the public on Tuesday, October 18, and the first part of Wednesday, October 19, 1983. The Panel will meet in executive session (i.e., in a closed meeting) later on Wednesday, October 19, and on Thursday, October 20, 1983, if necessary.

DATES: Tuesday, Wednesday, and Thursday, October 18-20, 1983, from 8:30 a.m. to 5:00 p.m. each day except for October 20, which will end at the latest by mid-afternoon.

ADDRESS: The meeting will be held at: Crystal Mall Building #2, Rm. 1112, 1921 Jefferson Davis Highway, Arlington, Va. 22202.

FOR FURTHER INFORMATION CONTACT: By mail: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: Rm. 1115B, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Va. (703-557-7096).

SUPPLEMENTARY INFORMATION: The agenda for this meeting is:

1. Consideration of a Final Rule on 40 CFR Part 158, "Pesticide Registration Data Requirements."

2. Review by the Panel of a paper entitled, "Oncogenic Potential: Guides

for Analysis and Evaluation of Long-Term Rodent Studies," prepared by Dr. Orville Paynter of the Hazard Evaluation Division, Office of Pesticide Programs.

3. Registration materials as described below:

EPA has determined that applications submitted by another applicant for registrations of certain pesticide products are covered by the August 31, 1982 Judgment in *Monsanto* v. *Administrator*. This Judgment requires that EPA submit certain materials for consideration by the Scientific Advisory Panel before the Agency can formally accept for review any applications for registration of an identified category of chemicals. In particular, for any application covered by the Judgment, EPA is required to submit to the Panel the confidential statement(s) of formula and the data submitted with the covered application in the areas of toxicology, residue and metabolism, and environmental fate in soil. EPA must also submit certain documents which contain information about the active ingredient glyphosate submitted to EPA by the Monsanto Company and about the formula for the glyphosate-containing Monsanto product which bears the trade name Round-up®. EPA is further required to instruct the Panel to review these materials to determine whether the data and formula information submitted with the new application covered by the Judgment were developed independently of the disclosed information. The only constraints are: (1) That deliberations must be in executive session and other steps must be taken to preserve the confidentiality of all materials submitted to the Panel; (2) that both Monsanto and the new applicant must have an opportunity to "make presentations to the Panel and answer any inquiries put by the Panel" on these matters; and (3) that the Panel must either: (a) Make a finding whether the materials submitted with the new application were developed independently of the material contained in the disclosed documents or (b) provide a written report regarding its inability to make such a finding.

It should be noted that the Federal Advisory Committee Act permits the closure of meetings or portions of meetings when trade secret information is to be discussed or presented.

4. In addition, the Agency may present status reports on other ongoing programs of the Office of Pesticide Programs.

Copies of the draft document concerning item 1 may be obtained by contacting: By mail: Fred Betz, Hazard Evaluation Division (TS-769C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: Rm. 1128C, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-9307).

Copies of the draft document concerning item 2 may be obtained by contacting: Orville Paynter, Hazard Evaluation Division (TS-769), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460. Office location and telephone number: Rm. 1128D, Crystal Mall, Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7695).

No documents are being made available to the public at this time in connection with item 3.

Interested persons wishing to attend or submit a paper should contact Philip H. Gray, Jr., at the address or phone number listed above to confirm the meeting and agenda. Interested persons are permitted to file written statements before or after the meeting, and may, upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. All statements will be made part of the record and will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons wishing to make oral statements must notify the Executive Secretary and submit 10 copies of a summary no later than October 13, 1983.

Individuals who wish to file written statements are requested to submit 10 copies by October 13, 1983, in order to ensure appropriate consideration by the Panel.

Dated: September 27, 1983.

William D. Ruckelshaus,

Administrator.

[FR Doc. 83-26871 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Part 5

[CGD 82-002]

Actions Against Seamen's Licenses, Certificates or Documents

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposal would revise the regulations pertaining to suspension and revocation proceedings against a seaman's license, certificate, and/or document. This action would bring the existing regulations up to date with statutory and case law changes which have occurred since the last revision. This proposal would eliminate excessive or redundant regulatory material and would improve the organization of the existing regulations. The result will provide a rule which will provide a better understanding of the procedures on the part of the affected public.

DATES: Comments must be received on or before November 29, 1983.

ADDRESS: Comments should be submitted to: Commandant (G-CMC/24), [CGD 82-002], U.S. Coast Guard Headquarters, 2100 2nd St., SW., Washington, DC 20593. Comments may be delivered to and will be available for review and/or copying at the Marine Safety Council (G-CMC/24), Room 4402, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593 (Telephone number (202) 426-1477) between the hours of 7 a.m. and 3:30 p.m. Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: CDR Donald Stansell (Project Manager) Office of Merchant Marine Safety, Telephone Number (202) 426-2215, between the hours of 7:00 a.m. and 3:30 p.m. Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Background of Proposed Revision

Part 5 of Title 46 Code of Federal Regulations addresses administrative actions that may be taken against a seaman's license or document. The last comprehensive revision to this part was completed in 1962. Revision of the existing regulations is necessary to incorporate new policies, correct inaccuracies, and to incorporate changes resulting from legislative actions. For example, Pub. L. 97-35 repealed a merchant seamen's eligibility for free U.S. Public Health Service care. To the extent that the present regulations refer to this service, they need to be corrected. Pub. L. 96-461 now provides for the award of attorneys fees and other expenses to parties prevailing over the government in certain administrative procedures. Again these changes need to be incorporated in Part 5.

Because these changes were necessary the Coast Guard has decided to rewrite Part 5 making changes in four broad areas: (1) Policy and procedure; (2) incorporating statutory changes; (3) removal of unnecessary redundant material; (4) the reorganization of the

material to reflect a better flow of information.

Discussion of Policy and Procedure

Subpart 5.20 provides new rules for the admissibility of evidence. The proposal would require that the Federal rules of evidence are to be used as a general guide in administrative hearings conducted under Part 5. The new Federal rules of evidence provide for liberal admission of evidence. It is noted, however, that the Federal rules of evidence are not binding and that provisions have been included in this proposal for the exclusion of certain specific sections of the Federal rules where they are not applicable to administrative hearings. The use of Federal rules as general guidelines will promote uniformity in the introduction of evidence and decisions on all questions of admissibility. Subpart 5.20–107 would revise the admissibility of evidence regarding log books in general; which would include but not be limited to the official log book, the other engineering logs, deck logs, etc. An entry made in the official log book concerning an offense numerated in 46 U.S.C. 701 which is made in substantial compliance with 46 U.S.C. 702 will continue to be considered as prima facie evidence. However, other entries in other log books will be admissible into evidence, and if made in accordance with the procedures of 46 U.S.C 702, may now be given added weight by the Administrative Law Judge.

Subpart 5.20–140 would provide for the use of video tape depositions. This revision recognizes the trend in both civil and criminal law practice to utilize video tapes to memorialize depositions. Such techniques will allow the Administrative Law Judge to observe the demeanor of a witness which would otherwise be unavailable. By playing the video tape at the R.S. 4450 hearing, a transcript of the tape becomes available to assist preparation and review of any appeal which might arise. This section is further revised to permit the use of the telephone to take depositions. This change will allow the opportunity to adjust questioning in light of answers given by a deponent, while still realizing a savings in travel expenses and time which would otherwise be required.

Section 5.20–1 is revised to allow the Administrative Law Judge to conduct a prehearing conference. Such conference will not be mandatory but is available to the respondent and to the investigating officer in order to simplify the issue involved, make stipulations as to facts of the case, and make necessary amendments to the charges. Section 5.20–147 is revised. Except as provided in § 5.20–115 the prior record of the respondent will be disclosed to the Administrative Law Judge after the conclusions have been made as to each charge and specification, but only if at least one charge has been found proved. The prior record will now include the respondent's entire record, including any final agency action resulting in civil penalties or warning under 33 CFR 1.07. The Coast Guard specifically invites the public's attention to this section and requests comments on those items specifically listed.

Section 5.20–65 is revised. This revision allows the respondent to "admit" rather than to plead "guilty" "deny" rather that plead "not guilty"; and adds a plea of, "no contest." Availability of the plea of no contest will reduce substantially the length of those hearings in which there are no contested facts or legal issues but in which respondent does not want to enter an admission. Savings will result in both the Coast Guard and the individual's resources. A no contest plea will be treated by the Administrative Law Judge as an admission. Section 5.20–80 is revised. This will allow the testimony of the witness during the R.S. 4450 proceeding to be given by a telephone conference call. The witness will be sworn by the Administrative Law Judge and a complete record made by the recorder. The Administrative Law Judge is charged with insuring that all parties, including the witness, are adequately identified. It is anticipated that such witness will normally testify upon the return of a subpoena, enabling the Administrative Law Judge to insure the identity of the witness through the process server, verification of the Coast Guard's issued seaman's documents, if returned to a Coast Guard office, or such other methods as deemed appropriate under the circumstances. This provision recognizes the considerable savings in both time and money that will result by not having to summon witnesses great distances for relatively short periods of actual participation in the proceedings, and will still insure a respondent his statutory right to cross examination. In those cases where such a procedure appears insufficient to the Administrative Law Judge, the Administrative Law Judge may deny the motion requesting the testimony by telephone.

The table found at § 5.20–153 has been changed and now contains a suggested range of appropriate orders. The present scale of average orders was reviewed and found to be deficient. First, the table lists 49 offenses of which 12 suggested an average order of revocation (Group F). Those 12 offenses are merely a reiteration of those offenses specified in § 5.03–5b in which revocation is sought. Therefore, about 25% of the table serves no useful purpose. In addition, the table provides no guide for orders where multiple offenses have been alleged and proven. Finally, lacking further description of what is meant by each offense listed, comparing an actual specification may fall within the bounds of several different listed offenses which in turn may have average orders varying in severity. The Administrative Law Judge may have several different options from which to choose and therefore, the intent of the table to provide for average orders is lost.

Though this proposed rule contains a revised table reflecting a general range of orders which would be considered appropriate for various offenses, the Coast Guard is considering deleting the table completely. First, the facts in each case are unique. The age, experience, and maturity of the respondent along with evidence of provocation, mitigation and aggravation all play a part in the determination of a fair and just order. In addition, the reasonably foreseeable impact of the incident on maritime safety is dependent upon the circumstances present in each instance. The degree of diligence expected of the respondent is, in part, related to the hazards present or the risk associated with the operation at hand. Finally, if the table is broad enough to encompass all possible acts of offenses and permit specific determinations, it could limit the flexibility and discretion of the Administrative Law Judge.

Apart from the table, there is adequate notice in Part 5 regarding an expected order. Those offenses which are considered significantly serious to either mandate or urge revocation are listed. Comments on whether or not a table or orders should be included are specifically desired. Comments, are also solicited on the format of proposed section 5.20–153.

The present regulation allows an individual whose document or license has been revoked, to apply for a new document or license after three years. The time when this three year period commences is not defined. Proposed section 5.40–1 specifies that this three year period commences after compliance with the order or voluntary surrender of the document or license.

Discussion of Legislative Changes

Section 5.05–20 is revised. The use of "inattention to duty" is an inappropriate charge. The use of this stemmed from the provisions of 46 U.S.C. 214 and 46

U.S.C. 226. In 1978, Pub. L. 95-474, 92 Stat. 1479 repealed the then-existing provisions of 46 U.S.C. 214 and substituted other provisions. There is no longer any reference to suspension or revocation of licenses in 46 U.S.C. 214. Although the "inattention to duty" remains a proper cause for administrative action under provisions of 46 U.S.C. 226, its use is deemed unnecessary since action may be initiated as "negligence" or "misconduct" in proceedings under this part.

Section 5.10-1(b) has been revised. This section along with several other sections in the present regulations refer to the availability of U.S. Public Health Service facilities to the mariner and to the Coast Guard. These facilities have been utilized in cases in which there has been a question whether or not the person is fit for sea duty. Since these facilities are no longer available, an alternative for obtaining medical services is necessary. This proposal sets forth provisions for the use of civilian medical personnel. The cost for these services will be borne by the Coast Guard only in those instances where a medical examination is ordered by the Administrative Law Judge. A new Subpart 5.45 is added to allow for the recovery of attorney fees and other expenses. This subpart will allow persons prevailing over the Coast Guard in suspension and revocation proceedings to make application for recovery of attorneys fees and other expenses subject, to the requirements and provisions of 5 U.S.C 504 and the regulations contained in 49 CFR Part 6. Upon receipt of an application the Administrative Law Judge and the Coast Guard investigating officer or other counsel shall proceed in accordance with 49 CFR Part 6 in settlement of the application. This subpart is necessary as the result of Pub. L. 96-481.

The following table shows the proposed reorganizations of proposed Part 5. Minor changes were necesssary to remove unnecessary material to reflect a better flow of information.

TABLE 1.—DISPOSITION OF PRESENT REGULATIONS, PART 5

5.01-1	5.01-1	Revised; deletions.
5.01-5	5.02-15	Do.
5.01-7	5.02-15	Do.
5.01-10	5.01-5	Revised.
5.01-15	5.01-10	Do.
5.01-20	5.01-10	Do
5.01-25	5.03-1	
5.01-30	5.03-3	Do.
5.01-35	5.03-5	
5.01-40	5.05-1	Do.
5.01-45	5.05-1	Do.
5.02-1	5.02-1	Do.
5.02-5	5.02-5	Do.
5.02-10	.....	Unnecessary.
5.02-20	5.02-10	Revised.
5.02-25	.....	Unnecessary.
5.03-1	5.03-20	Revised.
5.03-3	.....	Unnecessary.
5.03-4	5.03-7	Revised.
5.03-5	5.03-10	Do.
5.03-7	.....	Do.
5.03-10	5.03-7(a)(2)	Do.
5.03-15	5.02-20	Do.
5.03-20	.....	Unnecessary.
5.03-25	5.03-30	Do.
5.05-1	5.05-1	Revised.
5.05-5	5.05-5	Revised; editorial.
5.05-10	.....	Unnecessary.
5.05-15	5.05-10	Revised.
5.05-17	5.02-25/5.02-30	Do.
5.05-20	5.02-35/5.02-40/5.02-45	Do.
	5.02-50/5.02-55	Do.
5.05-23	5.03-4	Do.
5.05-25	5.05-15	Do.
5.05-30	5.03-40	Do.
5.10-1	5.10-1	Do.
5.10-10	5.10-5	Do.
5.13-1	5.40-1	Do.
5.13-5	5.40-5	Do.
5.13-10	5.40-10	Do.
5.15-1	5.15-1	Do.
5.15-5	5.15-1	Revised; deletions.
5.15-10	5.15-1	Revised.
5.15-15	5.15-5	Revised; deletions.
5.15-20	.....	Unnecessary.
5.15-25	5.15-10	Revised; editorial.
5.15-30	5.15-15	Do.
5.17-1	5.17-1	Revised; deletions.
5.20-1	5.20-1	Revised.
5.20-5	5.20-5	Do.
5.20-10	5.20-20	Do.
5.20-15	5.20-10	Do.
5.20-25	5.20-30	Revised; editorial.
5.20-27	5.20-135	Revised.
5.20-30	.....	Unnecessary.
5.20-35	5.20-15	Revised.
5.20-37	5.20-25	Revised; editorial.
5.20-40	5.20-45	Revised.
5.20-45	5.20-40	Revised; editorial.
5.20-60	5.20-35	Do.
5.20-63	5.20-55	Do.
5.20-65	5.20-60	Do.
5.20-75	5.20-65	Revised.
5.20-77	5.20-90	Do.
5.20-80	5.20-70	Do.
5.20-85	5.20-75	Do.
5.20-87	5.20-80	Revised; editorial.
5.20-90	5.20-80	Do.
5.20-93	5.20-80	Do.
5.20-95	5.20-85/5.03-15	Revised.
5.20-100	.....	Unnecessary
5.20-102	5.20-95	Revised.
5.20-105	.....	Unnecessary.
5.20-106	5.20-100	Revised.
5.20-107	5.20-105	Do.
5.20-110	5.20-110	Revised; editorial
5.20-115	.....	Unnecessary.
5.20-117	.....	Do.
5.20-118	5.20-115	Revised.
5.20-120	5.20-120	Do.
5.20-125	.....	Unnecessary.
5.20-130	5.20-115	Revised.
5.20-135	.....	Unnecessary.
5.20-140	5.20-130	Revised.
5.20-145	5.20-137	Do.
5.20-150	5.20-140	Revised; editorial.
5.20-155	5.20-145	Revised.

TABLE 1.—DISPOSITION OF PRESENT REGULATIONS, PART 5—Continued

5.20-160	5.20-147	Do.
5.20-165	5.20-153	Do.
5.20-170	5.20-150	Do.
5.20-175	5.20-155/5.20-160	Do.
5.20-180	5.20-165	Do.
5.20-185	5.20-170	Revised; editorial.
5.20-190	5.20-175	Revised.
5.25-1	5.25-1/5.25.5	Do.
5.25-5	5.25-5	Do.
5.25-10	5.25-10	Do.
5.25-15	5.25-15	Do.
5.30-1	5.30-1/5.30-5/5.20-3	Do.
5.30-3	5.30-5	Do.
5.30-5	5.30-1	Do.
5.30-10	5.30-10	Do.
5.30-15	5.30-15	Do.
5.30-20	5.30-20	Revised; editorial.
5.30-25	5.30-25	Do.
5.30-30	5.30-30	Revised.
5.30-35	5.30-35	Do.
5.35-1	5.35-1	Do.
5.35-5	5.35-5	Do.
5.35-10	.....	Unnecessary.
5.35-15	5.35-10	Do.
5.35-20	5.35-15/5.03-20	Do.
5.50-1	.....	Do.

Evaluation and Initial Regulatory Flexibility Analysis

These regulations have been evaluated under the Department of Transportation Order 2100.5, "Policies and Procedures for Simplification, Analysis and Review of Regulations", dated May 22, 1980, and Executive Order 12291 and have been determined to be neither significant nor major. These regulations have been evaluated under the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1168) and are certified to have no significant economic impact on a substantial number of small entities. Compared to the total number of individuals holding Coast Guard licenses, certificates or documents, the number of individuals who face proceedings under these regulations each year is insignificant. Further the proposed rule provides those individuals who face such proceedings with the option of an additional answer, more uniform evidentiary rules, the easier regulations to read and understand than the existing regulations. It is noted that there is no longer free Public Health Service care provided to American merchant seamen. Since the legislative action, Pub. L. 97-35 repealed the eligibility for free Public Health care, this proposal which simply reflects the legislative mandate will not add any additional cost.

Environmental Impact Statement

This regulatory action does not significantly impact the environment. Therefore, an environmental impact statement is not required.

Statutory Citations

August 1983 the President signed Pub. L. 98-89 which codified Title 46, United States Code, Shipping. This law revised and consolidated certain general and permanent laws of the United States relating to vessels and seamen. The codification will have no substantive impact on this proposal.

The Coast Guard recognizes that there will be a period of time before this codification will be available to the public. Therefore, this proposed rule uses citations to the former statutes in order to enable the public to provide meaningful comments to this proposal.

The Final Rule will contain the corrected citations.

List of Subjects in 46 CFR Part 5

Administrative practices and procedures, Investigations, Administration law judge, Investigating officer, Seaman, License, Certificate, Document, Administrative hearings, Suspension, Revocation.

In consideration of the foregoing, the Coast Guard proposes to revise Part 5 of Title 46, Code of Federal Regulations, to read as follows:

PART 5—MARINE INVESTIGATION REGULATIONS-PERSONNEL ACTION

Subpart 5.01—Authority and Purpose

Sec.
5.01-1 Authority for regulations.
5.01-5 Purpose of regulations.
5.01-10 Purpose of administrative actions.

Subpart 5.02—Definitions

5.02-1 Commandant.
5.02-5 Coast Guard District.
5.02-10 Investigating Officer.
5.02-12 Operating administration counsel.
5.02-15 Administrative Law Judge.
5.02-20 Court of record.
5.02-25 Charge.
5.02-30 Specification.
5.02-35 Misconduct.
5.02-40 Negligence.
5.02-45 Incompetence.
5.02-50 Violation of law or regulation.
5.02-55 Conviction for a narcotic drug law violation, use of, or addiction to the use of narcotics.

Subpart 5.03—Statement of Policy and Interpretation

5.03-1 Construction of regulations.
5.03-3 Initiating suspension and revocation proceedings.
5.03-4 Time limitations for service of charges and specifications.
5.03-5 Acting under authority of license, certificate or document.
5.03-7 Offenses for which revocation of licenses, certificates or documents is mandatory.
5.03-10 Acts or offenses for which revocation of licenses certificates or documents is sought.
5.03-15 Standard of proof.
5.03-20 Commandant's decisions in appeal or review cases.
5.03-30 Physician—patient privilege.
5.03-40 Evidence of criminal liability.

Subpart 5.05—Investigations

5.05-1 Conduct of investigations.
5.05-5 Powers of investigating officer.
5.05-10 Courses of action available.
5.05-15 Preparation and service of charges and specifications.

Subpart 5.10—Deposit or Surrender of License, Certificate or Document

5.10-1 Voluntary deposit in event of mental or physical incompetence.
5.10-5 Voluntary surrender to avoid hearing.

Subpart 5.15—Subpoenas

5.15-1 Issuance of subpoena.
5.15-5 Service of subpoena.
5.15-10 Quashing a subpoena.
5.15-15 Enforcement.

Subpart 5.17—Witness Fees

5.17-1 Payment of witness fees and allowances.

Subpart 5.20—Hearings

5.20-1 General.
5.20-3 Record of the hearing.
5.20-5 Public access to hearings.
5.20-10 Disqualification of administrative law judge.
5.20-15 Opening the hearing.
5.20-20 Continuance of a hearing.
5.20-25 Appearances.
5.20-30 Failure of respondent to appear at hearing.
5.20-35 Witness excluded from hearing room.
5.20-40 Rights of respondent.
5.20-45 Verification of license, certificate or document.
5.20-55 Preliminary motions or objections.
5.20-60 Correction or amendment of charges and/or specifications.
5.20-65 Answer.
5.20-70 Opening statement of investigating officer.

Sec.
5.20-75 Opening statement by or on behalf of the respondent.
5.20-77 Presentation of case where there is an admission or no contest answer.
5.20-80 Witnesses.
5.20-85 Evidence.
5.20-90 Burden of proof.
5.20-95 Official notice by Commandant and administrative law judge.
5.20-100 Certification of extracts from shipping articles, logbooks, etc.
5.20-105 Weight of entries from logbooks.
5.20-110 Use of judgment of conviction.
5.20-115 Admissibility of respondent's Coast Guard records prior to entry of findings and conclusions.
5.20-120 Admissions by respondent.
5.20-130 Testimony by deposition.
5.20-132 Treatises.
5.20-135 Respondent may be required to submit to medical examination.
5.20-137 Argument.
5.20-140 Submission of proposed findings and conclusions.
5.20-145 Administrative law judge's findings and conclusions.
5.20-147 Submission of prior record and evidence in aggravation or mitigation.
5.20-150 Order.
5.20-153 Selection of an appropriate order.
5.20-155 Effective date of order.
5.20-160 Delivery of decision.
5.20-165 Notification of right to appeal.
5.20-170 Completion of hearing.
5.20-175 Modification of administrative law judge's decision and order.

Subpart 5.25—Reopening of Hearings

5.25-1 Petition to reopen hearing.
5.25-5 Procedures for submitting petition.
5.25-10 Action on petition.
5.25-15 Appeal from Action on petition.

Subpart 5.30—Appeals

5.30-1 Appeals in general.
5.30-5 Procedures for appeal.
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Subpart 5.40—Issuance of New Licenses, Certificates or Documents after Revocation or Surrender

5.40-1 Time limitations.
5.40-5 Application procedures.
Sec.
5.40-10 Commandant's decision on application.

Subpart 5.45—Recovery of Attorney Fees and other Expenses

Sec.
5.45-1 Application procedures.

Authority: Sec. 633, 63 Stat. 545, as amended, and sec. 6(b), 80 Stat. 938; 46 U.S.C. 239 (R.S. 4450), 239a, 239b, 375, 416, 14 U.S.C. 633, 49 U.S.C. 1655(b); 49 CFR 1.46(b) (35 FR 4959). Interpret or apply secs. 1, 2, 49 Stat. 1544, 1545, as amended, secs. 7, 17, 54 Stat. 165, as amended, 166, as amended, secs. 1, 2, 68 Stat. 484, as amended, sec. 3, 68 Stat. 675 sec. 3, 70 Stat. 152, sec. 4, 74 Stat. 260, as amended, secs. 551–559, 80 Stat. 38–388, as amended; 46 U.S.C. 216b, 367, 390b, 404, 526f, 526p; 5 U.S.C. 551–559; 21 U.S.C. 801; 28 U.S.C. 1821; 50 U.S.C. 198; Pub. L. 96–481, unless otherwise noted.

Subpart 5.01—Authority and purpose.

§ 5.01-1 Authority for regulations.

(a) The basic authority to prescribe regulations governing administrative actions against a person's license, certificate or document is set forth in R.S. 4450, as amended (Title 46 U.S. Code section 239). The Administrative Procedure Act, Title 5 U.S. Code section 551, et seq., requires hearings held in conjunction with these administrative actions to be presided over by an administrative law judge.

(b) Title 46, U.S. Code, section 239b (Pub. L. 500, 83d Cong., approved 15 July 1954, 68 Stat. 484) requires revocation action against a document of any person who has been a user of or addicted to the use of a narcotic drug or who has been convicted in a court of record of violation of the narcotic drug laws in the United States, District of Columbia, or any state or territory of the United States.

§ 5.01-5 Purpose of regulations.

The regulations in this part establish policies and procedures for administrative actions against licenses, certificates or documents issued by the Coast Guard.

§ 5.01-10 Purpose of administrative actions.

The administrative actions against a license, certificate or document are remedial and not penal in nature. These actions are intended to maintain standards of competence and conduct essential to the promotion of safety of life and property by insuring that licensed or documented persons continue to be qualified to carry out their duties properly.

Subpart 5.02—Definitions.

§ 5.02-1 Commandant.

For the purpose of this part, "Commandant" means the Commandant of the Coast Guard. In Subparts 5.25, 5.30, and 5.35 of this part, the term Commandant means Vice-Commandant of the Coast Guard in any proceeding involving final agency action on a petition to reopen a hearing or an appeal from a decision of an administrative law judge not involving an order of revocation.

§ 5.02-5 Coast Guard District.

A "Coast Guard District" is a geographical area as described in 33 CFR Part 3 which is under the command of a Coast Guard officer designated by the Commandant as the Coast Guard District Commander.

§ 5.02-10 Investigating Officer.

An "Investigating officer" is a Coast Guard official designated by the Commandant, District Commander, or the Officer In Charge, Marine Inspection, for the purpose of conducting investigations of marine casualties and accidents or matters pertaining to the conduct of persons issued a license, certificate or document by the Coast Guard. An Officer in Charge, Marine Inspection is an investigating officer without further designation.

§ 5.02-12 Operating administration counsel.

For purposes of these regulations and regulations contained within 49 CFR Part 6, the "operating administration counsel" shall be the investigating officer who appeared at the hearing or another person designated by the Officer in Charge, Marine Inspection, in whose zone the hearing was held.

§ 5.02-15 Administrative Law Judge.

(a) An administrative law judge shall mean any person designated by the Commandant pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.) for the purpose of conducting hearings arising under 46 U.S.C. 239 or 239b.

(b) The Commandant has delegated to administrative law judges the authority to admonish, suspend or revoke a license, certificate or document issued to a person by the Coast Guard under any navigation or vessel inspection law.

§ 5.02-20 Court of record.

For purposes of 46 U.S.C. 239b, and this part, a "court of record" means a court:

(a) which has a clerk, a seal, keeps a record of its proceedings, and has the power to fine and imprison; and

(b) where its proceedings are, by law or usage in the State, District of Columbia, or Territory where rendered, recognized as conclusive evidence in other courts of that jurisdiction.

§ 5.02-25 Charge.

(a) A "charge" is the designation in general terms of an act or offense within the purview of 46 U.S.C. 239 or 239b. A charge must be supported by one or more "specifications".

(b) A charge must be stated as one of the following:

(1) Misconduct;

(2) Negligence;

(3) Incompetence;

(4) Violation of law or regulation;

(5) Conviction for a narcotic drug law violation, use of, or addiction to the use of narcotics.

§ 5.02-30 Specification.

A "specification" sets forth the facts which form the basis of a "charge" and enables the respondent to identify the act or offense so that a defense can be prepared. Each specification shall state:

(a) basis for jurisdiction;

(b) date and place of act, or offense; and

(c) the facts constituting the alleged act or offense.

§ 5.02-35 Misconduct.

"Misconduct" is a human behavior which violates some formal, duly established rule. Such rules are found in statute, regulations, the common law, the general maritime law, a ship's regulation or order, or shipping articles and similar sources. It is an act which is forbidden or a failure to do that which is required.

§ 5.02-40 Negligence.

"Negligence" is the commission of an act which a reasonable and prudent person of the same station, under the same circumstances, would not commit, or the failure to perform an act which a reasonable and prudent person of the same station under the same circumstances, would not fail to perform.

§ 5.02-45 Incompetence.

"Incompetence" is the inability on the part of a person to perform required duties, whether due to professional deficiencies, physical disability, mental incapacity, or any combination thereof.

§ 5.02-50 Violation of law or regulation.

Where the proceeding is based exclusively on that part of Title 46, U.S. Code, section 239, which refers to a willful violation of any of the provisions of title 52 of the Revised Statutes or of any of the regulations issued thereunder, the "charge" shall be "violation of statute" or "violation of regulation." The "specification" shall state the specific statute or regulation by title and section number, and the particular manner in which it was allegedly violated.

§ 5.02-55 Conviction for a narcotic drug law violation, use of, or addiction to the use of narcotics.

Where the proceeding is based exclusively on the provisions of Title 46, U.S. Code, section 239b, the "charge" will be "conviction for a narcotic drug law violation" or "use of narcotics" or "addiction to the use of narcotics," depending upon the circumstances. The "specification" will allege jurisdiction by stating the elements as required by Title 46, U.S. Code, section 239b, and the approximate time and place of the offense.

Subpart 5.03—Statement of Policy and Interpretation

§ 5.03-1 Construction of regulations.

The regulations in this part shall be construed so as to obtain a just, speedy, and economical determination of the issues presented.

§ 5.03-3 Initiating suspension and revocation proceedings.

Suspension and revocation proceedings are initiated upon service of charges by an investigating officer.

§ 5.03-4 Time limitations for service of charges and specifications.

(a) The time limitations for service of various charges and specifications upon the holder of a license, certificate or document are as follows:

(1) Where based exclusively on 46 U.S.C. 239b, service shall be within 10 years after the date of conviction in a court of record, or at any time if a user of or addicted to the use of a narcotic drug after July 15, 1954.

(2) For one of the offenses specified in § 5.03-7(a)(1) and § 5.03-10 of this part, service shall be within five years after commission of the offense alleged therein.

(3) For an act or offense not otherwise provided for, the service shall be within three years after the commission of the act or offense alleged therein.

(b) When computing the period of time specified in this section there shall be excluded any period, or periods of time when the person could not attend a hearing or be served charges by reason of being in a foreign country or by reason of being in prison or asylum.

§ 5.03-5 Acting under authority of license, certificate or document.

(a) A person employed in the service of a vessel is considered to be acting under the authority of a license, certificate or document when the holding of such license, certificate or document is:

(1) required by law or regulation; or

(2) required by an employer as a condition for employment.

(b) A person is considered to be acting under the authority of the license, certificate or document while engaged in official matters regarding the license, certificate or document. This includes, but is not limited to, such acts as applying for renewal of a license, taking examinations for upgrading or endorsements, requesting duplicate or replacement licenses, certificates or documents, or when a respondent at a hearing under this part.

(c) A person does not cease to act under the authority of a license, certificate or document while on authorized or unauthorized shore leave from the vessel.

§ 5.03-7 Offenses for which revocation of licenses, certificates or documents is mandatory.

An administrative law judge shall enter an order revoking a person's license, certificate or document when:

(a) A charge of misconduct for wrongful possession, use, sale, or association with narcotic drugs, including marijuana, or dangerous drugs is found proved. In those cases involving marijuana, the administrative law judge may enter an order less than revocation when satisfied that the use, possession or association, was the result of experimentation by the respondent and that the person has submitted satisfactory evidence that such use will not recur.

(b) The person charged pursuant to 46 U.S.C. 239b has been a user of, or addicted to the use of, a narcotic drug, or has been convicted in a court of record for a violation of the narcotic drug laws, whether or not further court action is pending, and such charge is found proved. A conviction in a court of record becomes final when no issue of law or fact determinative of the person's guilt remains to be decided.

§ 5.03-10 Acts or offenses for which revocation of licenses, certificates, or documents is sought.

An investigating officer shall initiate proceedings seeking the revocation of licenses, certificates or documents held by persons accused of committing acts or offenses of such nature that permitting such persons to serve under

their licenses, certificates or documents would be clearly a threat to the safety of life or property. These acts and offenses include, but are not limited to:

(a) Assault with a dangerous weapon.
(b) Misconduct resulting in loss of life or serious injury.
(c) Molestation of passengers.
(d) Murder or attempted murder.
(e) Mutiny.
(f) Perversion.
(g) Sabotage.
(h) Smuggling of aliens.
(i) Incompetence.
(j) Interference with master, ship's officers, or government officials in performance of official duties.
(k) Wrongful destruction of ship's property.

§ 5.03-15 Standard of proof.

In proceedings conducted pursuant to this part, findings must be supported by substantial evidence of a reliable and probative character. By this is meant evidence of such probative value as a reasonable, prudent and responsible person is accustomed to rely upon when making decisions in important matters.

§ 5.03-20 Commandant's decisions in appeal or review cases.

The decisions of the Commandant in cases of appeal or review of administrative law judges' decisions shall be officially noticed and the principles and policies enunciated therein shall be binding upon all administrative law judges; unless they are modified or rejected by competent authority.

§ 5.03-30 Physician-patient privilege.

For the purpose of these proceedings, the physician-patient privilege does not exist between a physician and a respondent.

§ 5.03-40 Evidence of criminal liability.

(a) Evidence of criminal liability discovered during an investigation conducted pursuant to this part will be referred to the Attorney General's local representative.

(b) Suspension and revocation proceedings against the holder of a license, certificate or document may be instituted prior to the initiation of criminal action in a Federal or State court or may be deferred pending the outcome of such criminal action.

Subpart 5.05-Investigations

§ 5.05-1 Conduct of investigations.

(a) Investigations may be initiated in any case in which it appears that there are grounds to believe that the holder of a license, certificate or document issued by the Coast Guard may have:

(1) committed an act of incompetency, misconduct, or negligence while acting under the authority of a license, certificate or document;

(2) willfully violated any of the provisions of title 52 of the Revised Statutes or any of the regulations issued thereunder without regard to whether the respondent was in the service of a vessel at the time of the alleged offense; or

(3) been convicted in a court of record of a narcotic drug law violation, or has been a user of, or addicted to the use of, a narcotic drug, so as to be subject to the provisions of 46 U.S.C. 239b.

(b) Such investigation may be conducted whether or not any of the above acts have been committed in connection with a marine casualty or accident.

(c) In order to promote full disclosure and facilitate determinations as to the cause of marine accidents or casualties, no admission made by a person during any investigation may be used against that person in a proceeding under this part, except for impeachment.

§ 5.05-5 Powers of investigating officer.

During an investigation, the investigating officer shall have the power to administer oaths, subpoena witnesses, and require persons having knowledge of the subject matter of the investigation to answer questions. A subpoena duces tecum may be issued to require the production of relevant books, papers, documents, licenses, certificates, articles or other records.

§ 5.05-10 Courses of action available.

During an investigation, the investigating officer shall take appropriate action as follows:

(a) prefer charges.
(b) accept voluntary surrender of license, certificate or document.
(c) accept voluntary deposit of license, certificate or document.
(d) refer cases to others for further action. The investigating officer may refer the case to the Commandant or to an Officer in Charge, Marine Inspection, at any port for completion of administrative action if an adequate basis for action is found and the person under investigation and/or witnesses are not locally available.
(e) give a written warning. The investigating officer may give a warning to any person holding a license, certificate or document. Refusal to accept the written warning at the time given will normally result in a withdrawal of the warning and the preferral of charges. An unrejected warning will become a part of the person's record.
(f) close the case.

§ 5.05-15 Preparation and service of charges and specifications.

(a) When preferring charges, the investigating officer shall prepare charges and specifications, together with a notice of the time and place of the hearing.

(b) The original of the charges and specifications and the notice of the time and place of hearing shall be served upon the respondent, either by personal service or certified mail, return receipt requested; restricted delivery (receipt to be signed by the addressee only).

(c) Service shall be made sufficiently in advance of the time set for the hearing so as to give the respondent a reasonable opportunity to prepare a defense.

(d) At the time of service, whether personal or by certified mail, the respondent will also be advised with respect to:

(1) the nature of suspension and revocation proceedings and the possible results thereof;

(2) the right to have representation by counsel at the hearing, and that counsel may be, but need not be, a lawyer; and

(3) the right to have witnesses and/or records subpoenaed.

(e) If the alleged act involves mental incompetence, the respondent shall be advised, at the time of service of charges, to procure counsel.

(f) If the alleged act involves mental or physical incompetence, the respondent shall be advised that evidence of medical examination may be submitted.

Subpart 5.10—Deposit or Surrender of License, Certificate of Document

§ 5.10-1 Voluntary deposit in event of mental or physical incompetence.

(a) A person may deposit a license, certificate or document with the Coast Guard in any case where there is evidence of mental or physical incompetence when caused by any reason other than by the use of, or addiction to, narcotic drugs.

(b) A voluntary deposit is accepted on the basis of a written agreement, the original of which will be given to the person making the deposit. This written agreement shall specify the conditions accompanying the deposit including the conditions upon which the Coast Guard will return the license, certificate of document to the person.

(c) Where the mental or physical incompetence of a holder of a license, certificate or document is caused by use of, or addicton to, narcotic drugs, such person may only surrender such license,

certificate or document in accordance with §5.10–5.

§ 5.10–5 Voluntary surrender to avoid hearing.

(a) Any person may surrender a license, certificate or document to the Coast Guard in preference to appearing at a hearing.

(b) A person voluntarily surrendering a license, certificate or document shall sign a written statement containing the stipulations that:

(1) The surrender is made voluntarily in preference to appearing at a hearing;

(2) All title to the license, certificate or document surrendered is permanently relinquished; and,

(3) Any rights with respect to a hearing are waived.

Subpart 5.15—Subpoenas

§ 5.15–1 Issuance of subpoena.

(a) Every subpoena shall command the person to whom it is directed to attend at a specified time and place to give testimony or to produce books, papers, documents, or any other evidence, which shall be described with such particularity as necessary to identify what is desired.

(b) During an investigation and prior to the hearing, the investigating officer may issue subpoenas for the attendance of witnesses or for the production of books, papers, documents, or any other relevant evidence needed by the investigating officer or by the respondent.

(c) During the hearing, the administrative law judge may, either on the administrative law judge's own motion or the motion of the investigating officer or respondent, issue subpoenas for the atendance and the giving of testimony by witnesses or for the production of books, papers, documents, or any other relevant evidence.

§ 5.15–5 Service of subpoena.

Service of subpoenas issued on behalf of the respondent is the responsibility of the respondent. However, if the administrative law judge finds that the respondent or respondent's counsel is physically unable to effect the service, despite diligent and bona fide attempts to do so, and if the administrative law judge further finds that the existing impediment to the service of the subpoena is peculiarly within the authority of the Coast Guard to overcome, the administrative law judge will have the subpoena delivered to such person as the District Commander may designate for the purpose of effecting service.

§ 5.15–10 Quashing a subpoena.

(a) The person to whom a subpoena is directed may, prior to or during the hearing, apply in writing to the administrative law judge conducting the hearing requesting that the subpoena be quashed or modified.

(b) The administrative law judge shall notify the party for whom the subpoena was issued upon receipt of any application requesting quashing or modification. The administrative law judge shall rule on the matter promptly and may quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue, or the request may be denied.

§5.15–15 Enforcement.

Upon application and for good cause shown, or upon its own initiative, the Coast Guard will seek judicial enforcement of subpoenas issued by investigating officers or administrative law judges. This may be done by making application to the United States District Court to issue an order compelling the attendance of, and/or giving of testimony by, witnesses, or for the production of books, papers, documents, or any other relevant evidence.

Subpart 5.17—Witness Fees

§5.17–1 Payment of witness fees and allowances.

(a) Duly subpoenaed witnesses, other than Federal government employees, may apply for payment for their attendance as witnesses at an investigation or hearing conducted pursuant to this part by submitting a request for payment (Standard Form 1157) accompanied by any necessary receipts.

(b) Fees and allowances will be paid as provided by 28 U.S.C. 1821, except that a person called to testify as an expert witness may be paid a higher fee.

Subpart 5.20—Hearings

§5.20–1 General.

(a) A hearing in a suspension and revocation proceeding conducted under 46 U.S.C. 239 or 239b, is the adjudication of the case. It is presided over and is conducted under the exclusive control of an administrative law judge in accordance with applicable requirements in 5 U.S.C. 551, et seq. (Administrative Procedure Act), and the regulations in this part. The administrative law judge shall regulate and conduct the hearing in such a manner so as to bring out all the relevant and material facts, and to insure a fair and impartial hearing.

(b) The administrative law judge shall be governed by 5 U.S.C. 557(d)(1) of the Administrative Procedure Act regarding ex parte communications relative to these proceedings.

(c) With the consent of the investigating officer and respondent, the administrative law judge may hold a prehearing conference for the settlement or simplification of the issues involved in the case. A prehearing conference may be requested by the investigating officer, respondent, or the administrative law judge and is subject to the following provisions:

(1) The administrative law judge sets the time and place for the conference, or conference telephone call. The conference shall not be convened unless both the investigating officer and the respondent or their authorized representatives are present, or waive their right to attend.

(2) Admissions or statements made at a conference are not admissible in evidence at a hearing for any reason.

(3) The administrative law judge, in his opening statement at the hearing, enters in the hearing record the time, place, and persons present at any pre-hearing conference held.

(4) If the investigating officer and the respondent agree at the prehearing conference to stipulate facts or amend the charge sheet, either may introduce the stipulation at the hearing which upon the consent of the other will become a part of the hearing record.

(d) The procedures below are usually followed in every hearing:

(1) Administrative law judge's opening statement.

(2) Appearances of persons at the hearing.

(3) Verification of currently valid license, certificate and/or document held by respondent.

(4) Advisement by the administrative law judge of the respondent's rights.

(5) Exclusion of witnesses from the hearing room.

(6) Preliminary motions, objections and/or corrections to the charges and specifications.

(7) Answer of respondent.

(8) Opening statement of investigating officer.

(9) Opening statement by or on behalf of the respondent or statements in mitigation if the respondent has admitted to the charge and specification or has answered, "no contest".

(10) Submission of evidence.

(11) Argument by the investigating officer and argument by or on behalf of the respondent.

(12) The investigating officer and respondent are given the opportunity to

submit proposed findings and conclusions.

(13) The administrative law judge renders findings and conclusions.

(14) Submission of prior record of the respondent and evidence in aggravation or mitigation.

(15) The administrative law judge renders an order.

(16) The administrative law judge serves complete decision.

(17) The administrative law judge advises the respondent of the right to appeal.

(18) The administrative law judge declares that the hearing is closed.

§ 5.20–3 Record of the hearing.

(a) The administrative law judge shall designate an official reporter for the hearing. It shall be the duty of the reporter to prepare the record of the hearing including the transcript when so directed by the administrative law judge.

(b) The testimony and exhibits presented, together with all papers, requests, and rulings filed in the proceedings constitute the record of the hearing.

§ 5.20–5 Public access to hearings.

All hearings conducted pursuant to this part shall be open to the public, including representatives of the press, except when the administrative law judge finds that the subject matter to be, or being, brought out in the evidence concerns classified material relating to national security, or when other circumstances exist which have been held to warrant a limitation or exception to the right of a public hearing in a United States District Court.

§ 5.20–10 Disqualification of administrative law judge.

(a) In any suspension and revocation proceeding conducted under this part, an administrative law judge may withdraw voluntarily from a particular case for reasons of a possible conflict of interest. In such event the administrative law judge shall immediately notify the Commandant of the desire to withdraw and the reasons therefor.

(b) In any case the investigating officer or the respondent may, in good faith, request the administrative law judge to withdraw on the grounds of personal bias or other disqualification. The party seeking the administrative law judge's disqualification shall file with the administrative law judge a timely affidavit or statement sworn to before a Coast Guard officer or official authorized to administer oaths, setting forth in detail the facts alleged to constitute the grounds for disqualification. The investigating officer or the respondent may present testimony of witnesses or, at minimum, an offer of proof to support these grounds. The administrative law judge shall rule whether or not disqualification is warranted.

(c) If the person seeking disqualification takes exception to the administrative law judge's ruling, that person may appeal such ruling to the Commandant. When such appeal is made, the administrative law judge shall immediately forward the affidavit or sworn statement with the decision thereon to the Commandant. The administrative law judge shall then proceed with the hearing unless it can be shown that a delay in the hearing pending a determination of the appeal will not be detrimental to the matters being adjudicated. The administrative law judge shall have all matters relating to such claims of disqualification appear affirmatively in the record.

§ 5.20–15 Opening the hearing.

The administrative law judge shall open the hearing at the time and place specified in the notice, administer all necessary oaths, and cause a complete record of the proceedings to be kept. The opening of the hearing may be changed by the administrative law judge by written notice served on the investigating officer and the respondent either on the administrative law judge's own motion or upon application of the investigating officer or respondent.

§ 5.20–20 Continuance of a hearing.

The administrative law judge may, either on the administrative law judge's oun motion or the motion of the investigating officer or respondent, continue the hearing from day to day or adjourn such hearing to a later date or to a different place by announcement at the hearing or by other appropriate notice.

§ 5.20–25 Appearances.

The appearances of the investigating officer and respondent and their representatives shall be entered in the record.

§ 5.20–30 Failure of respondent to appear at hearing.

(a) In any case in which the respondent, after being duly served with the original of the notice of the time and place of the hearing and the charges and specifications, fails to appear at the time and place specified for the hearing, the hearing may be conducted "in absentia".

(b) The administrative law judge shall cause to be placed in the record the facts concerning the service of the notice of hearing and the charges and specifications.

§ 5.20–35 Witnesses excluded from hearing room.

After appearances are entered, and prior to proceeding with the hearing, all witnesses shall be excluded from the hearing room. The administrative law judge may order witnesses to be separated from each other while waiting to testify.

§ 5.20–40 Rights of respondent.

The administrative law judge on the record shall advise the respondent of the right to:

(a) be represented by professional counsel, or any other person desired;

(b) have witnesses and relevant evidence subpoenaed;

(c) examine witnesses, cross-examine witnesses, and introduce relevant evidence into the record; and

(d) testify or remain silent.

§ 5.20–45 Verification of license, certificate or document.

(a) The administrative law judge shall require the respondent to produce and present at the opening of the hearing and on each day the hearing is in session thereafter, all valid licenses, certificates, and/or documents issued by the Coast Guard to the respondent. In the event that the respondent alleges that such license, certificate or document has been lost, the administrative law judge shall require the respondent to execute a lost document affidavit (Form CG–4363). The administrative law judge shall warn the respondent that a willful misstatement of any material item in such affidavit is punishable as a violation of a federal criminal statute (See 18 U.S.C. 1001).

(b) When a hearing is continued or delayed, the administrative law judge shall return the license, certificate, or document to the respondent: Provided, that such action shall not be taken if a prima facie case has been established that the respondent committed an act or offense which shows that the respondent's presence on a vessel would constitute a definite danger to the safety of life or property.

§ 5.20–55 Preliminary motions or objections.

Any preliminary motion or objection shall be heard and disposed of on the record by the administrative law judge.

§ 5.20–60 Correction or amendment of charges and/or specifications.

(a) The administrative law judge shall examine the charges and specifications

to determine their correctness as to form and legal sufficiency.

(b) The administrative law judge may, either on the administrative law judge's own motion or motion by either the investigating officer or respondent, amend the charges and specifications to correct harmless errors by deletion or substitution of words or figures: Provided, that a legal charge and specification is left remaining.

(c) When errors of substance are found in charges and specifications, the administrative law judge shall allow that the defective charge or specification be withdrawn without prejudice to the service of a new charge and specification in the matter. The investigating officer may then prepare and serve a new charge and specification.

§ 5.20-65 Answer.

(a) The administrative law judge shall read each charge and specification to the respondent and shall obtain a specific answer to each charge and specification. If the respondent fails to enter an answer, the administrative law judge shall enter a denial and proceed with the hearing.

(b) A specific answer shall be one of the following:

(1) deny;

(2) no contest; or

(3) admit.

(c) For purposes of proceedings under this part, an admission or "no contest" answer is sufficient to support a finding of "proved" by the administrative law judge.

(d) When the hearing is conducted "in absentia", the administrative law judge shall enter a denial to all charges and specifications, and shall then proceed with the hearing.

§ 5.20-70 Opening statement of investigating officer.

(a) If a denial is entered, the investigating officer shall make a brief statement outlining the matters expected to be proved.

(b) If the respondent admits the truth of the charges and specifications or answers "no contest", the opening statement of the investigating officer shall contain a summary of the evidence upon which the charge and specification are based.

§ 5.20-75 Opening statement by or on behalf of the respondent.

The respondent or the respondent's counsel shall be afforded an opportunity to state what is intended to be established. This may be waived or deferred at the option of the respondent.

§ 5.20-77 Presentation of case where there is an admission or no contest answer.

(a) If the respondent admits to any charge and specification or answer "no contest", evidence in mitigation may be presented, and the investigating officer may present a prima facie case and evidence in aggravation even in those cases where revocation is mandatory.

(b) Should the respondent's presentation be inconsistent with an admission or answer of "no contest", the administrative law judge shall reject the answer, enter a denial and continue with the hearing.

§ 5.20-80 Witnesses.

(a) All witnesses shall be sworn, duly examined, and may be cross examined. A witness on the stand may be questioned at any time by the administrative law judge.

(b) The person who calls witness shall begin direct examination by identifying the witness.

(c) Witnesses may be called to establish matters of aggravation or matters of mitigation.

(d) Any witness may have the benefit and advice of personal counsel, but such counsel shall not otherwise participate in the hearing.

(e) Any attempt to coerce or induce a witness to testify falsely, is an offense under federal law which may be punishable by fine, or both fine and imprisonment. (See 18 U.S.C. 1505 and 46 U.S.C. 239.)

(f) Upon motion by the investigating officer or respondent, the administrative law judge may order that testimony of a witness be taken by telephone conference call. The telephone conference will be arranged so that all participants can listen to and speak to each other in the hearing of the administrative law judge. The administrative law judge shall insure that all participants in the telephone conference are properly indentified to allow a proper record to be made by the reporter. Participants shall speak clearly and avoid extraneous conversation. Telephone conferences shall be governed by the procedural rules and decorum observed during in-person proceedings.

(g) A witness may be subpoenaed to testify by telephone conference. The subpoena in such instances shall be issued under the procedures in Subpart 5.15.

§ 5.20-85 Evidence.

(a) In these proceedings, strict adherence to the rules of evidence is not required. However, the Federal Rules of Evidence, as amended, shall be the primary guide for evidentiary matters, where applicable.

(b) Rules 410, 606, 706, and 1101 of the Federal Rules of Evidence shall not be applicable to these proceedings.

§ 5.20-90 Burden of Proof.

The investigating officer has the burden of proof.

§ 5.20-95 Official notice by Commandant and administrative law judge.

(a) In addition to other rules providing for judicial notice, the Commandant and the administrative law judges shall consider the following without requiring the investigating officer or the respondent to submit them in evidence.

(1) *Federal Law.* The Constitution; Congressional Acts, Resolutions, Records, Journals and Committee Reports; Decisions of Federal Courts; Executive Orders and Proclamations; and rules, regulations, orders and notices published by the Department of Transportation or United States Coast and Guard in the **Federal Register.**

(2) *State law.* The Constitution and public laws of each State.

(3) *Governmental organizations.* The organization, territorial limitations, officers, departments, and general administration of the Government of the United States, its States, territories, possessions and the Commonwealth of Puerto Rico.

(4) Commandant's decisions. The Commandant's decisions in all appeal and review cases under this part. (See § 5.03-20.)

(b) Matters officially noticed by the Commandant or administrative law judge shall be specified on the record. The investigating officer and the respondent shall be afforded an opportunity, on the record, to rebut such matters.

§ 5.20-100 Certification of extracts from shipping articles, logbooks, etc.

(a) In addition to other rules providing for authentication and certification, extracts from records in the custody of the Coast Guard shipping articles, and logbooks, may be identified and authenticated by certification of an investigating officer or custodian of such records, or by any commissioned officer of the Coast Guard.

(b) Certification shall include a statement that the certifying individual has seen the original and compared the copy with it and found it to be true copy. The individual so certifying shall sign name, rank or title, and duty station.

§ 5.20–105 Weight of entries from logbooks.

(a) An entry in an official logbook of a vessel concerning an offense enumerated in 46 U.S.C. 701 made in substantial compliance with the procedural requirements of 46 U.S.C. 702 in addition to being admissible in evidence shall constitute prima facie evidence of the facts recited.

(b) An entry in any logbook kept on a vessel may be admitted into evidence as an exception to the hearsay rule, as a record of a regularly conducted activity under the Federal Rules of Evidence.

(c) An entry in any logbook made in compliance with the procedural requirements of 46 U.S.C. 702 may be given added weight by the administrative law judge.

§ 5.20–110 Use of Judgment of conviction.

(a) The judgment of conviction by a Federal court is conclusive in proceedings under 46 U.S.C. 239, where acts or offenses forming the basis of the charges in a Federal court are the same. The respondent may not challenge the jurisdiction of a Federal or State court in proceedings under 46 U.S.C. 239 and 239b.

(b) Where the acts involved in a judgment of conviction of a State court are the same as those involved in proceedings under 46 U.S.C. 239, the judgment of conviction is not conclusive of the issues decided. However, such judgment of conviction is admissible in evidence and constitutes substantial evidence adverse to the respondent.

(c) The judgment of conviction for a narcotic drug law violation by a Federal or State court of record is conclusive in proceedings under 46 U.S.C. 239b.

§ 5.20–15 Admissibility of respondent's Coast Guard records prior to entry of findings and conclusions.

(a) The prior disciplinary record of the respondent is admissible when offered by the respondent.

(b) The prior disciplinary record of the respondent is admissible when offered by the investigating officer for the limited purposes of impeaching the credibility of evidence offered by the respondent regarding a disciplinary record.

§ 5.20–120 Admissions by respondent.

No person shall be permitted to testify with respect to admissions made by the respondent during or in the course of a Coast Guard investigation except for the purpose of impeachment.

§ 5.20–130 Testimony by deposition.

(a) Testimony may be taken by deposition upon application, and for good cause shown, by the investigating officer or respondent or upon the initiative of the administrative law judge. The application shall be in writing setting forth the reasons why it should be taken, the name and address of the witness, a detailed summary of expected testimony, the time and date of the deposition and whether it shall be by oral examination, written interrogatories, or a combination thereof. Such deposition may be taken before any person authorized to administer oaths.

(b) The administrative law judge shall issue a subpoena in accordance with Subpart 5.15 of this part and along with the list of interrogatories and cross-interrogatories, if any, which shall be forwarded to the person designated to take the deposition. This person shall have the subpoena served upon the witness.

(c) The investigating officer and respondent and/or their representatives may attend the taking of a deposition.

(d) After the deposition has been taken and transcribed it shall be presented to the witness for examination, correction and signature. The person taking the deposition shall certify to the signature of the witness. If for any reason the deposition or interrogatory is not signed by the witness, the person taking the deposition shall recite under oath thereon the reason it is not signed.

(e) Upon motion, the administrative law judge may order that the testimony at the deposition be recorded on viedotape at the cost of the movant. Such recording may be in conjunction with oral examination by telephone conference pursuant to paragraph (f) of this subpart. After the deposition has been taken, the person taking the deposition shall immediately seal the videotape in an envelope, attaching thereto a statement identifying the proceeding and the deponent and certifying as to the authenticity of the deposition. The person shall then return the videotape by accountable means to the adminsitrative law judge. Such deposition shall become a part of the record of proceedings in the same manner as a transcribed deposition. The videotape, if admitted in evidence, shall be played during the hearing and transcribed into the record by the reporter.

(f) A deposition upon oral examination may be taken by telephone conference upon motion, or upon order of the administrative law judge. The deponent shall be subpoenaed and sworn as provided in this subpart. After being duly executed, the deposition shall be returned to the administrative law judge.

(g) The administrative law judge shall rule on the admissibility of the deposition or any part thereof and on any objections.

§ 5.20–132 Treatises.

(a) Treatises, periodicials, or pamphlets are admissible in evidence as to nautical practices without the use of expert witnesses.

(b) The administrative law judge shall evaluate such materials based on the facts and circumstances of the case. The materials shall not be considered conclusive of an issue.

§ 5.20–135 Respondent may be required to submit to medical examination.

(a) In a hearing in which the physical or mental condition of the respondent is in controversy, the administrative law judge may order the respondent to submit to a medical examination.

(b) An examination ordered by an administrative law judge will be conducted at government expense by a physician designated by the administrative law judge.

(c) If the respondent fails, or refuses, to submit to an ordered examination, this failure may constitute grounds for revocation of license, certificate or document.

§ 5.20–137 Argument.

After all the evidence has been presented, the investigating officer and the respondent may present oral and written argument.

§ 5.20–140 Submission of proposed findings and conclusions.

The administrative law judge shall afford the investigating officer and the respondent reasonable opportunity to submit, either orally, or in writing, proposed findings and conclusions with supporting reasons. If either desires to submit such matter, the administrative law judge shall fix the time within which it shall be filed. Failure to comply within the time fixed by the administrative law judge shall be regarded as a waiver of the right.

§ 5.20–145 Administrative law judge's findings and conclusions.

(a) The administrative law judge shall render ultimate findings and conclusions.

(b) A separate conclusion shall be made by the administrative law judge on each charge and specification. A specification may be found "not proved", "proved in part", or "proved". A charge may be found "not proved" or "proved".

(c) The testimony and exhibits presented, together with all papers, requests, and rulings filed in the

proceedings are the exclusive basis for the issuance of the administrative law judge's findings and conclusions.

§ 5.20-147 Submission of prior record and evidence in aggravation or mitigation.

(a) Except as provided in § 5.20-115, the prior record of the respondent will not be disclosed to the administrative law judge until after conclusions have been made as to each charge and specification, and then only if at least one charge has been found proved. The prior record shall include only information concerning the respondent and is limited to:

(1) Written warnings issued by Coast Guard investigating officers and accepted by the respondent;

(2) Results of previous Coast Guard hearings wherein one or more charges were found proved, whether or not there is a stay of execution in the earlier case;

(3) Voluntary surrender agreements entered into by the respondent;

(4) Any final judgements of conviction in state or federal courts for offenses of a nature similar to one for which a charge has been found proved;

(5) Final agency action resulting in civil penalties or warnings being imposed against the respondent in proceedings administered by the Coast Guard under 33 CFR 1.07; or

(6) Any official commendatory information concerning the respondent of which the investigating officer is aware.

(b) The investigating officer may offer evidence and argument in aggravation of the charge or charges found proved.

(c) The respondent shall be allowed to comment on or offer evidence regarding prior maritime service including the prior record introduced by the investigating officer and any commendatory information.

(d) The respondent may offer evidence and argument in mitigation of the charge or charges found proved.

(e) The investigating officer may offer evidence and argument in rebuttal of the evidence and argument introduced by the respondent in mitigation.

§ 5.20-150 Order.

(a) The administrative law judge shall enter an order which recites the disposition of the case. When a charge has been found "not proved", the order shall state that the charge is "dismissed" with or without prejudice. When a charge is found "proved", the administrative law judge shall order an "admonition", "suspension" with or without probation, or "revocation".

(b) The order shall be directed against all licenses, certificates or documents, except that in cases of negligence or professional incompetence, the order shall be made applicable to specific licenses, certificates or documents. If the administrative law judge determines that the respondent is professionally incompetent in the grade of the license, certificate or document held, but is considered competent in a lower grade, the license, certificate or document may be revoked and the issuance of one of a lower grade ordered.

(c) An order shall specify that the license, certificate or document affected is:

(1) Revoked;

(2) Suspended outright for a specified period after surrender;

(3) Suspended for a specified period, but placed on probation for this period; or

(4) A combination of paragraph (c)(2) and (c)(3) of this section where the license, certificate or document is subject to a specified period of outright suspension followed by a specified period of suspension or probation.

(d) The order shall state that the license, certificate or document is to be surrendered to the Coast Guard immediately if the order is one of revocation or includes a period of outright suspension. In cases involving special circumstances, the order may provide for surrender on a certain date.

(e) The time of any period of outright suspension credited to the respondent does not commence until the license, certificate or document is surrendered to the Coast Guard. The time of any period of suspension on probation begins at the end of any period of outright suspension or the effective date of the order if there is no outright suspension.

§ 5.20-153 Selection of an appropriate order.

(a) This section addresses orders in a general manner. The selection of an appropriate order is the responsibility of the administrative law judge, subject to appeal and review. The investigating officer and the respondent may suggest an order and present argument in support of this suggestion during the presentation of aggravating or mitigating evidence.

(b) Except for the acts or offenses for which revocation is mandatory, factors which may affect the order include:

(1) Any remedial actions which have been undertaken independently by the respondent.

(2) The prior record of the respondent. The period of time between prior acts and the act or offense for which charged is a relevant consideration.

(3) Evidence of mitigation or aggravation.

(c) After an order of revocation is entered, the respondent will be given an opportunity to present relevant material on the record for subsequent consideration by the special board convened in the event an application is filed in accordance with Subpart 5.40 of this part.

(d) Table 5.20-153 is for the information and guidance of administrative law judges and is intended to promote uniformity in orders rendered. This table should not affect the fair and impartial adjudication of each case on its individual facts and merits. The orders are expressed by a range, in months of outright suspension, considered appropriate for the particular act or offense prior to considering matters in mitigation or aggravation. For instance, without considering other factors, a period of two to four months outright suspension is considered appropriate for "Failure to Obey a master's written instructions." An order within the range would not be considered excessive. Mitigating or aggravating factors may make an order greater or less than the given range appropriate. Orders for repeat offenders will ordinarily be greater than those specified.

TABLE 5.20-153—SUGGESTED RANGE OF AN APPROPRIATE ORDER

Type of offense	Range of order (in months)
Misconduct	
Failure to obey master's/ship officer's order.	1-3
Failure to comply with U.S. law or regulations.	1-3
Possession of intoxicating Liquor.	1-4
Failure to obey master's written instruction.	2-4
Improper performance of duties related to vessel safety.	2-5
Failure to join vessel (required crewmember).	2-6
Violent acts against other persons (without injury).	2-6
Failure to perform duties related to vessel safety.	3-6
Theft	3-6
Violent acts against other persons (injury).	4-Revocation
Use, possession, or sale of narcotics.	Revocation (Note: see § 5.03-7)
Negligence	
Negligently performing duties related to vessel navigation.	2-6
Negligently performing non-navigational duties related to vessel safety.	1-3
Neglect of vessel navigation duties.	3-6
Neglect of nonnavigational safety related duties.	2-4
Incompetence	The only proper order for a charge of incompetence found proved is revocation.
Narcotics (46 U.S.C. 239b)	The only proper order for a charge under 46 U.S.C. 239b found proved is revocation.

§5.20-155 Effective date of order.

The order shall become effective upon delivery of the oral or written order at the final hearing session. When the matter is taken under advisement, the order shall become effective upon the date of service of the complete written decision.

§5.20-160 Delivery of decision.

(a) Whenever possible, the administrative law judge's decision shall be delivered either orally or in writing to the respondent or to the respondent's authorized representative at the final hearing session.

(b) If a written decision is not delivered at the final hearing session, the administrative law judge shall have prepared and delivered to the respondent or the respondent's authorized representative a complete written decision within 30 days, when possible, after completion of the hearing. This delivery may be by personal service or certified mail, return receipt requested. Signed acknowledgement of personal service or the return receipt shall become a part of the hearing record.

(c) As used in this section, the phrase, "authorized representative" means any person who has been authorized by the respondent, as shown by the hearing record, to receive service and take an appeal on behalf of the respondent.

§5.20-165 Notification of right to appeal.

The respondent shall be advised by the administrative law judge of the right to appeal in accordance with Subpart 5.30 of this part.

§5.20-170 Completion of hearing.

Upon completion of the procedures in this subpart, the hearing is completed.

§5.20-175 Modification of administrative law judge's decision and order.

(a) After an administrative law judge renders the decision and order, it may be modified or changed pursuant to procedures set forth in paragraph (b) of this section, or in Subpart 5.25 of this part for reopening of hearings, or in Subpart 5.30 of this part for appeals, or in Subpart 5.35 of this part for review of administrative law judge's decisions. In the absence of any such actions, the decision of the administrative law judge is final.

(b) When the proceeding under the provisions of 46 U.S.C. 239b is based on a conviction for a narcotic drug law violation, recission of the order affecting the license, certificate or document will not be granted, unless the applicant submits a specific court order to the effect that the conviction has been unconditionally set aside for all purposes. An order of revocation will not be rescinded as the result of any law which provides for a subsequent conditional setting aside, modification or expungement of the court conviction in the nature of granting of clemency or other relief after the conviction has become final without regard to whether punishment was inflicted. If as part of a state expungement scheme the respondent pleads guilty or no contest or is required by the court to attend classes, make contributions of time or money, receive treatment or submit to any manner of probation or supervision or forego appeal of the trial court finding, the respondent will be presumed to have received a final conviction. This presumption will not be overcome by later expungement of the record unless it is proved that expungement is based on a showing that the court's earlier conviction was in error.

Subpart 5.25—Reopening of Hearings

§5.25-1 Petition to reopen hearing.

(a) A person against whom charges have been found proved may petition to reopen the hearing on the basis of newly discovered evidence. The petition shall be granted when new evidence is described which has a direct and material bearing on the issues, and when valid explanation is given for the failure to produce this evidence at the hearing.

(b) The filing of a petition shall not stay an existing order of the administrative law judge. However, if filed within 30 days after the service of the administrative law judge's decision, it will toll or defer the running of the 30-day statutory period of appeal as provided in Subpart 5.30 of this part until the administrative law judge has acted on the petition.

§5.25-5 Procedures for submitting petition.

(a) A petition to reopen the hearing may be submitted at any time prior to a final decision on appeal or within one year of the effective date of the administrative law judge's decision.

(b) If an appeal to the Commandant from the administrative law judge's decision has not been filed, the petition shall be addressed to the administrative law judge. If an appeal to the Commandant has been filed, the petition shall be forwarded to the Commandant.

(c) The petition shall be in letter form, typewritten or written legibly, and shall contain:

(1) The name of the petitioner, the number and description of license, certificate and/or document involved, nature of the charge, the decision rendered including the order, and the name of the administrative law judge who heard the case;

(2) A statement setting forth a description of the newly discovered evidence; and

(3) A statement as to whether or not this additional evidence was known to the petitioner at the time of the hearing, and reasons why the petitioner, with due diligence, could not have discovered such new evidence prior to the completion of the hearing

§5.25-10 Action on petition.

(a) The administrative law judge, or Commandant, as appropriate, shall forward a copy of the petition to the investigating officer. The investigating officer shall be afforded a reasonable time within which to submit written comments as to the merits of the petition.

(b) The administrative law judge, or the Commandant, shall render a decision either granting or denying the petition. The decision on the petition will be based on a consideration of the petition, the record of the hearing, and the investigating officer's comments, if any.

(c) If the administrative law judge grants the petition, the hearing shall be reopened to allow the offer of the new evidence described in the petition.

(d) If the Commandant grants the petition, the case shall be remanded to the administrative law judge with directions to reopen the hearing.

(e) When the petition is granted, the administrative law judge shall withdraw the original decision and render a new one based on the record of the original hearing and the new evidence received.

(f) The petition, the investigating officer's comments, the administrative law judge's or Commandant's decision on the petition, and the additional evidence will be appended to the original hearing record.

§5.25-15 Appeal from action on petition.

(a) If the petition to reopen the hearing is denied by the administrative law judge, the person against whom charges have been found proved may appeal to the Commandant within 30 days from the date of service of the denial of the petition. The review by the Commandant on this appeal will be limited to the issues raised by the petition. Other grounds on appeal must be in accordance with Subpart 5.30 of this part.

(b) If the petition to reopen the hearing is granted and a previous finding of "proved" is affirmed by the

administrative law judge, the person may appeal the decision as provided for in Subpart 5.30 of this part.

Subpart 5.30—Appeals

§5.30–1 Appeals in general.

(a) A person against whom a finding of "proved" has been rendered may appeal such decision to the Commandant.

(b) The hearing transcript, together with all papers and exhibits filed, shall constitute the record for decision on appeal. The only matters which will be considered by the Commandant on the appeal are:

(1) Objections raised at the hearing by the appellant;

(2) Clear errors on the record;

(3) Jurisdictional questions; or

(4) A previous hearing considered as aggravation later modified on appeal.

(c) In the preparation of an appeal, the investigating officer's and the administrative law judge's assistance to the appellant will extend only to the point of providing information as to the applicable regulations.

(d) If the respondent requests a copy of the transcript in the notice of appeal and the hearing was recorded by a government employee, the transcript will be provided upon payment of the fees prescribed in 49 CFR 7.55. If the services of a non-government contractor were utilized, the transcript must be obtained under the provisions of 49 CFR 7.99.

§5.30–5 Procedures for appeal.

(a) An appeal shall be taken by filing a written notice of appeal within 30 days after service of the complete written decision. This notice of appeal shall be filed with the administrative law judge who heard the case or with any Officer in Charge, Marine Inspection for forwarding to such administrative law judge.

(b) The notice of appeal shall:

(1) Be typewritten or written legibly;

(2) Be addressed to the Commandant; and

(3) Set forth the name of the appellant, the number and description of license, certificate and/or document involved, and the name of the administrative law judge who heard the case.

(c) The completed appeal must be submitted to the Commandant U.S. Coast Guard (G–MMI), 2100 2nd St. SW., Washington, D.C., 20593 within sixty days after service of the complete written decision, or if a transcript was requested, within sixty days after receipt of the transcript. After this time has elapsed, anything received will not be considered as a part of the appeal record unless an extension of time has been granted in writing by the Commandant and the extended time limit has been met.

(d) The appeal shall contain a brief or memorandum setting forth legal and other authorities relied upon and all grounds for appeal or exceptions to the administrative law judge's decision shall be described with particularity.

(e) No appeal will be accepted if in the case of a revocation or outright suspension, the respondent has not complied with the order of the Administrative Law Judge to deposit the license or document with the Coast Guard.

§ 5.30–10 Action on appeal.

(a) The Commandant may affirm, reverse, alter, or modify the decision of the administrative law judge, or may remand the case for further hearing. The Decision of the Commandant on Appeal shall be the final agency action in the absence of a remand.

(b) Failure to file a brief containing grounds and justification for relief sought on appeal of the administrative law judge's decision will result in either:

(1) Termination of the case by written notice to the appellant or appellant's counsel that the decision of the administrative law judge constitutes the final agency action on the merits of the case; or

(2) Consideration of the appeal on the merits of the case and publication of the Commandant's decision without prior notice to the appellant or appellant's counsel. This will only be done when some clear error appears in the record or when the case presents some novel policy consideration.

§ 5.30–15 Stay of effect of decision and order of administrative law judge on appeal to the Commandant; temporary documents.

(a) A person who has appealed from a decision suspending outright or revoking a license, certificate or document may file a written request for a temporary license, certificate or document. This request shall be submitted to the administrative law judge who presided over the case, or with any Officer in Charge, Marine Inspection for forwarding to such administrative law judge.

(b) Action on the request shall be taken by the administrative law judge unless the hearing transcript has been forwarded to the Commandant, in which case, the request shall be forwarded to the Commandant for final action.

(c) A determination as to the request will take into consideration whether the service of the individual is compatible with the requirements for safety of life and property and consistent with applicable laws. If one of the offenses enumerated in § 5.03–10 has been found proved, the continued service of the appellant will be presumed not compatible with safety of life and property subject to rebuttal by the appellant. If one of the offenses enumerated in § 5.03–7 has been found proved, the continued service of the appellant will be presumed inconsistent with safety of life and property and applicable law subject to rebuttal by appellant. In either case, offenses under § 5.03–7 or § 5.03–10, a temporary document or license may be denied for that reason alone.

(d) All temporary documents shall provide that they expire not more than six months after issuance or upon service of the Commandant's decision on appeal, whichever occurs first. If a temporary document expires before the Commandant's decision is redered, it may be renewed, if authorized by the Commandant.

(e) If the request for a temporary document is denied by the administrative law judge, the individual may appeal the denial, in writing, to the Commandant within 30 days after notification of such denial.

(f) Copies of the temporary documents issued shall become a part of the record on appeal.

§ 5.30–20 Appeal cases remanded for further proceedings.

(a) When the Commandant renders a decision remanding a case for further proceedings, the remand is directed to the administrative law judge. The administrative law judge shall notify the investigating officer and the respondent and set a date for continuance of the proceedings. In the absence of specific directions from the Commandant, the administrative law judge shall either reopen the former hearing or conduct a new hearing.

(b) If the hearing is reopened, the evidence in the prior hearing shall be evaluated together with the new evidence submitted.

(c) In a new hearing, the evidence in the prior hearing may be used for purposes of impeachment. Evidence in the prior hearing may be stipulated as a part of the record of the new hearing.

(d) The administrative law judge shall render either an entirely new decision or a decision incorporating by reference the original decision as appropriate.

§ 5.30–25 Commandant's Decisions of Appeal.

(a) The Commandant's Decisions on Appeals are the final actions taken by

the Coast Guard in appeals under the suspension and revocation proceedings provided by this part. These Decisions are issued seriatum and are public records.

(b) The Commandant's Decisions on Appeals are available for reading purposes at Coast Guard Headquarters, Offices of District Commanders, and Officers in Charge, Marine Inspection.

§ 5.30-30 Appeals to the National Transportation Safety Board.

(a) The rules of procedure for appeals to the National Transportation Safety Board from decisions of the Commandant, U.S. Coast Guard, sustaining orders of suspension or revocation of licenses, certificates, or documents are in 49 CFR Part 825.

(b) In all cases under this part which are appealed to the National Transportation Safety Board under 49 CFR Part 825, the Chief Counsel of the Coast Guard is designated as the representative of the Commandant for service of notices and appearances. Communications should be addressed to Commandant (G-L), U.S. Coast Guard, 2100 2nd St. SW., Washington, D.C. 20593.

(c) In cases before the National Transportation Safety Board the Chief Counsel of the Coast Guard may be represented by others designated "of counsel".

§ 5.30-35 Stay of effect of Decision of the Commandant on Appeal: Temporary document and/or license pending appeal to National Transportation Safety Board.

(a) A Decision of the Commandant on Appeal affirming an order of revocation or suspension that is not placed entirely on probation, which is appealed to the National Transportation Safety Board, may be stayed if, in the Commandant's opinion, the service of the appellant onboard a vessel at that time or for the indefinite future would be compatible with the requirements of safety of life and property and consistent with applicable laws. If one of the offenses enumerated in § 5.03-10 has been found proved, the continued service of the appellant will be presumed not compatible with safety of life and property subject to rebuttal by the appellant. If one of the offenses enumerated in § 5.03-7 has been found proved, the continued service of the appellant will be presumed inconsistent with safety of life and property and applicable law subject to rebuttal by appellant. In either case, offenses under § 5.03-7 or § 5.03-10, a temporary document or license may be denied for that reason alone.

(b) A stay of the effect of the Decision of the Commandant on Appeal is granted by the Commandant, and is transmitted by letter to the appellant.

(c) The stay of the effect of a Decision of the Commandant on Appeal is granted for the period of review by the National Transportation Safety Board.

(d) An Officer in Charge, Marine Inspection, on presentation of an original stay order shall issue a temporary document and/or license as specified in the stay order. This document shall be effective for not more than six months, renewable until such time as the National Transportation Safety Board has completed its review.

Subpart 5.35—Review of Administrative Law Judge's Decisions in Cases Where Charges Have Been Found Proved

§ 5.35-1 Commandant's review.

Any decision of an administrative law judge, in which there has been a finding of "proved", may be called up for review by the Commandant without procedural formality.

§ 5.35-5 Record for decision on review.

The transcript of hearing, together with all papers and exhibits filed, shall constitute the record for consideration and review.

§ 5.35-10 Action on review.

(a) The Commandant may adopt in whole or in part the findings, conclusions, and basis therefor stated by the administrative law judge, may make entirely new findings on the record, or may remand the case to the administrative law judge for further proceedings.

(b) In no case will the review by the Commandant be followed by any order increasing the severity of the administrative law judge's original order.

(c) The Decision of the Commandant on Review, shall be the final agency action in the absence of a remand.

§ 5.35-15 Commandant's Decisions on Review.

The Commandant's Decisions on Review are available for reading purposes at Coast Guard Headquarters, at Offices of District Commanders, and Officers in Charge, Marine Inspection.

Subpart 5.40—Issuance of New Licenses, Certificates or Documents After Revocation or Surrender

§ 5.40-1 Time limitations.

Any person whose license, certificate or document has been revoked or surrendered may, three years after compliance with the administrative law judge's decision and order or the date of voluntary surrender, apply for the issuance of a new license, certificate or document.

§ 5.40-5 Application procedures.

(a) An application form for a new license, certificate or document may be obtained from any Officer in Charge, Marine Inspection.

(b) The completed application and letter shall be addressed to the Commandant, U.S, Coast Guard, 2100 2nd St. SW., Washington, D.C. 20593, and shall be delivered in person to the nearest Officer in Charge, Marine Inspection.

(c) The letter shall be an informal request for the issuance of a new license, certificate or document and shall incude the following:

(1) A letter from each employer during the last three years attesting to the individual's work record;

(2) Information supportive of rehabilitation or cure when the license, certificate or document was revoked because of incompetency or association with narcotic drugs, including marijuana, or dangerous drugs; and

(3) Any other information which may be helpful in arriving at a determination in the matter.

(d) The Officer in Charge, Marine Inspection shall forward the letter and application, together with an evaluation and recommendation to the Commandant.

§ 5.40-10 Commandant's decision on application.

(a) The applicant's letter and application form, as well as the evaluation and recommendation will be referred to a special board appointed by the Commandant. The board will examine all the material submitted with the application and such other information as may, in the judgement of the board, be considered appropriate. The board shall submit its findings and recommendations to the Commandant.

(b) The Commandant shall determine whether or not a new license, certificate or document will be issued. The applicant will notified by letter of such determination.

Subpart 5.45—Recovery of Attorney Fees and Other Expenses

§ 5.45-1 Application procedures.

(a) Parties prevailing over the Coast Guard in suspension and revocation proceedings may make application for recovery of attorney fees and other expenses subject to the requirements

and provisions of 5 U.S.C. 504 and the regulations contained in 49 CFR Part 6.

(b) Upon receipt of such application, the administrative law judge and the operating administration counsel shall proceed in accordance with 49 CFR Part 6 in settlement of the application.

Dated: September 23, 1983.

J. S. Gracey,

Admiral, U.S. Coast Guard, Commandant.

[FR Doc. 83-26794 Filed 9-29-83; 8:45 am]

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National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 5]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The propose of this notice is to propose an amendment of the corrosion test requirements and procedures in Motor Vehicle Safety Standard No 108 applicable to semi-sealed replaceable bulb headlamps and lens/reflector components of such headlamps.

The test proposed in this notice for headlamps was originally adopted on June 2, 1983 (48 FR 24690). Petitions for reconsideration of the test were filed on the basis that inadequate notice of its adoption had been given. These petitions were granted on September 30, 1983, and the standard amended to adopt the test originally proposed on January 17, 1983 (48 FR 1992). A document granting these petitions appears in the rules section of today's issue of the **Federal Register.** This notice also proposes that motorcycles be added to the categories of vehicle allowed to be equipped with semi-sealed replaceable bulb headlamps.

DATES: *Comment closing date:* November 14, 1983. *Proposed effective date:* 30 days after publication of the Final Rule in the **Federal Register.**

ADDRESS: Comments should refer to the docket number and the notice number and be submitted to Docket Section, Room 5109, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590 (Docket hours are from 8:00 a.m. to 4:00 p.m. Monday through Friday.)

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On January 17, 1983, NHTSA implemented the grant of a petition for rulemaking submitted by Ford Motor Company, and proposed the adoption of a new type of headlamp system, a semi-sealed unit comprising a bonded lens/reflector and a standardized replaceable light source (48 FR 1992). To insure that the new lamps offered durability of photometrics equivalent to the sealed beam systems currently required, NHTSA proposed that the new lamps conform to certain requirements after being subjected to a battery of environmental tests.

One of the most important of these tests was intended to demonstrate resistance of the lamp to corrosion, as the agency was aware of the vulnerability of non-sealed composite headlamps to moisture. Accordingly, NHTSA proposed that the lamp be subjected to the ten 24-hour cycles of a salt spray test in which the salt spray would be activated for the first 23 hours and deactivated the 24th. At the conclusion of the test, the lamp would have to meet the photometric requirements of Standard No. 108 with no evidence of external or internal corrosion or rust. Loss of adhesion of any applied coating was not permitted more than .125 inch (3.2mm) from any sharp edges on the inside or outside. Corrosion could occur on terminals provided there was no loss of function.

On the basis of comments NHTSA adopted a corrosion test modified in both major and minor respects (June 2, 1983, 48 FR 24690). Corrosion was not to be visible "without magnification." Corrosion could occur on terminals "provided there is no voltage drop greater than 3 percent from that measured before the test when measured per paragraph 6.4 of SAE J580 August 1979." The major change, however, was to specify that during the hour of salt spray deactivation in each cycle the bulb was to be removed. NHTSA viewed this as a necessary change to assure adequate reflector corrosion resistance, even though it was an accelerated test. The corresponding introduction of a salt atmosphere on the inside of the lamp could create excessive salt deposits not easily removed, so NHTSA did not require that the lamp demonstrate photometric conformance. The amendment of Standard No. 108 adopting the requirements for replaceable bulb headlamps appeared on June 2, 1983 (48 FR 24690).

The agency received petitions for reconsideration on various requirements of the corrosion test from Ford, Volkswagen of America, and Westfallische Metall Industrie, manufacturer of Hella lamps. Ford objected to the introduction of the voltage drop limitation on the bulb and connector, stating that it had not been proposed in the NPRM or suggested by any commenter. It further objected that the requirement was impracticable and unreasonable and that it appeared to Ford that the agency intended to specify 3% of the lamp's design voltage. The two other petitioners objected to the specification that the bulb be removed during the final hour of the cycle, on the basis that the requirement had not been proposed and that the test was not representative of real world conditions. To remove any question about adequacy of notice, the agency on September 30, 1983, amended paragraphs S4.1.1.36(d)(4) and S6.5 to adopt the corrosion test as originally proposed in January 1983, along with the photometric test.

Actual field experience on headlamps meeting ECE requirements show that over a period of time corrosion develops on reflectors creating deterioration of light output. NHTSA is proposing the bulb removal accelerated test as a reasonable way of judging resistance of the reflector to degradation caused by oxygen and moisture which are always present in the atmosphere. It is not an impracticable test; one European headlamp manufacturer has informed NHTSA that certain of its headlamps with metal reflectors already meet the standard as adopted in June. The test would be applicable to all replaceable bulb headlamps and replacement lens-reflector assemblies, and is a modified version of the one objected to by petitioners for reconsideration. With a connector attached to the terminals, the lamp would undergo the ten consecutive 24-hour cycle salt spray test, with the bulb removed for the final hour of each cycle when the spray is deactivated. The lamp would then be rinsed with deionized water and allowed to dry. The strictures against corrosion would remain, and could occur on terminals provided that the current does not decrease more than 3% compared to pretest conditions when using the configuration of paragraph 6.4 of SAE J580, August 1979 and as further detailed in the proposed rule. The power source shall be set to provide 12.8 volts and the resistance shall be set to produce 10 amperes of current for pretest conditions.

Finally, in line with SAE J584 and paragraph S4.1.1.34 which, in essence, allow a motorcycle to be equipped with

passenger car headlighting equipment, NHTSA is proposing that a motorcycle may be equipped with one or two replaceable bulb headlamps meeting all the requirements of the standard.

The requirements adopted would become effective 30 days after publication of the final rule in the Federal Register.

NHTSA has considered this proposal and has determined that it is not major within the meaning of Executive Order 12291, "Federal Regulation," or significant under Department of Transportation regulatory policies and procedures, as its adoption would not require any person to change current practices under the standard. A regulatory evaluation was prepared for the amendment adopted on June 2, 1983, and placed in the docket. (A free copy of this document can be obtained from the Docket Section.) It is considered fuly relevant for purposes of this proposal.

NHTSA has concluded that this proposed rule will not have a significant impact on the human environment. The lamps that will be manufactured pursuant to the rule are expected to be lighter, thus slightly reducing the overall material content of the automobile. This would have a small positive effect on the environment. No adverse impact on safety is anticipated.

The agency has also considered the impacts of this rule under the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Further, these manufacturers would be affected only to the extent that they elected to take advantage of the new headlighting option that would be amended by the proposed rule. The number of different components in the inventories of headlamp distributors will increase, but not to the extent that any significant problem will be created. Finally, small organizations and governmental jurisdictions would be affected only to the extent that they choose to buy vehicles equipped with the new headlamps. The organization and jurisdictions making that choice would not be significantly affected by the price of the new headlamps.

Interested persons are invited to submit comments and test data relative to these issues. It is requested but not required that 10 copies be submitted.

All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21) Necessary attachments may be appended to these submissions without regard to the 15-page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHTSA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. The NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

The engineer and lawyer primarily responsible for this proposal are Jere Medlin and Taylor Vinson, respectively.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.108 [Amended]

In consideration of the foregoing, it is proposed that 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, be amended as follows:

1. S4.1.1.36 would be revised to read:

S4.1.1.36 Instead of being equipped with a headlighting system specified in Table I or Table III, a passenger car, multipurpose passenger vehicle, truck, bus, or motorcycle manufactured on or after July 1, 1983, may be equipped with a system of one or two replaceable bulb headlamps, if the vehicle is a motorcycle, or two replaceable bulb headlamps, if the vehicle is a passenger car, multipurpose passenger vehicle, truck, or bus, designed to conform to the following requirements.

2. S4.1.1.36(d)(4) would be revised to read:

(4) After a corrosion test conducted in accordance with S6.5, there shall be no evidence of external or internal corrosion or rust visible without magnification. Loss of adhesion of any applied coating shall not occur more than 0.125 in. (3.2 mm) from any sharp edge on the inside or outside. Corrosion may occur on terminals only if the current produced during the test of paragraph S6.5(c) is not less than 9.7 amperes.

3. S6.1 would be amended to delete "S6.5".

4. S6.5 would be revised to read:

S6.5 *Corrosion.* (a) A connector test shall be performed prior to the test in subparagraph (b) according to paragraph 6.4 and Figure 1 of SAE Standard J580 August 1979. The power source shall be set to provide 12.8 volts and the resistance shall be set to produce 10 amperes.

(b) The headlamp with connector attached to the terminals, unfixtured and in its designed operating attitude with all drain holes, breathing devices or other designed openings in their normal operating positions, shall be subjected to a salt spray (fog) test in accordance with ASTM B117–73, "Method of Salt Spray (FOG) Testing," for a period of 240 hours, consisting of ten successive 24-hour intervals. During each interval, the headlamp shall be exposed for 23 hours to the salt spray, which shall not be activated for the 24th hour. The bulb shall be removed during the one hour of salt spray deactivation and reinserted for the start of the next test cycle. The test chamber shall be closed at all times except for the time required to remove and replace the bulb during each cycle. After the ten cycles, the lens reflector unit without the bulb shall be immersed in deionized water for 5 minutes, then secured and allowed to dry by natural convection only.

(c) Using the voltage, resistance and pretest setup of subparagraph (a), the current shall be measured after the test conducted in subparagraph (b).

(Secs. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8)

Issued on September 26, 1983.

Kennerly H. Digges,

Acting Associate Administrator for Rulemaking.

[FR Doc. 83-26675 Filed 9-27-83; 10:09 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 611

[Docket No. 30810-152]

Foreign Fishing; Observer Fees

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

ACTION: Proposed rule.

SUMMARY: NOAA issues a proposed rule to change the schedule for payment of observer fees from a quarterly basis to an annual basis. This action is necessary to properly fund the observer program. This action is intended to preclude interruption of service due to lack of funds and provide opportunity for public comment on the change to the billing procedure.

DATES: Comments on the proposed rule must be submitted on or before October 31, 1983.

ADDRESSES: Send comments to Gary A. Wood, National Marine Fisheries Service, F/Mxl, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: Gary A. Wood, 202-634-7265.

SUPPLEMENTARY INFORMATION: In accordance with Sections 201(i) (4) and (5) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), NOAA must collect from the owners and operators of foreign fishing vessels, a surcharge in an amount sufficient to cover all the costs of providing a U.S. observer aboard foreign fishing vessels. The surcharges are deposited into a revolving fund (observer fund) in the Treasury and used for the sole purpose of funding the observer program. Funds must be collected in advance of fishing.

Beginning in the calendar year 1983, NOAA attempted to collect observer fees on a quarterly basis using letters of credit established by foreign fishing nations for the purpose of paying all foreign fishing fees. The system of quarterly collections has not worked well for the observer program because funds are seldom available with sufficient lead time to permit NOAA to contract for necessary personnel and services. NOAA, therefore, intends to collect the total estimated annual observer fee from foreign fishing nations in advance.

Payments made from the Observer Fund are limited each year by two factors. They may not exceed an amount established by Congress each year in an appropriation Act. They also may not exceed the amount which at any time has been collected and deposited in the Observer Fund. Contracts to provide observers often cover longer periods than 3 months. Thus, quarterly collections of observer fees do not make sufficient funds available for obligation as NOAA enters into these contracts. NOAA, therefore, intends to collect annual observer fees for the fiscal year beginning October 1 and ending September 30. NOAA will provide foreign fishing nations with an estimate of their total observer fees for the upcoming fiscal year. An amount sufficient to cover these costs will be included in the letter of credit required by 50 CFR 611.22(a)(2)(ii). This requirement will affect letters of credit established prior to issuance of permits for 1984 for observer fees for the fiscal year 1985. Observer fees for fiscal year 1984 will be collected by October 1, 1983, from existing letters of credit.

Classification

The NOAA Assistant Administrator for fisheries (Assistant Administrator) has determined that this rule is consistent with the Magnuson Act and other applicable laws.

This action is categorically excluded from the requirement to prepare an environmental assessment by NOAA Directive 02-10.

The NOAA Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under Executive Order 12291, because it will not result (1) in an annual effect on the economy of $100 million or more; (2) in a major increase in costs or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted will not have a significant economic impact on a substantial number of small entities because it applies only to the owners or operators of foreign fishing vessels. As a result, a regulatory flexibility analysis was not prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 611

Fish, Fisheries, Foreign relations, Reporting and recordkeeping requirements.

Dated: September 27, 1983.

Carmen J. Blondin,

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

PART 611 [AMENDED]

For the reasons set out in the preamble, 50 CFR Part 611 is amended as follows:

1. The authority citation for Part 611 reads as follows:

Authority: 16 U.S.C. 1801 et seq., unless otherwise noted.

2. In § 611.8, paragraph (b) is revised to read as follows:

§ 611.8 Observers.

* * * * *

(b) The Assistant Administrator will notify the owner or operators of foreign fishing vessels of the estimated annual costs of placing observers aboard their vessels. The owners or operators of any such vessel shall provide for repayment of those costs by including the estimated annual observer fee as determined by the Assistant Administrator in a letter of credit, as prescribed in § 611.22(a)(2)(ii). NOAA will reconcile any differences between the estimated cost and actual costs of observer coverage 45 days after the end of each fiscal year based on actual observer coverage.

* * * * *

[FR Doc. 83-26759 Filed 9-29-83; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 48, No. 191
Friday, September 30, 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

Foreign Agricultural Service

Import Limitation; Country of Origin Quota Adjustment

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of country of origin adjustment for certain chocolate crumb from Australia.

SUMMARY: Presidential Proclamation 4708, issued December 11, 1979, amended Headnote 3(a) of Part 3 of the Appendix to the Tariff Schedules of the United States to permit the Secretary of Agriculture to make country of origin adjustments for unlicensed quotas that will not be filled by the country of origin listed opposite the quota. This notice implements such an adjustment with respect to the quota quantity assigned to Australia for chocolate crumb.

DATE: Effective October 3, 1983.

FOR FURTHER INFORMATION CONTACT: Philip J. Christie, Head, Import Licensing Group, Dairy, Livestock and Poultry Division, Foreign Agricultural Service, Room 6616 South Building, Department of Agriculture, Washington, D.C. 20250 or telephone at (202) 447-5270.

SUPPLEMENTARY INFORMATION: This action has been reviewed under Executive Order 12291 and Secretary's Memorandum 1512-1 and has been determined to be "nonmajor" since it will not have any of the significant effects specified in those documents. Furthermore, to the extent, if any, that the provisions of the Regulatory Flexibility Act (5 U.S.C. 601) apply to this notice, the Administrator, Foreign Agricultural Service, hereby certifies that this notice will not have a significant economic impact on a substantial number of small entities. The adjustment of the country of origin from which the quota item specified herein may be entered does not affect the ability of importers to import this quota item, but only expands the number of countries from which the item may be imported. Also, since this action is being taken in recognition of changes in the market which have already occurred, this action will not cause any new economic impact.

An assessment of the impact of this rule on the environment was made and, based on this evaluation, this action is not a major federal action and will have no foreseeable significant effects on the quality of the human environment. Consequently, no environmental impact statement is necessary for this proposed rule.

Part 3 of the Appendix to the Tariff Schedules of the United States (TSUS) sets forth import limitations imposed on certain dairy products, including certain chocolate crumb. Headnote 3(a)(iii) of that Appendix allows for reallocating the quota amount of a dairy article listed in that Appendix among the countries of origin specified for a given article if it is determined that the quota amount assigned to a particular country is not likely to be entered from that country within a given calendar year. I hereby determine that it is not likely that the amount of chocolate crumb specified in TSUS Item 950.15 for Australia will be entered from that country during calendar year 1983.

Notice is hereby given that the 1983 unused quota quantity for chocolate crumb specified in TSUS Item 950.15 for Australia may be imported from Ireland, United Kingdom, Netherlands, Australia, and New Zealand for the remainder of the 1983 quota year.

This quota quantity for TSUS Item 950.15 will revert to the original supplying country on January 1, 1984.

Issued at Washington, D.C., this 26th day of September 1983.

Richard A. Smith,

Administrator.

[FR Doc. 83-26715 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-10-M

Federal Grain Inspection Service

Request for Designation Applicants to Perform Official Services in the Geographic Area Currently Assigned to Alton Grain Inspection Department (IL), Grand Forks Grain Inspection Department (ND), and John R. McCrea Agency (IA)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of the U.S. Grain Standards Act, as amended (Act), official agency designations shall terminate not later than triennially and may be renewed in accordance with the criteria and procedures prescribed in the Act. This notice announces that the designation of three agencies will terminate, in accordance with the Act, and requests applications from parties, including the agencies currently designated, interested in being designated as the official agency to conduct official services in the geographic area currently assigned to each specified agency. The official agencies are Alton Grain Inspection Department, Grand Forks Grain Inspection Department, and John R. McCrea Agency.

DATE: Applications to be postmarked on or before October 31, 1983.

ADDRESS: Applications must be submitted to James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250. All applications received will be made available for public inspection at the above address during regular business hours.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

Section 7(f)(1) of the Act (7 U.S.C. 71

et seq., at 79(f)(1)] specifies that the Administrator of the Federal Grain Inspection Service (FGIS) is authorized, upon application by any qualified agency or person, to designate such agency or person to perform official services after a determination is made that the applicant is better able than any other applicant to provide such official services in an assigned geographic area.

Alton Grain Inspection Department (Alton), 145 West Broadway, Alton, Illinois 62002, was designated as an official agency under the Act for the performance of inspection functions on September 25, 1978. Grand Forks Grain Inspection Department (Grand Forks), P.O. Box 639, Grand Forks, North Dakota 58201, was designated as an official agency under the Act for the performance of inspection functions on October 15, 1978. John R. McCrea Agency (McCrea), P.O. Box 166, Clinton, Iowa 52732, was designated as an official agency under the Act for the performance of inspection functions on October 15, 1978.

The agencies' designation will terminate on March 31, 1984. This date reflects administrative extensions of official agency designations, as discussed in the July 16, 1979, issue of the **Federal Register** (44 FR 41275). Section 7(g)(1) of the Act states generally that official agencies' designations shall terminate no later than triennially and may be renewed according to the criteria and procedures prescribed in the Act.

The geographic area presently assigned to Alton, in Illinois, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following: Calhoun, Jersey, and Madison (west of State Route 4 and north of Interstate 70 and 270) Counties.

The geographic area presently assigned to Grand Forks, in North Dakota, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following:

Bounded: on the North by the North Dakota State line;

Bounded: on the East by the North Dakota State line south to State Route 200;

Bounded: on the South by State Route 200 west-northwest to the western Traill County line; the western Traill County line; the southern Grand Forks and Nelson County lines; the southern Eddy County line west to U.S. Route 281; U.S. Route 281 north to State Route 15; State Route 15 west to U.S. Route 52; U.S. Route 52 northwest to State Route 3; and

Bounded: on the West by State Route 3 north to State Route 60; State Route 60 west-northwest to State Route 5; State Route 5 west to State Route 14; State Route 14 north to the North Dakota State line.

Exceptions to the described geographic area are the following locations situated within Grand Forks' area which have been and will continue to be serviced by the following official agencies:

1. Grain Inspection, Inc., to service the following points: Farmers Coop Elevator, Fessenden, and Farmers Union Elevator and Manfred Grain, Manfred, Wells County.

2. Minot Grain Inspection, Inc., to service the following points: Farmers Elevator Company, Bottineau, Bottineau County; Farmers Feed & Grain and Farmers Union, Harvey, Wells County; and Farmers Union, Rugby, Pierce County.

The geographic area presently assigned to McCrea, in Illinois and Iowa, pursuant to Section 7(f)(2) of the Act, and which is the area that may be assigned to the applicant selected for designation is the following: Carroll and Whiteside Counties, Illinois, and Clinton and Jackson Counties, Iowa.

Interested parties, including Alton, Grand Forks, and McCrea, are hereby given opportunity to apply for designation as the official agency to perform the official services in the geographic areas, as specified above, under the provisions of Section 7(f) of the Act and § 800.196(b) of the regulations issued thereunder. Designations in the specified geographic areas are for the period beginning April 1, 1984, and ending March 31, 1987. Parties wishing to apply for designation should contact the Regulatory Branch, Compliance Division, at the address listed above for appropriate forms and information. Applications must be postmarked not later than October 31, 1983 to be eligible for consideration.

Applications submitted and other available information will be considered in determining which applicant will be designated to provide official services in a geographic area.

(Sec. 8, Pub. L. 94-582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: September 15, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-28356 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF AGRICULTURE

Designation Renewal of Cairo Grain Inspection Agency, Inc. (IL)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice announces the designation renewal of Cairo Grain Inspection Agency, Inc., as an official agency responsible for providing official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act).

EFFECTIVE DATE: November 1, 1983.

ADDRESS: James R. Conrad, Chief, Regulatory Branch, Compliance Division, Federal Grain Inspection Service, U.S. Department of Agriculture, 1400 Independence Avenue, SW., Room 1647 South Building, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: James R. Conrad, telephone (202) 447-8525.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512-1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The May 2, 1983, issue of the **Federal Register** (48 FR 19763) contained a notice from the Federal Grain Inspection Service (FGIS) announcing that Cairo's designation terminates on October 31, 1983, and requesting applications for designation as the agency to provide official services within the specified geographic area. Applications were to be postmarked by June 1, 1983.

Cairo was the only applicant for the designation.

FGIS announced the name of this applicant and requested comments on same in the July 1, 1983, issue of the **Federal Register** (48 FR 30416). Comments were to be postmarked by August 15, 1983.

Three favorable comments were received regarding designation renewal of this agency.

FGIS has evaluated all available information, regarding the designation criteria in Section 7(f)(1)(A) of the Act and in accordance with Section 7(f)(1)(B), and has determined that Cairo is able to provide official services in the geographic area for which its designation is being renewed. The assigned area is the entire geographic area, as previously described in the May 2 **Federal Register** issue.

Effective November 1, 1983, and terminating October 31, 1986, the responsibility for providing official inspection services in its specified geographic area is assigned to Cairo.

A specified service point, for the purpose of this notice, is a city, town, or other location specified by an agency to conduct official inspection services and

where the agency and one or more of its licensed inspectors are located. In addition to the specified service points within the assigned geographic area, an agency will provide official services not requiring a licensed inspector to all locations within its geographic area.

Interested persons may contact the Regulatory Branch, specified in the address section of this notice, to obtain a list of the specified service points. Interested persons also may obtain a list of the specified service points by contacting the agency at the following address: Cairo Grain Inspection Agency, Inc., 4007 Sycamore Street, Cairo, IL 62914.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873, (7 U.S.C. 79))

Dated: September 15, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-26358 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-02-M

Request for Comments on Designation Applicants in the Areas Currently Assigned to Farwell Grain Inspection Company (TX), and Fort Smith-Van Buren Grain Inspection Service (AR)

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice requests comments from interested parties on the applicants for official agency designation in the areas currently assigned to Farwell grain Inspection Company and Fort Smith-Van Buren Grain Inspection Service.

DATE: Comments to be postmarked on or before November 14, 1983.

ADDRESS: Comments must be submitted in writing, in duplicate, to Lewis Lebakken, Jr., Regulations and Directives Management Unit, Resources Management Division, Federal Grain Inspection Service, U.S. Department of Agriculture, Room 0667, South Building, 1400 Independence Avenue, SW., Washington, DC 20250. All comments received will be made available for public inspection at the abpve address during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 382–1738.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Secretary's Memorandum 1512–1; therefore, the Executive Order and Secretary's Memorandum do not apply to this action.

The August 1, 1983, issue of the **Federal Register** (48 FR 34788) contained a notice from the Federal Grain Inspection Service requesting applications for designation to perform official services under the U.S. Grain Standards Act, as amended (7 U.S.C. 71 *et seq.*) (Act), in the areas currently assigned to the official agencies. Applications were to be postmarked by August 31, 1983.

Farwell Grain Inspection Company, the only applicant, requested designation for the entire geographic area currently assigned to that agency. Fort Smith-Van Buren Grain Inspection Service, the only applicant, requested a designation renewal for the entire geographic area currently assigned to that agency.

In accordance with § 800.206(b)(2) of the regulations under the Act, this notice provides interested persons the opportunity to present their comments concerning the applicants for designation. All comments must be submitted to the Regulations and Directives Management Unit, Resources Management Division, specified in the address section of this notice, and postmarked not later than November 14, 1983.

Comments and other available information will be considered before a final decision is made in this matter. Notice of the final decision will be published in the **Federal Register**, and the applicants will be informed of the decision in writing.

(Sec. 8, Pub. L. 94–582, 90 Stat. 2873 (7 U.S.C. 79))

Dated: September 15, 1983.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 83-26357 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-02-M

Forest Service

Lewis and Clark National Forest Grazing Advisory Board; Meeting

The Lewis and Clark National Forest Grazing Advisory Board will meet at 9:00 a.m. on Monday, October 17, 1983, at the Forest Service Kings Hill Ranger District Office in White Sulphur Spings, Montana, on U.S. Highway 89.

The purpose of the meeting is to review the Lewis and Clark National Forest's range management program for fiscal year 1984. The Forest Service will provide specific information on their priorities for noxious weed control, prescribed burning, allotment analysis and plans, and for structural range improvement construction. There will be opportunity for the Board to offer advice and make recommendations to the Forest Supervisor on the Forest Service plans.

An open discussion will also be held on topics of interest to the Advisory Board, and followup discussion of topics raised in the August 26 meeting. Nomination of board members for the term 1984–1986 will be made.

Following the business meeting there will be a no-host luncheon in White Sulphur Springs. Weather permitting, the Board will proceed from the luncheon to the Spring Creek area of the Musselshell Ranger District for a field trip. The purpose is to inspect proposed prescribed fire areas for controlling sagebrush and conifer invasion.

The meeting will be open to the public. Persons who wish to attend should notify George P. Raths, Chairman of the Board, P.O. Box 478, Roundup, Montana 59072, Phone 323–1084, or Wayne Phillips, Acting Secretary, Lewis and Clark National Forest, Box 871, Great Falls, Montana 59403, Phone 727–0901. Written statements may be filed with Board before or after the meeting.

Dated: September 21, 1983.

John D. Gorman,

Forest Supervisor, Lewis & Clark National Forest.

[FR Doc. 83-26709 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Cajun Electric Power Cooperative, Inc.; Finding of No Significant Impact

AGENCY: Rural Electrification Administration, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Notice is hereby given that the Rural Electrification Administration (REA), pursuant to the National Environmental Policy Act of 1969, the Council on Environmental Quality Regulations (40 CFR Part 1500) and REA Bulletin 20–21:320–21, Environmental Policies and Procedures, has made a Finding of No Signficant Impact (FONSI) with respect to a request for additional financing assistance from Cajun Electric Power Cooperative, Inc., (Cajun of Baton Rouge, Louisiana, for the completion of the River Bend Nuclear Station, Unit No. 1, in West Feliciana Parish, Louisiana.

FOR INFORMATION CONTACT: REA's FONSI and Environmental Assessment (EA) and the Borrower's Environmental Report (BER) submitted by Cajun may be reviewed in the office of the Chief,

Distribution and Transmission Engineering Branch, Southwest Area-Electric, Room 0009, South Agriculture Building, Rural Electrification Administration, Washington, D.C. 20250, telephone (202) 382-1915, or at the office of Cajun Electric Power Cooperative, Inc. (James R. Smith, Manager), 10719 Airline Highway, P.O. Box 15540, Baton Rouge, Louisiana 70895, telephone (504) 291-3060 during regular business hours.

SUPPLEMENTARY INFORMATION: REA, in connection with a request for additional financing assistance from Cajun, has reviewed the BER submitted by Cajun and the River Bend Station Environmental Report-Operating License Stage (ER-OLS) which was submitted to the Nuclear Regulatory Commission by Gulf States Utilities Company (GSU) of Beaumont, Texas. As a result of this review, REA has determined that these documents represent an accurate assessment of the environmental impact of the River Bend project. The project consists of one 940 MW (net) boiling water nuclear reactor and associated facilities which, as of July 31, 1983, was approximately 75 percent complete. The three transmission lines and one substation associated with the project have been completed and energized. Cajun has a 30 percent ownership participation in the project; the remaining 70 percent is owned by GSU.

REA finds that completion of the project will have no affect on threatened and endangered species or critical habitat and no additional affect on wetlands, floodplains, prime farmland and cultural resources.

Alternatives examined include reduced participation in the project (no action), end participation, and continued participation with a 30 percent ownership.

Based upon the BER and the ER-OLS which updates information since the previous REA action relating to the initial participation, REA prepared an Environmental Assessment concerning the proposed action and its impacts. REA has independently evaluated the Project and has concluded that approval of additional financing assistance for Cajun's continued 30 percent ownership participation in the River Bend Nuclear Station would not constitute a major Federal action significantly affecting the quality of the human environment.

In accordance with REA Bulletin 20-21:320-21, dated January 21, 1980, Cajun advertised and requested comments on the environmental aspects of the proposed action in local newspapers in West Baton Rouge and West Feliciana Parishes, Louisana, and in the monthly newsletter of Louisiana Cooperatives. No comments relating to environmental matters were received. The two comment letters received questioned the economic feasibility of continued participation by Cajun. These comments will be taken into consideratioin prior to any action by REA on Cajun's request for additional financing assistance.

This program is listed in the Catalog of Federal Domestic Assistance 10.850—Rural Electrification Loans and Loan Guarantees.

Dated: September 27, 1983.

Harold V. Hunter,

Administrator.

[FR Doc. 83-26834 Filed 9-29-83; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of the Board's Procedural Regulations

(See, 14 CFR 302.1701 et. seq.); week ended September 23, 1983.

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period the board may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Sept. 20, 1983	41713	Belize Air International Limited, c/o Mark Pestronk, 605 King Street, Alexandria, Virginia 22314. Application of Belize Air International Limited Pursuant to Section 402 of the Act and Subpart Q of the Board's Procedural Regulations requests a foreign air carrier permit to engage in foreign air transportation of property as follows: Between the terminal point Belize City, Belize, via the intermediate points Cancun, Cozumel, Merida, and Mexico City, Mexico; Guatemala City, Guatemala; San Pedro Sula, Honduras; San Salvador, El Salvador; Managua, Nicaragua; San Jose, Costa Rica; Panama City, Panama; Kingston, Jamaica; Port-au-Prince, Haiti; Santo Domingo, Dominican Republic; Bridgetown, Barbados; Port of Spain, Trinidad; and the terminal point Miami, Florida. Answers may be filed by October 18, 1983.
Sept. 21, 1983	41715	Silvas Air Lines Inc. d.b.a. Silvas * * * Express, c/o Louis C.F. Silvas II, 701—Northdale Cove, Columbus, Missouri 39701. Application of Silvas Air Lines Inc. d.b.a. Silvas * * * Express pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate and overseas charter air transportation of: i. Persons, property and mail between any point in any State of the United States of the District of Columbia or any territory or possession of the United States. a. Any point in the Bahama Islands. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 19, 1983.
Sept. 21, 1983	41716	Silvas Air Lines Inc. d.b.a. Silvas * * * Express, c/o Louis C.F. Silvas II, 701—Northdale Cove, Columbus, Missouri 39701. Application of Silvas Air Lines Inc. d.b.a. Silvas * * * Express pursuant to Section 401(d)(3) of the Act and Subpart Q of the Board's Procedural Regulations requests permanent authority to engage in interstate, overseas and foreign air transportation of: i. Persons, property and mail between any point in any State of the United States or the District of Columbia, or any territory or possession of the United States, and a. Any point in Canada, b. Any point in Mexico, c. Any point in Jamaica, the Bahama Islands, Barmuda, Haiti, the Dominican Republic, Trinidad, Aruba, the Leeward and Winward Islands and any other foreign place in the Gulf of Mexico or the Caribbean Sea, d. Any point in Central or South America, and e. Any point in Australia, Indonesia or Asia as far west as longitude 70 degrees east via a transpacific routing. ii. Persons and their accompanied baggage and mail between any point in any State of the United States or the District of Columbia or any territory or possession of the United States and any point in Greenland, Iceland, and the Azores, Europe, Africa and Asia as far east as, and including, India. iii. Persons and property pursuant to contracts with the Department of Defense. Conforming Applications, Motions to Modify Scope and Answers may be filed by October 19, 1983.

Date filed	Docket No.	Description
Sept. 23, 1983	41720	Continental Air Lines, Inc., Continental Pacific Corp., Continental Mexico Corp. and Continental Venezuela Corp., c/o Emory N. Ellis, Fulbright & Jaworski, 1150 Connecticut Avenue, N.W., Washington, D.C. 20036. Application of Continental Airlines, Inc., et al., pursuant to Section 401 of the Act and Subpart Q of the Board's Procedural Regulations. Continental Air Lines, Inc. has established three new wholly owned corporations, Continental Pacific Corp. (COPAC), Continental Mexico Corp. (COMEX), and Continental Venezuela Corp. (COVEN) which it intends will become air carriers providing service over discrete portions of Continental's international routes. Continental and the three new corporations hereby requests that these new carriers be awarded certificates of public convenience and necessity as described in this application and such other approvals as are necessary to authorize such service. Conforming applications, Motions to Modify Scope and Answers may be filed by October 21, 1983.

Phyllis T. Kaylor,
Secretary.

[FR Doc. 83-26824 Filed 9-29-83; 8:45 am]
BILLING CODE 6320-01-M

DEPARTMENT OF COMMERCE

National Bureau of Standards

National Voluntary Laboratory Accreditation Program; Photographic Film

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of a final finding of need to accredit testing laboratories that test photographic film.

SUMMARY: Under the procedures of the National Voluntary Laboratory Accreditation Program (NVLAP) (15 CFR Part 7a), this notice announces the National Bureau of Standard's (NBS) final finding of need to accredit testing laboratories that test photographic film. It also announces the NBS's intent to develop a laboratory accreditation program (LAP) to accredit those laboratories. The basis for the final finding of need is described.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: John W. Locke, Manager, Laboratory Accreditation, NBS, TECH B141, Washington, D.C. 20234, (301) 921-3431.

SUPPLEMENTARY INFORMATION:

Background

On May 29, 1983, the National Bureau of Standards (NBS) published in the **Federal Register** (48 FR 22775-22777) a preliminary finding of need to accredit laboratories that test microforms based on the written request dated March 22, 1983, from Harry B. Kidd of the Association for Information and Image Management, Silver Spring, Maryland. Twenty-seven (27) written statements were filed in response to the preliminary finding of need. The written statements are available for inspection and copying in the Central Reference and Records Inspection Facility (CRRIF), Room 6622, Herbert C. Hoover Building (Main Commerce), 14th Street, between E Street and Constitution Avenue NW., Washington, DC.

These 27 written statements representing 25 different organizations and agencies have been carefully analyzed. In addition, NBS reviewed the preliminary finding and the basis upon which it was issued. The result of this analysis and review is contained in a document entitled "Summary and Analysis of Comments on the Preliminary Finding of Need to Accredit Laboratories that Test Microforms and Recommendations for a Final Finding of Need". That document, which lists the names and organizations or affiliations of those who provided written statements is available for inspection and copying at CRRIF mentioned above. A summary of the comments and the position taken by NBS on major issues raised in the comments is presented immediately below, followed by the final finding of need itself.

General Comments

The comments represent views of 25 different firms, trade and professional associations, and government agencies. Of these 25, 23 expressed support for establishment of a LAP in this testing area. One firm expressed support for establishment of a LAP, but with a narrower scope. One government agency expressed opposition to the establishment of the proposed LAP.

Scope of the Proposed LAP

The LAP requestor, in responding to the preliminary finding of need, stated that the request specified the scope of the LAP to be microforms (microfilm, microfiche, aperture cards) and other photographic film. He pointed out that the preliminary finding of need did not include the phrase "and other photographic film." He maintained that this phrase is important because the need for testing these films could be greater than that for microforms. The standards and tests to be performed are for the most part identical, the difference being that there may be additional standards and tests applicable to these uses of photography that are not used with microforms. NBS inadvertently excluded the phrase "and other photographic film" in the preliminary finding of need. Since the test methods proposed by the LAP requestor apply to both microforms as well as other photographic film, it is logical and practical to include "other photographic film" in the scope of the LAP. Therefore, a final finding of need should specify the scope as "photographic film." The short title would be "Film LAP."

The Appendix lists all of the standards and test methods which have been proposed for inclusion in this LAP by the requestor or suggested by a respondent to the preliminary finding of need. Before any additional test methods may be considered for inclusion in this LAP, a suggestion for such inclusion must be received in writing. NBS will then determine whether it is feasible and practical to evaluate a laboratory's competence to perform the additional test methods.

Benefit to the Public

Seven respondents addressed some aspects of the public benefits which would result from the implementation of a Photographic Film LAP. Many of them suggested that a LAP would bring about more standardization of test methods, greater reliability of test results, national recognition of competent laboratories to provide testing that meets State and Federal certification requirements, and a reduction in the cost of procuring acceptable photographic film products. One respondent representing over 30,000 government purchasing and contracting officers strongly advocated the need for a LAP as a cost saving measure beneficial to all State and local jurisdictions in obtaining acceptable film products thereby resulting in more value for the tax dollar. Another respondent pointed out that the production of quality microforms is

technically demanding and proper professional testing facilities frequently can be a crucial need. The present situation, in which no established industry-wide standards for laboratory competence exist, leaves one in doubt as to which, if any, laboratory can provide the essential services. A LAP, by providing that standardization, would remove that doubt.

Two respondents identified possible negative consequences of a LAP. One of these respondents actually supported the establishment of a LAP, but with a narrower scope. He suggested a clear distinction be made between testing for manufacturer's defects in raw film and testing for film image quality, indicating that since the latter set of test methods are so easy to perform, they should not be included in a LAP. He expressed concern that many small laboratories may not be able to afford the cost of accreditation.

The test methods proposed for the LAP include methods for testing raw, unexposed film and also the quality of the film image. NBS does not and would not require NVLAP accreditation for any of these test methods. Since participation in NVLAP is voluntary, laboratories would not have to become accredited and could continue to provide testing services to clients not in need of testing from an accredited laboratory. Although there may be many small laboratories (service bureaus) which do a limited business in this area that might be unwilling to pay the accreditation fees, this is not a justification for denying accreditation to laboratories that want to be recognized (accredited) for their competency. NBS believes the fees would not be a prohibitive cost except possibly to laboratories which do a very limited amount of testing in this area. For example, a small, one person laboratory could conduct as many as 10,000 simple tests per year. A hypothetical cost of accreditation might be as high as $1,600, so the cost of accreditation per test would be 16 cents. If the total cost per test were typically $8.00, the percentage effect of the cost of accreditation would be 2 percent. Also, simply because a test method may be easy to perform does not disqualify it from being offered under a LAP. It has been noted in other LAPs that such a determination of appropriateness of test methods often cannot be reached until the technical requirements for accreditation have been identified. In many other cases the importance of each test method can be determined only by including that test method in the LAP and waiting to see how many laboratories desire accreditation.

The other respondent provided comments against the need for and value of a LAP stating that LAP: (1) Will create an unnecessary and unjustified monetary burden on taxpayers, manufacturers, and users; (2) will cast doubt on the credibility of nonaccredited laboratories; (3) will provide a form of leverage for those laboratories which use accreditation as a marketing tool; (4) will permit purchasers to require test data to come only from accredited laboratories, thereby being restrictive in nature; and (5) is not needed since the General Services Administration/National Archives and Records Service (GSA/NARS) provides film testing service. NBS takes the following positions on these five items:

Item 1. The "monetary burden" or costs to the public can be identified as those costs incurred by the laboratories which participate in the LAP. NBS assumes that each laboratory would pass these costs onto those of its customers who require testing from an accredited laboratory. Laboratory users who demand accredited testing services will shoulder the monetary burden. In effect, it is the users that will determine whether the benefits of accreditation outweigh the costs.

Item 2. A LAP may "cast doubt on the credibility" of non-accredited laboratories, but no more so than the doubt which currently exists in the industry without accredited laboratories.

Item 3. NVLAP-accredited laboratories may advertise their accredited status in appropriate business and laboratory services media as long as product certification by NBS is not implied. NBS believes that one of the basic purposes for accredited laboratories is to permit them to use their accreditation as a marketing tool.

Item 4. Users of laboratory services may require testing by NVLAP-accredited laboratories in their procurements to give themselves a degree of confidence in the test results and the acceptability of the final product. Since any laboratory can become accredited if it meets the accreditation criteria, many laboratories should be able to respond to such requirements thus eliminating the potential for restrictive procurements.

Item 5. The GSA/NARS is currently providing film testing service for only one of the 12 test methods proposed for the LAP (i.e., ANSI PH 4.8—1978). GSA/NARS will provide this service for only the one test method and only if requested by a Federal Agency. Thus, GSA/NARS provides no testing service for the remaining standards and test methods proposed for the LAP and no testing service is available to film manufacturers and users outside of the Federal government.

Valid Testing Methodology

On respondent stated that the 12 standards and test methods proposed by the LAP requestor (see Appendix, items 1 through 12) are sufficient to provide adequate controls to guarantee archival retention of images obtained on microforms. Another respondent suggested 14 additional standards and test methods be included in the LAP (see Appendix, items 13 through 26). These additional standards and test methods will be evaluated for appropriateness during the development of technical requirements for accreditation and before the publication of a **Federal Register** notice announcing establishment of the LAP.

Feasibility and Practicality

No comments were offered which doubted the feasibility of accrediting laboratories for the test methods identified in the preliminary finding of need. Comments questioning the practicality of a LAP are analyzed under the section "Benefit to the Public." NBS has reviewed the test methods and based on experience in other LAPs, considers it both feasible and practical to develop this LAP.

Administration of a LAP

One respondent indicated concerns and made suggestions on the administration of this LAP. The respondent is apparently not aware of previous NVLAP administrative experience which seem to demonstrate that this LAP can be administered effectively. The respondent's concerns and suggestions are analyzed more fully in the summary and analysis document.

Conclusions

In reviewing the comments as a whole, NBS finds overwhelming support for this LAP from both the public and private sectors. The final finding of need for the LAP follows.

Notice of Public Workshop

The next step to be taken in implementing this LAP will be to hold an informal public workshop at which the technical issues relevant to each test method will be addressed and resolved. The workshop will be held at NBS in March, 1984. NBS will publish a formal notice of the workshop in the **Federal**

Register approximately thirty (30) days before that date which will provide specific details as to time and location.

The requester, the Association for Information and Image Management (AIIM), has offered to assist NBS in the preparation of documents for the public workshop. Anyone interested in helping the Association in this task should contact them directly at the following address: AIIM, 1100 Wayne Avenue, Silver Spring, Maryland 20910; ATTN: Mr. Harry Kidd Technical Coordinator, phone (301) 587–8202.

After the workshop, documents will be prepared describing the technical requirements of the LAP. When this step is completed, laboratories will be invited to seek accreditation following publication of a notice in the **Federal Register** notice announcing the formal establishment of the LAP.

Dated: September 27, 1983.

Ernest Ambler,

Director, National Bureau of Standards.

Final Finding of Need

The request by the Association for Information and Image Management that the National Bureau of Standards (NBS) make a finding of need to accredit laboratories which test microforms (microfilm, microfiche, and aperture cards) and other photographic film has been carefully considered. In addition, the preliminary finding of need issued on May 20, 1983, and the written comments submitted by interested parties in response thereto, have been carefully reviewed and analyzed. On the basis of that review and analysis, it is hereby found that a need exists to accredit laboratories that test photographic film.

Identification of the Product

The scope of a laboratory accreditation program (LAP) established under the National Voluntary Laboratory Accreditation Program is defined by the product area of the LAP. The product for this LAP is identified as "photographic film." The short title for the LAP is "Film LAP."

Applicable Standards and Test Methods

The standards and test methods proposed for this LAP are listed as items 1 through 12 in the Appendix. Additional standards and test methods suggested by one respondent are listed as items 13 through 26 in the Appendix. The appropriateness of these additional standards and test methods will be evaluated when the technical requirements for accreditation are developed. This evaluation will be completed before a **Federal Register** notice announcing establishment of the LAP is published. Other standards and test methods, beyond those listed in the Appendix, may be added in response to written requests if such standards and tests methods are deemed by NBS to be appropriate.

Basis of Need

Benefit to the Public. This LAP and its criteria and other requirements for accrediting laboratories would benefit the public interest by:

(1) Identifying organizations which have demonstrated their competence in testing film to the specific standards and test methods;

(2) Permitting a greater degree of assurance that test results used are reliable, thereby—

(a) Providing reliable test results on photographic film to meet private sector and government regulatory and certification requirements;

(b) Improving the overall quality level of photographic film testing services available to the public;

(c) Facilitating international acceptance of test results produced by laboratories in the United States; and

(3) Providing information leading to the improvement and understanding of photographic film testing procedures.

National Need. There is currently no existing accreditation program devoted to accrediting laboratories that test photographic film. NBS concludes that a broad-based national effort as embodied in this LAP would effectively address the national need to identify and recognize testing laboratories competent to test in this area. Laboratories accredited under this LAP can expect to have national and international acceptance of their test data increased.

Importance of Relevant Standards. Many Federal and State laws and regulations require that regulated industries, financial and insurance companies, and utilities ensure (certify) that the micrographic and photographic products they use for making basic records of their transactions are manufactured to the requirements found in the standards and test methods identified in the Appendix. The availability of accredited laboratories would make the purchase, processing, and storage of archival micrographic products more reliable, thus helping to ensure that microfilmed copies of vital and historical documents will survive as long as needed.

Existence of Valid Testing Methodology. A list of the standards and test methods is shown in the Appendix. The test methods are appropriate for consideration in this LAP.

Feasibility and Practicality. NBS believes that the characteristics of the test methods listed in the Appendix would make a Film LAP at least as feasible and practical as NVLAP's other established LAPs. Technical experts are available and willing to assist in developing the necessary technical requirements needed to assess applicant laboratories effectively.

APPENDIX—LIST OF STANDARDS AND TEST METHODS

Designation	Title
1. ANSI PH1.25-1976	Specifications for Safety Photographic Film.
2. ANSI PH1.28-1981	Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Cellulose Ester Base.
3. ANSI PH1.29-1971 (R1977).	Method for Determining Curl of Photographic Film.
4. ANSI PH1.31-1973	Method for Determining the Brittleness of Photographic Film.
5. ANSI PH1.37-1977	Method of Determining Scratch Resistance of Processed Photographic Film.
6. ANSI PH1.41-1981	Specifications for Photographic Film for Archival Records, Silver-Gelatin Type, on Polyester Base.
7. ANSI PH1.43-1981	Practice for Storage of Processed Safety Photographic Films.
8. ANSI PH1.53-1978	Requirements for Photographic Filing Enclosures for Storing Processed Photographic Films, Plates, and Papers.
9. ANSI PH1.60-1979	Specifications for Stability of Ammonia Processed Diazo Photographic Film.
10. ANSI PH2.33-1969	Method for Determining the Resolving Power of Photographic Materials.
11. ANSI PH4.8-1978	Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers.
12. ASTM D882-1981	Standard Test Methods of Tensile Properties of Thin Plastic Sheeting.
13. Fed Spec L-F-334E(1)	Film, Photographic, Roll, Microfilm.
14. Fed Std 125B	Film, Photographic and Film, Photographic Processed (For Permanent Record Use).
15. Fed Std 1708	Film, Photographic, Black & White, Classification and Testing Methods.
16. MIL-STD-105	Sampling Procedures and Tables for Inspection by Attributes.
17. ANSI PH1.13-1979	Dimensions for Cores for Photographic Film Rolls (Plastic, Wood, or Metal).
18. ANSI PH1.32-1979	Photographic Film Method for Determining the Dimensional Change Characteristics of Photographic Film.
19. ANSI PH1.33-1980	Photography—Film and Slides Spool Dimensions for Microfilm.
20. ANSI PH1.51-1979	Dimension for Micrographic Sheets and Roll Film.
21. ANSI PH2.19-1975	Photographic Sensitometry: Diffuse Transmission Density.
22. ANSI PH5.6-1968	100 Foot Reels for Processed 16mm and 35mm Microfilm, Dimensions for.
23. ANSI/ISO 3334—1979.	Micrographics—Test Chart, Description & Use in Photograph Documentary Reproduction.
24. ANSI/NMA MS14—1978.	Specifications for 16mm and 35mm Microfilms in Roll Form.
25. NMA MS17—1977	Test Chart for Rotary Microfilm.
26. NMA MS112-113	Rotary Camera Test Chart (Plastic and Paper).

[FR Doc. 83-26769 Filed 9-29-83; 8:45 am]

BILLING CODE 3510-13-M

Announcing a Workshop for Local Area Network Implementors of the ISO/NBS Transport Class 4 Protocol

The Institute for Computer Sciences and Technology at the National Bureau of Standards (NBS) announces the fourth two-day workshop to continue discussing implementations for local area networks of the Transport Class 4 Protocol of the International Organization for Standardization according to the NBS design specification. The workship will be held on October 27 and 28, 1983, at the Marriott Hotel, 620 Lakeforest Blvd., Gaithersburg, Maryland, (301) 977–8900.

The workshop, geared specifically to the needs of local area networking vendors, will focus on Class 4 Transport techniques and implementation strategies leading to a multi-vendor protocol demonstration in 1984 utilizing IEEE 802.3 and 802.4 Local Area Network Technologies and will continue discussions on issues remaining from previous workshops.

Attendance at the workshop is limited due to space requirements and the size of the conference facility; therefore, registration is on a first come, first served basis. A nominal registration fee will be charged for attending the workship. Participants are expected to make their own travel arrangements and accommodations. NBS reserves the right to cancel any part of the workshop.

To register, companies should send a request on company letterhead to:

LAN/TRANSPORT WORKSHOP
Attn: Robert Rosenthal
National Bureau of Standards, Building 225, Room B–226, Washington, D.C. 20234.

The registration request must name the company representative(s) and specify the business address and telephone number for each participant. Registration requests must be post marked by October 14, 1983. An NBS representative will confirm workshop registration reservations by telephone. For additional information, contact Robert Rosenthal, (301) 921–3516.

Dated: September 27, 1983.

Ernest Ambler,

Director.

[FR Doc 83–26746 Filed 9–29–83; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

National Marine Fisheries Service; Receipt of Modification Request to Permit No. 365

Notice is hereby given that Manomet Birth Observatory, Manomet, Massachusetts 02345, has requested a modification of Permit No. 365 issued on January 22, 1982, (47 FR 4548), under the authority of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

Permit No. 365 authorizes the radio-tagging of five (5) rehabilitated harbor seals (*Phoca vitulina concolor*) for the purpose of scientific research.

The Permit Holder is requesting to extend the take authority of the permit for two years beyond the present expiration date of December 31, 1983, and to take five (5) harbor seals per year. The animals will be taken by the means, in the area, and for the purposes set forth in the original permit application.

Concurrent with the publication of this notice in the **Federal Register** the Secretary of Commerce is forwarding copies of the modification request to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this modification request should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this request are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documentation pertaining to the above modification request is available for reveiw in the following offices:

Assistant administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, 14 Elm Street, Federal Building, Gloucester, Massachusetts 01930.

Dated: September 23, 1983.

Carmen J. Blondin,

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

[FR Doc. 83–26776 Filed 9–29–83; 8:45 am]

BILLING CODE 3510-22-M

Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Ministere, Loisir Chasse et Peche (P328) Jardin zoologique de Quebec.

b. Address: 8191, avenue du Zoo Charlesbourg, Quebec, Canada G1G 4G4.

2. Type of Permit: Public Display.

3. Name and Number of Animals: California sea Lions (*Zalophus californianus*).

4. Type of Take: Captive maintenance.

5. Location of Activity: Rehabilitated animals from stocks of beached and stranded animals.

6. Period of Activity: 1 year.

The arrangements and facilities for transporting and maintaining the marine mammals requested in the above described application have been inspected by a licensed veterinarian, who has certified that such arrangements and facilities are adequate to provide for the well-being of the marine mammals involved.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not

necessarily reflect the views of the National Marine Fisheries Service.

As a request for a permit to take living marine mammals to be maintained in areas outside the jurisdiction of the United States, this application has been submitted in accordance with National Marine Fisheries Service policy concerning such applications (40 FR 11619, March 12, 1975). In this regard, no application wil be considered unless:

(a) it is submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, through the approprite agency of the foreign government;

(b) It includes:

i. a certification from such appropriate government agency verifying the information set forth in the application;

ii. a certification from such government agency that the laws and regulations of the government involved permit enforcement of the terms of the conditions of the permit, and that the government will enforce such terms;

iii. a statement that the government concerned will afford commity to a National Marine Fisheries Service decision to amend, suspend or revoke a permit.

In accordance with the above cited policy, the certification and statements of the Director General of Fauna, Government of Quebec have been found appropriate and sufficient to allow consideration of this permit application.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 330 Whitehaven Street, N.W., Washington, D.C.; and Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, California 90731.

Dated: September 26, 1983.

Carmen J. Blondin

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

[FR Doc. 83-26775 Filed 9-29-83; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Soliciting Public Comment on Bilateral Textile Consultations With the Government of the Republic of Korea To Review Trade in Category 319

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: On September 7, 1983 the Government of the United States requested consultations with the Government of the Republic of Korea with respect to Category 319 (cotton duck). This request was made on the basis of the agreement of December 14, 1982, between the United States and the Republic of Korea relating to trade in cotton, wool and man-made fiber textiles and textile products.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments,the Committee for the Implementation of Textile Agreements may establish a limit for the entry and withdrawal from warehouse for consumpton of textile of textile products in Category 319, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on January 1, 1983 and extends through December 31, 1983.

The Government of the United States reserves the right under the agreement to invoke imports controls on this category, as defined in the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Republic of Korea.

Any party wishing to comment or provide data or information regarding the treatment of Category 319 under the bilateral agreement, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in this Category is invited to submit such comments or information in ten copies to Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Since the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Dated: September 27, 1983.

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreement.

[FR Doc. 83-26766 Filed 9-29-83; 8:45 am]

BILLING CODE 3510-25-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1983; Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Additions to Procurement List.

SUMMARY: The Committee has received proposals to add to Procurement List 1983 commodities to be produced by and services to be provided by workshops for the blind and other severely handicapped.

Comments must be received on or before November 2, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (702) 557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and services listed below from workshops for the blind or other severely handicapped.

It is proposed to add the following commodities and services to Procurement List 1983, November 18, 1982 (47 FR 52101):

Class 1670

Harness, Parachutist
1670-00-897-8629

Class 7520

Boxes, Filing
7520-00-240-4830
7520-00-240-4831
7520-00-240-4839
7520-00-139-3743
7520-00-139-3734

Cashbox
7520-00-281-5931

SIC 0782

Grounds Maintenance, Internal Revenue Service Center, 310 Lowell Street, Andover, Massachusetts.

SIC 7349

Janitorial Service, Federal Executive Institute, Route #21 North, Charlottesville, Virginia.

C. W. Fletcher,

Executive Director.

[FR Doc. 83-26767 Filed 9-29-83; 8:45 am]

BILLING CODE 6820-33-M

Procurement List 1983; Deletions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Deletions from Procurement List.

SUMMARY: This action deletes from Procurement List 1983 commodities to be produced by workshops for the blind and other severely handicapped.

EFFECTIVE DATE: September 30, 1983.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, Crystal Square 5, Suite 1107, 1755 Jefferson Davis Highway, Arlington, Virginia 22202.

FOR FURTHER INFORMATION CONTACT: C. W. Fletcher, (703) 557-1145.

SUPPLEMENTARY INFORMATION: On July 22, 1983, the Committee for Purchase from the Blind and Other Severely Handicapped published a notice (48 FR 33513) of proposed deletions from Procurement List 1983, November 18, 1982 (47 FR 52101):

After consideration of the relevant matter presented, the Committee has determined that the commodities listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46-48c, 85 Stat. 77.

Accordingly, the following commodities are hereby deleted from Procurement List 1983:

Class 8455

Scarf, Branch of Service
8455-01-078-0750
8455-01-078-0751
8455-01-078-0752
8455-01-078-0746
8455-01-078-0753
8455-01-078-0748
8455-01-078-0754
8455-01-078-0755
8455-01-078-0756
8455-01-078-0744
8455-01-078-0757
8455-01-078-0758
8455-01-078-0759
8455-01-078-0760
8455-01-078-0761
8455-01-078-0762
8455-01-078-0749

C. W. Fletcher,

Executive Director.

[FR Doc. 83-26768 Filed 9-29-83; 8:45 am]

BILLING CODE 6820-33-M

CONSUMER PRODUCT SAFETY COMMISSION

Notification of Proposed Collection of Information

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Product Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through September 30, 1985, of a collection of information in the form of a telephone survey of local fire officials to obtain information about selected fire incidents involving wood burning appliances or metal chimneys.

The information obtained from this survey will be used to identify cases for detailed investigations by local fire departments to document the role of products involved in household fires. (Separate clearance from the Office of Management and Budget has been obtained for collections of information made during follow-up investigations.)

Information About the Proposed Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Collection of fire data from fire departments.

Type of request: Extension of approval.

Frequency of collection: Approximately 20 per respondent per year.

General description of respondents: Local fire departments.

Estimated number of respondents: 55.

Estimated average number of hours per response: 0.8 (5 minutes).

Comments: Comments on this request for extension of approval should be addressed to Andy Velez-Rivera, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone: (202) 395-7313. Copies of the request for extension of approval are available from Francine Shacter, Office of Budget, Program Planning, and Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492-6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: September 27, 1983.

Sadye E. Dunn,

Secretary Consumer Product Safety Commission.

[FR Doc. 83-26764 Filed 9-29-83; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Department of the Army

Subcommittee on Medicinal Chemistry; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Subcommittee meeting:

Name of Committee: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medicinal Chemistry.

Date of Meeting: October 27, 28, 1983.

Time & Place: 0830 hrs, Room 3092, Walter Reed Army Institute of Research, Washington, DC.

Proposed Agenda: This meeting will be open to the public from 0830 to 0945 hrs on 27 October for the administrative review and discussion of the scientific research program on Medicinal Chemistry, Walter Reed Army Institute of Research. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), U.S. Code, Title 5 and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 1000 to 1700 hrs on 27 October and from 0900 to 1215 hrs on 28 October for the review, discussion and evaluation of individual programs and projects conducted by the U.S. Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Dr. Howard Noyes, Associate Director for Research Management, Walter Reed Army Institute of Research, Bldg 40, Room 1111, Walter Reed Army Medical Center, Washington, DC 20307 (202/576-2436) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-26821 Filed 9-29-83; 8:45 am]

BILLING CODE 3710-08-M

Subcommittee on Medical Defense Against Chemcial Agents; Partially Closed Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Subcommittee meeting:

NAME OF COMMITTEE: United States Army Medical Research and Development Advisory Committee, Subcommittee on Medical Defense Against Chemical Agents.

DATE OF MEETING: 24, 25 October 1983.

TIME & PLACE: 0830 hrs, Room 14, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD.

PROPOSED AGENDA: This meeting will be open to the public from 0830 to 0930 hrs on 24 October for the administrative review and discussion of the scientific research program of US Army Medical Research Institute of Chemical Defense. Attendance by the public at open sessions will be limited to space available.

In accordance with the provisions set forth in Section 552b(c)(6), US Code, Title 5 and Section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 0930 to 1730 hrs on 24 October and from 0830 to 1730 on 25 October for the review, discussion and evaluation of individual programs and projects conducted by the US Army Medical Research and Development Command, including consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

COL Richard Lindstrom, US Army Medical Research Institute of Chemical Defense, Aberdeen Proving Ground, MD 21010 (301/671–2833) will furnish summary minutes, roster of Subcommittee members and substantive program information.

Harry G. Dangerfield,

Colonel, MC, Deputy Commander.

[FR Doc. 83-26822 Filed 9-29-83; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Bilingual Education and Minority Languages Affairs

Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1984 Application for New Projects

AGENCY: Department of Education.

ACTION: Notice.

SUMMARY: Applications are invited for new projects under the Bilingual Education Act (Act)—Demonstration Projects Program.

Authority for this program is contained in Sections 703–722 of the Elementary and Secondary Education Act of 1965, as amended by the Education Amendments of 1978 (Pub. L. 95–561).

(20 U.S.C. 3223–3232)

This program issues awards to local educational agencies; institutions of higher education applying jointly with one or more local educational agencies; and elementary or secondary schools operated or funded by the Bureau of Indian Affairs (BIA) for Indian children on a reservation.

The purpose of the awards is to provide financial assistance to demonstrate exemplary approaches to programs of bilingual education and to build the capacity of grantees to continue those programs when funding under the Act is reduced or no longer available.

Closing date for transmittal of applications: An application must be mailed or hand delivered by February 1, 1984.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.003D, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commerical carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program Information: The maximum project period which an applicant may propose is three years.

An applicant must meet the requirements found in the regulations applicable to this program, including, but not limited to the following:

(1) An applicant must establish an advisory council to assist in the development of its application. Requirements pertaining to advisory councils are contained in 34 CFR 502.20.

(2) An applicant must provide for the participation in its project of children enrolled in nonprofit private schools in the area to be served, whose educational needs, language(s), and grade levels(s) are of a similar type to those which the project is intended to address. Requirements pertaining to private school participation are contained in 34 CFR 502.20.

(3) An applicant must include adequate auxiliary and supplementary training programs for persons who are participating in, or preparing to participate in, the programs of bilingual education to be supported by the proposed project. Applicants should refer to 34 CFR 500.41 for the rates for allowable costs for trainees participating in the training programs.

(4) A local educational agency, applying as a sole or joint applicant, is required to hold at least one meeting, open to the public, to discuss the contents of its application. Requirements for scheduling and holding this open meeting are contained in the Education Department General Administrative Regulations (34 CFR 75.139–75.141). The local educational agency must complete the certification form in the application package. This requirement must be met regardless of whether the local educational agency is designated as the applicant under 34 CFR 75.128.

(5) Joint applicants must complete a special certification form in the application package.

(6) A local educational agency, applying as either a sole or joint applicant, must provide a copy of its application to the appropriate State educational agency in its State in advance of submitting it to the Department of Education. Requirements pertaining to State educational agency review are contained in 34 CFR 500.20.

(7) An applicant proposing to contract with an outside organization to meet the invitational priority demonstrating

parental involvement in the selection of services must give particular attention to the requirements of 34 CFR 75.701 and 75.708(b).

An eligible school operated or funded by the Bureau of Indian Affairs (BIA) must submit its application for comment to the Secretary of Interior or his or her designee, using procedures outlined in 34 CFR 500.20(d) of the regulations.

Available Funds: It is expected that approximately $2,100,000 will be available for new grants under the Demonstration Projects Program in fiscal year 1984.

It is estimated that these funds could support 12 projects.

The anticipated award for each new project is $180,000.

However, these estimates do not bind the Department of Education to a specific number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulations.

Priorities for funding: The Demonstration Projects Program regulations (34 CFR 502.11) authorize the Secretary to select priorities from among various target groups and components of a program of bilingual education described in that section.

The Secretary gives absolute preference to applications that meet the selected priorities. The Secretary anticipates that the funds will be reserved solely for applications submitted under the selected priorities.

Under the Education Department General Administrative Regulations (34 CFR 75.105), the Secretary may also invite applications that meet priorities established in the application notice. An application that meets an invitational priority does not receive competitive or absolute preferences over applications that do not meet the invitational priority.

For fiscal year 1984, the Secretary selects the following priorities for the Demonstration Projects Program:

34 CFR 502.11(f)(1)—Priority for projects with exemplary approaches to community or parental involvement. The Secretary invites but does not require applications that demonstrate the role of the parent as tutor. The Secretary also invites but does not require applications that demonstrate parental choice in the selection of providers offering the services of acquiring English language proficiency. Parents may choose providers from those outside organizations with whom the applicant local educational agency (LEA), institution of higher education applying jointly with one or more LEA(s), or elementary or secondary school operated or funded by the Bureau of Indian Affairs, has contracted to provide these services.

34 CFR 502.11(f)(2)—Priority for projects with exemplary approaches to curriculum development. The Secretary invites but does not require applications that demonstrate the adaptation of science and math curriculum for gifted children of limited English proficiency.

34 CFR 502.11(f)(3)—Priority for projects with exemplary approaches to instructional technology. The Secretary invites but does not require applications that demonstrate computer assisted instruction in acquiring English language literacy in understanding, speaking, reading, and writing in grades kindergarten through third.

34 CFR 502.11(e)(6)—Priority for projects with exemplary approaches to recent immigrants. The Secretary invites but does no require applications that demonstrate replication of effective programs of bilingual education for recent immigrant children of limited English proficiency.

The Secretary anticipates that funds will be allocated to the Demonstration Projects Program in the following manner:

Approximately 35 percent of the funds will be set aside for the priority for projects with exemplary approaches to instructional technology. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet the invitational priority.

Approximately 30 percent of the funds will be set aside for the priority for projects with exemplary approaches to community and parental involvement. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet either of the invitational priorities.

Approximately 10 percent of the funds will be set aside for the priority for projects with exemplary approaches to curriculum development. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet the invitational priority.

Approximately 10 percent of the funds will be set aside for the priority for projects with exemplary approaches to recent immigrants. An application submitted under this priority competes only with other applications submitted under the priority, with no competitive or absolute preference given to applications that meet the invitational priority.

The remaining funds (approximately 15 percent), will be reserved for projects proposing any one or more of the other priorities listed in § 502.11(e) and § 502.11(f). The Secretary invites but does not require applications that demonstrate the replication of an effective program of bilingual education or applications that demonstrate parental choice in the selection of providers offering the services of acquiring English language proficiency. Parents may choose providers from those outside organizations with whom the applicant local educational agency (LEA), institution of higher education applying jointly with one or more LEA(s), or elementary or secondary school operated or funded by the Bureau of Indian Affairs, has contracted to provide these services. An application submitted under any of the priorities covered here competes with other applications proposing priorities other than those in § 502.11(f)(1), § 502.11(f)(2), § 502.11(f)(3), and § 502.11(e)(6), with no competitive or absolute preference given to applications that meet either of the invitational priorities.

These allocations are only estimates and do not bind the Department of Education. The Secretary may reallocate funds if too few applications of high quality are received under a priority.

Application forms: Application packages are expected to be ready for mailing in November 1983. They will be mailed to individuals on the mailing list for the Bilingual Education Act programs. A copy of the application package may be obtained by writing to the Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 40 pages in length. The Secretary further urges that applicants not submit information that is not requested.

Applicable regulations: Regulations applicable to this program include the following:

(1) The regulations governing the Demonstration Projects Program, 34 CFR Parts 500, 501 (except for 501.11–501.12, and 501.31), and 502.

(2) The Education Department General Administrative Regulations, (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information contact Mr. Luis Catarineau, Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education (Room 421, Reporters Building), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone (202) 447–9227.

(Catalog of Federal Domestic Assistance No. 84.003D, Bilingual Education Act)

(20 U.S.C. 3223–3232)

Dated: September 27, 1983.

T. H. Bell,

Secretary of Education.

[FR Doc. 83–26747 Filed 9–29–83; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Office of the Secretary

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160) notice is hereby given of a proposed "subsequent arrangement" under the Agreement for Cooperation Between the Government of the United States of America and the International Atomic Energy Agency (IAEA) Concerning Peaceful Application of Atomic Energy, as amended.

The subsequent arrangement to be carried out under the above mentioned agreement involves approval of the following sale: Contract Number S–IA–123, to the IAEA, Seibersdorf Laboratory Austria, 28 grams of uranium, enriched to an average of 34.9% in U–235, 14.01 grams of plutonium, and 0.05 grams of uranium–233, for use as standard reference material.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that the furnishing of these nuclear materials will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

For the Department of Energy.

Dated: September 26, 1983.

George J. Bradley, Jr.,

Principal Deputy Assistant Secretary for International Affairs.

[FR Doc. 83–26797 Filed 9–29–83; 8:45 am]

BILLING CODE 6450–01–M

Economic Regulatory Administration

[ERA Docket Nos. 83–04–LNG, 82–12–LNG]

Order Reopening the Proceeding; Noticing Application of Trunkline LNG Company to Amend Its Authorization; Consolidating ERA Docket No. 83–04–LNG With 82–12–LNG; Requesting Further Intervention, Comments on Remedies, and Other Comments and Information

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notification of the reopening of the proceeding, application to amend import authorization, consolidation of dockets, requesting intervention, comments and information.

SUMMARY: This order reopens that portion of the proceeding that was deferred in Opinion and Order No. 50 (Order 50) issued on February 25, 1983, to Trunkline LNG Company (TLC) in ERA Docket No. 82–12–LNG. Order 50 decided a number of issues relating to TLC's authorization to import liquefied natural gas (LNG) from Algeria but deferred a decision on those issues relating to the LNG price.

This order notices that TLC on July 25, 1983, filed in ERA Docket No. 83–04–LNG an application pursuant to section 3 of the Natural Gas Act to amend its existing authorization to import LNG from Algeria. The proposed amendment would make several modifications to the September 17, 1975, gas purchase agreement between TLC and Sonatrach. This order also consolidates the docket under which TLC filed its July 25, 1983, proposed amendment to its authorization (ERA Docket No. 83–04–LNG) with the ongoing TLC proceeding (ERA Docket No. 82–12–LNG).

Comments are now requested on the present and proposed pricing arrangements for this import by TLC and on whether these arrangements respond to the concerns expressed in Order 50 regarding contract flexibility and the reasonableness of the price. Comments are also requested on appropriate action if the record from this proceeding demonstrates that either the existing or the proposed import arrangement is inconsistent with the public interest. Additional information is requested from TLC and all other parties to supplement the record.

DATES: Interventions, protests and written comments: No later than 4:30 p.m., e.d.t., October 26, 1983.

Written reply comments to October 26 submissions: No later than 4:30 p.m., e.s.t., November 14, 1983.

ADDRESS: All protests, petitions to intervene, and written comments filed in response to the issuance of this order should be submitted to the following address: Natural Gas Division Docket Room, Rm. GA–007, RG–43, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

John Glynn (Natural Gas Division, Office of Fuels Programs), 1000 Independence Avenue, S.W., Forrestal Building, Room GA–007, RG–43, Washington, D.C. 20585, (202) 252–9454

Merrill Hathaway (Office of General Counsel), 1000 Independence Avenue, S.W., Forrestal Building, Room GA–141, GC–15, Washington, D.C. 20585, (202) 252–4467

SUPPLEMENTARY INFORMATION:

I. Summary of the Order

This order reopens that portion of the proceeding that was deferred in Opinion and Order No. 50 (Order 50) issued on February 25, 1983, to Trunkline LNG Company (TLC) in ERA Docket No. 82–12–LNG. Order 50 decided a number of issues relating to TLC's authorization to import liquefied natural gas (LNG) from Algeria, but deferred a decision on those issues relating to the LNG price. Comments are now requested on the present and proposed pricing arrangements for this import by TLC and on whether these arrangements respond to the concerns expressed in Order 50 regarding contract flexibility and the reasonableness of the price. Comments are also requested on appropriate action if the record from this proceeding demonstrates that either the existing or the proposed import arrangement is inconsistent with the public interest. The fact that these comments are being requested does not suggest that the issues in question in this proceeding have been prejudged. Additional information is requested from TLC and all other parties to supplement the record.

This order notices that TLC on July 25, 1983, filed in ERA Docket No. 83–04–LNG an application pursuant to section 3 of the Natural Gas Act to amend its existing authorization to import LNG from Alegeria. The proposed amendment would make several modifications to the September 17, 1975, gas purchase agreement between TLC

and Sonatrach.[1] This order also consolidates the docket under which TLC filed its July 25, 1983, proposed amendment to its authorization (ERA Docket No. 83-04-LNG) with the ongoing TLC proceeding (ERA Docket No. 82-12-LNG).

II. Background

Order 50 was issued to TLC regarding a 1977 authorization to import LNG from Algeria over a 20-year contract period.[2] This order followed a joint evidentiary proceeding held by the Economic Regulatory Administration (ERA) and the Federal Energy Regulatory Commission (FERC) in response to numerous petitions and complaints filed with both agencies opposing the continued importation of this LNG. Requests that TLC's authorization be immediately suspended, rescinded or revoked were denied; however, the decision on whether to take action for reasons relating to the regasified price of the LNG was deferred for a period of at least six months.

A decision on the pricing issues was deferred for several reasons, which were set forth as follows in Order 50:

> Our deferral of the price issue rests on several considerations. There are a myraid of uncertainties in the U.S. gas market today. These, it is hoped, will be clarified during the current session of Congress, when the existing natural gas regulatory laws may be modified or repealed. The Executive Branch is likely to propose legislation to this effect. Many other bills on this subject have been introduced by members of Congress. In addition, the Department of Energy is reviewing the policies that bear on gas import authorizations, and U.S.-Candian bilateral discussions are being held on this issue. Also, world prices of oil are undergoing significant change, with uncertain consequences for gas pricing. We believe that at least six months is necessary to allow clarification of these uncertainties.[3]

In Order 50, the Administrator recommended that TLC, during this deferral period, initiate discussions with its Algerian supplier, Sonatrach, to achieve a more flexible pricing and take-or-pay arrangement that "would result in a more market responsive inclusion of this gas into U.S. markets."[4]

Since the issuance of Order 50, a number of events have occurred affecting the uncertainties referred to in the order. Oil prices have appeared to stabilize, with the prospect that they will remain relatively stable in the foreseeable future. The U.S. energy marketplace continues to have a surplus of natural gas. The domestic natural gas industry has responded to the changing energy supply and demand situation with contract renegotiations, plans to retain or regain industrial customers, and use of market-out and *force majeure* clauses in contracts. In many instances, pricing and volume requirements of gas contracts have been modified to meet the requirements of the markets served.

In addition to actions by private contracting parties, the United States Congress began considering legislation on natural gas. A legislative proposal to reform the natural gas regulatory laws was made by the President, and this and other proposals were considered by committees of the Senate and the House of Representatives. The House Fossil and Synthetic Fuels Subcommittee has reported out a natural gas bill that would revoke all existing import authorizations unless they are made market responsible within nine months.[5] The Senate Energy and Natural Resources Committee has reported out an amendment to be offered on the Senate floor with its natural gas bill if there are not significant changes in the pricing of gas imports.[6] The amendment would phase down prices of imported gas to a "free market price indicator" and subject import contracts to a maximum 50 percent take-or-pay level.[7] Additionally, Senators Charles Percy and Alan Dixon have introduced legislation to limit the price of imported LNG,[8] and 49 Representatives have introduced a bill that would require renegotiations of gas import contracts.[9]

Also during the peirod since Order 50 was issued, the Department of Energy completed its review of gas import policy. The result has been the development of a policy emphasizing gas import arrangements that are market-responsive and based on buyer-seller negotiations. While procedural details of this new import policy are still being formulated, numerous U.S. gas importers are, in effect, following the new policy through renegotiation of gas purchase arrangements with their Canadian suppliers.

Finally, in response to the Administrator's request in Order 50, TLC and Sonatrach entered into additional negotiations and reached agreement July 3, 1983, on proposed modifications to their contract.

In view of these developments, along with the necessity of removing the uncertainty that presently exists concerning the future of this import arrangement, it is appropriate to reopen the TLC proceeding and to make a determination on the issues deferred in Order 50. More specifically, it is timely to review the proposed amendments to the TLC import contract from the standpoint of their responsiveness to the concerns expressed in Order 50 about the regasified price of the LNG and the contract's flexibility and ability to respond to the markets served. Should this import arrangement be deemed not consistent with the public interest pursuant to section 3 of the Natural Gas Act, the import cannot continue without modification. Thus, it is also appropriate in this proceeding to examine the nature of possible action by the government in the event that the continuance of the existing import arrangement and approval of the proposed amendment are contrary to the public interest. However, the fact that this examination is being undertaken does not suggest that the issues in question in this proceeding have been prejudged.

The Natural Gas Act requires, in the authorization of gas imports, that a balance be achieved in determining the public interest, as the basic purpose of the Act is to protect consumers from exploitation by natural gas companies and to foster a healthy natural gas industry in the United States.[10] Order 50 affirmed this purpose when stating:

> We are not anxious to breed uncertainty into existing or future import authorizations, as their reliability is basic to the development of large-scale energy projects dependent upon such licenses. On the other hand, we cannot ignore the impact on the consumer * * *.[11]

A number of considerations must be balanced in this proceeding which have important domestic and international dimensions. These considerations include international contractual obligations; energy security and supplies for the United States; future investment

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[1] Sonatrach is the acronym for Algeria's state-owned oil and gas company, Societe Nationale pour la Recherche, la Production, le Transport, et la Commercialization des Hydrocarbures.

[2] Opinion No. 796, issued April 29, 1977 (58 FPC726) and Opinion No. 796-A, issued June 30, 1977 (58 FPC 2935), issued by the Federal Power Commission (FPC).

[3] DOE/ERA Opinion and Order No. 50, issued February 25, 1983 (ERA Docket No. 82-12-LNG) at 7.

[4] *Id.* at 8.

[5] Shelby-Corcoran Amendment to Committee Print of May 23, 1983, as adopted by the Subcommittee on July 29, 1983 (as amended August 5, 1983) Title VI.

[6] Committee Amendment Regarding Natural Gas Imports, Senate Report No. 98-205, 98th Cong., 1st Sess. 19 (1983).

[7] *Id.* § XXX(a)(3) and (b)

[8] S. 370, 98th Cong., 1st Sess., Feb. 1, 1983 ("Imported Liquefied Natural Gas Policy Act of 1983").

[9] H.R. 1441, 98th Cong., 1st Sess., Feb. 15, 1983 ("Natural Gas Import Policy Act of 1983").

[10] *FPC v. Hope Natural Gas Co.*, 320 U.S. 591 (1944); *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968).

[11] Order 50, at 7.

in capital-intensive energy projects; the future economic viability of imported LNG; and, the protection of the American gas consumer.

The Natural Gas Act establishes a presumption in favor of authorizing natural gas imports and thus requires a negative determination for disapproval.[12] Consequently, action to alter, suspend, or terminate an existing import authorization can only be taken when the record clearly supports a determination that the import is no longer consistent with the public interest. If a significant change in the authorization is contemplated, particularly where parties have invested large sums in the project in reliance on the authorization, such a record must factually demonstrate significantly changed circumstances since the time of the original authorization. Public and political sentiment, however widespread, without supporting factual evidence cannot be considered sufficient to overturn an authorization. Record evidence, combined with policy considerations, must join to override the presumption favoring continuation of the import.

III. The Existing Import Arrangement

In 1977, the Federal Power Commission (FPC) authorized TLC to import from Algeria approximately 165 Bcf equivalent of LNG annually, for a period of twenty years, and to construct and operate the necessary terminal facilities at Lake Charles, Louisiana.[13] Opinions Nos. 796 and 796–A approved a price for the revaporized LNG delivered to the system of Trunkline Gas Company (Trunkline) of $3.37 per Mcf.[14] Opinion No. 796–A approved a price adjustment mechanism in the gas supply contract between TLC and Sonatrach, in which the price of LNG, f.o.b. Algeria, would change semiannually based on the Btu equivalent for the weighted average prices of No. 2 and No. 6 fuel oil in New York harbor. The contract also included a 100 percent take-or-pay provision and a provision for Sonatrach to furnish three cryogenic tankers and TLC to arrange for two other tankers.[15] Deliveries began in September 1982.[16]

IV. The Proposed Amndment

Order 50, specifically requested that TLC and Sonatrach renegotiate a more flexible and market responsive contract by changing the base price, altering the price adjustment clause, or obtaining a more flexible take-or-pay arrangement.

In response to this request for contract renegotiation, TLC and Sonatrach met several times during the past six months; the product of these and previous negotiations in 1982 is TLC's application for amendment. In its application, TLC states that the changes in its gas sales agreement with Sonatrach "respond favorably to each of the outstanding concerns or uncertainties of the Commission and ERA and will better serve the public interest through a considerable price reduction and a rescheduling of deliveries to better fit the short-term excess and long-term absence of supply."[17]

On July 25, 1983, TLC filed with the ERA the amendment to its authorization to import LNG from Sonatrach. The basis for this amendment was established in Amendment No. 1 dated August 6, 1982, as revised by a letter of agreement between TLC and Sonatrach dated July 3, 1983. Although the proposed amendment would not change the contractual requirement that TLC take the full contract quantity of LNG, it would provide for five principal changes to the gas purchase contract: modification of the delivery schedule; extension of the general gas make-up provision; revision of the price adjustment clause; changes in the terms of transporting the LNG in Sonatrach vessels; and the retroactive effect of any future revisions of the pricing terms made pursuant to Article XXIV of the contract, following governmental approvals.

A. Modification of Delivery Schedule

In the proposed modification of the delivery schedule, TLC's annual contract quantities would be reduced by 40 percent during the 20-month period from April 1, 1983, through November 30, 1984. The proposed volume reductions during the 20-month period are estimated to total 119 trillion Btus. The quantities not delivered during this 20-month period would have to be taken between the third and eleventh contract years. If TLC is unable to take these volumes by the end of the tenth contract year as scheduled, it nevertheless has to pay for these volumes at that time. Although TLC would be required to pay for the gas by the end of the tenth contract year, the changes to the general make-up provisions would extend the period during which TLC could make up these reduced takes through the fifteenth contract year (November 30, 1997). TLC maintains that its savings in f.o.b. costs over this 20-month period will approximate $425 million under the existing contract and $490 million under the proposed amendment.

B. Extension of the General Make-up Period

TLC is also proposing changes to the general make-up provision in its contract. First, the make-up period would be extended from three to five years from the time the contract quantities were scheduled to be taken, i.e., from 1986 to 1988 for quantities scheduled to be taken in 1983. Additionally Sonatrach would agree to "use its best efforts" to supply any make-up quantities. Finally, the parties would agree to meet regularly or upon the request of either party and "use their best efforts to agree" on similar volume adjustments and make up provisions, if needed.

C. Revision of the Price Adjustment Clause

The proposed change to the price adjustment provisions would tie the f.o.b. Algeria price to direct changes in posted prices of a basket of five foreign crude oils[18] to be recalculated quarterly. The f.o.b. price of $3.92 per MMBtu that was in effect on December 2, 1982, would be adjusted quarterly to reflect, dollar for dollar, any change in the average daily posted price of this

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[12] *Cia Mexicana de Gas, S.A. v. FPC*, 167 F.2d 804 (5th Cir. 1948).

[13] According to the record in ERA Docket No. 82–12–LNG, as of October 1982, the cost of these facilities totaled $577 million. Ex. 87. In addition, $377.8 million was spent in the construction of two LNG vessels; of that amount $80 million was a grant from the U.S. Maritime Administration. Lachmar, the builder of the ships, also received loan guarantees in the amount of $197.5 million from the Maritime Administration. Hahn, Tr. 1759–64, Ex. 71. Sonatrach supplied three LNG vessels to transport this LNG and invested substantial sums in liquefaction and other facilities in Algeria that are usedin this trade. Item by Reference D; *Truckline LNG Co.*, Initial Decision, 58 FPC 750, 780 (1977).

[14] See footnote 2.

[15] On May 7, 1976, TLC signed an agreement with Lachmar (a partnership in which Panhandle Eastern Pipeline Co., under common control with TLC, indirectly owns a 40 percent interest for the transportation of 40 percent of the LNG to be purchased pursuant to its gas sales agreement with Sonatrach). The agreement contains a provision that requires TLC to pay Lachmar for the transportation of this LNG regardless of whether the vessels are being used (ship-or-pay obligation). A similar transportation agreement, signed on January 8, 1977, also with ship-on-pay penalties, requires Sonatrach to arrange for the transportation of the remaining 60 percent of the LNG.

[16] The FPC estimated that the regasified price in the first quarter of 1980 would be $3.37 per Mcf. Due to the large increases in the price of the indexed fuels, substantial overruns on shipping charges, and the cost of constructing the U.S. facilities, the regasified price was $7.09 per Mcf as of July 1983, based on 100 percent throughput of the contracted volumes, or $6.48 per Mcf assuming only 60 percent of the contracted volumes are delivered. See ERA Docket No. 83–04–LNG, "Application for Amendment of Authorization to Import Liquefied Natural Gas," filed July 25, 1983, at Exhibit H.

[17] *Id. at 16.*

[18] Saudi Arabian Arab Light, Mexican Isthmus, North Seas Forties, Algerian Saharan Blend, Nigerian Bonny Light.

basket of crude oils from the third quarter in 1982. This proposed pricing formula would yield an f.o.b. price change of 17 cents per MMBtu for each dollar change in the posted price of crude oil. The existing formula produces a change of ten cents for each dollar change in the average price of No. 2 and No. 6 fuel oils.

D. Changes in the Transportation Terms

The TLC amendment proposes two changes in the terms for transporting the LNG in Sonatrach vessels. Although TLC would have the responsibility for furnishing the marine transportation for the make-up quantities, priority consideration is to be given to the use of other Algerian vessels if available under "competitive conditions." In addition, Sonatrach agrees to an apparent reduction of its shipping charges by changing the date for termination of the accrual of "unavoidable costs." to November 1, 1981, from December 1, 1982. Under the existing contract, Sonatrach could apparently make claims to TLC for operating and lay-up costs, debt service, and a capital carrying charge attributed to Sonatrach's marine vessels from the time they were ready for use to the time of the "First Regular Delivery" of this LNG supply (December 1, 1982).

E. Retroactive Effect of Future Provisions

The proposed amendment would also establish a permanent mechanism to give retroactive effect, after governmental approvals, to any revisions made to the pricing terms of the contract in accordance with the Article XXIV of the existing contract.[19] Under this proposal, a retroactive payment would be collected that would equal the "difference between the revenues collected under the to-be-changed provisions and those which would have been charged under the pending revision, plus simple interest at the prime rate." [20] TLC stated that these procedures for retroactive adjustment would not apply to any refunds by Sonatrach resulting from approval of the instant proposed amendment.

[19] Article XXIV states that any revisions to the price of the LNG must incorporate "the current economic conditions of the market in the East Coast and Gulf Coast Regions of the United States of America for imported natural gas and other imported forms of energy competitive with natural gas which are sold pursuant to long-term contracts. The parties will take into account all the characteristics of each of the above mentioned products (in particular quality, continuity of deliveries, cost of production and transportation, etc.)."

[20] TLC's Application for Amendment, at 12.

V. Remedy

This order is intended to establish the record upon which a decision on this import arrangement can be based. A determination must be made as to whether the existing arrangement or the proposed amendment is not inconsistent with the public interest. The concerns and questions posed throughout this order are designed to assist in reaching an expeditious decision on this matter.

The need to resolve the issue expeditiously warrants the examination of available remedies in the eventuality of a record which would support a decision to modify, suspend or terminate the authorization, as well as the appropriateness of these remedies. A number of actions are available in this eventuality, ranging from permanent revocation of the import authorization, to requesting modifications to the arrangement, to suspension of authority to import until such time as the parties present an import arrangement that the government can determine to be not inconsistent with the public interest.

However, as a matter of policy, this agency does not favor government imposed changes or modifications to contracts between private parties and thus prefers that the contracting parties assume this responsibility. The parties are far more capable than the government of balancing their commercial needs with the various options available to make the arrangement sufficiently market-responsive and competitive. It is the government's responsibility to ensure that the results are aligned with the public interest, but not to propose or impose that alignment.

Comments are thus solicited from all parties on appropriate remedial action, should the record demonstrate the existing arrangement and/or the proposed amendment are contrary to section 3 of the Natural Gas Act.

VI. Request for Comments and Information

A. Questions on the Proposed Amendment

Comments from all parties are invited on whether the proposed amendment responds to the concerns expressed in Order 50, and whether approval of the amendment would not be inconsistent with the public interest. In addition, comments are solicited in response to the following questions:

1. *All parties.*

a. Would the proposed amendment result in an arrangement that is market-responsive and market-competitive? Would this arrangement benefit the consumers in Panhandle/Trunkline's system? Would it be in the public interest? If it would not, what changes are required to make it so?

b. Would the index for the price adjustment clause in the proposed amendment (foreign crude oils) be responsive to the markets served by this import? Would it be responsive to Article XXIV of the contract?

c. How would the f.o.b. price for Algerian LNG have varied from July 1975 to the present if the proposed price adjustment clause had been in effect compared with the current price adjustment mechanism?

d. Over the life of the contract, how would the f.o.b. prices resulting from the proposed adjustment clause compare with f.o.b. prices resulting from the current price adjustment clause?

e. The volumes were approved in the original TLC authorization on the basis of need. The reduced takes for the 20-month period suggest a revision of this need. To what extent is the LNG needed during the 20-month deferral period? Will there be a need for this LNG following this 20-month period? If so, what will the need be?

f. During the 20-month period of reduced takes, what cost savings would result to the consumer on an average MMBtu basis? Would this vary by type of consumer? How?

g. Would additional costs to the consumer on an average MMBtu basis result from importing this LNG after the 20-month deferral period? If so, how much would it be? What are the assumptions used in making this estimate?

h. If the Panhandle/Trunkline system were to take all the domestic gas supplies available to it during the 20-month deferral period, how much LNG would be needed to meet its requirements? If all available current and projected domestic supplies were taken by the Panhandle/Trunkline system over the life of the contract, how much LNG would be needed?

2. *TLC, Panhandle/Trunkline, Lochmar.*

a. During the 20-month period of reduced takes, what will the supply requirments be on the Panhandle/Trunkline system? What percentage of the supply is projected to come from LNG? Will this LNG displace available domestic gas? If so, what supplies (price, source, location) will be displaced?

b. From the end of the 20-month deferral period through the end of the tenth contract year (make-up period), what will the supply requirements be on the Panhandle/Trunkline system? What percentage of this supply is projected to come from LNG? Would this LNG

displace available domestic gas? If so, what supplies would be displaced?

c. What data, assumptions and methodology were used in calculating the estimated dollar savings that would result from the proposed 20-month reduction in takes, i.e., $490 million under the amendment and $425 million under the original contract?

d. What are the increased shipping and regasification costs that can be attributed to the proposed reduced takes during this 20-month period, both on the aggregate and per unit basis (MMBtu)?

e. What are the anticipated impacts on shipping and regasification costs when TLC begins to make up these reduced takes between the third and the eleventh contract years?

f. The proposed amendment states that Sonatrach has agreed to reduce shipping charges to TLC by altering the date for accuring "unavoidable costs." Why have these charges not been totally eliminated?

g. What does the term "competitive conditions" mean as used in the proposed amendment where it states that priority consideration will be given in the use of other Algerian vessels in transporting make-up volumes, if available on "competitive conditions?"

B. Questions to Supplement the Record

The decision on the pricing issues was deferred in Order 50 because the record was inadequate and required supplementation. The petitions and complaints filed in the proceeding decided by Order 50, and the evidentiary record compliled by the FERC Administrative Law Judge, did not provide the factual information needed to support the remedies sought by the petitioning parties. Specifically, the record requires more data on the take-or-pay requirement in TLC's contract with Sonatrach and its likely effects, the shipping charges being passed through by TLC, including rates of return for the shipping and ship-or-pay penalties, the price of alternative energy sources in the gas markets served by the TLC import, and the load loss that could be attributable to this import. This record should further be supplemented with information and data on whether this LNG, when rolled in with other gas supplies on the Panhandle/Trunkline system,[21] is currently market competitive and will likely remain market competitive through the duration of the import arrangement. Comments are also invited pertaining to any other matters which might assist in making the decision.

Information is requested from TLC and other parties, as follows:

1. *All Parties.*

a. From September 1982 to the present, what has been the monthly effect of this LNG import on the aggregate price of supplies to individual distributors and direct industrial customers? What has the monthly effect been on the price of gas to the consumer?

b. What quantities and prices of alternative fuels, including domestic natural gas, are currently available in the markets served and are projected to be available over the life of this contract?

c. Would there be adequate sources of gas available to the Panhandle/Trunkline system to meet customers' needs if this LNG supply were not available? What would these sources and volumes be over the short-term? Over the long-term?

d. What contract renegotiations have occurred during the past year among producers and pipelines serving the North Central region, whether for domestic or imported gas, to reduce the price and/or takes of high-price gas supplies?

e. What load loss has been experienced since September 1982 and is projectd for at least the next 12 months on the Panhandle/Trunkline system? Are other pipelines serving the North Central region experiencing similar load loss?

f. What fuel switching and conservation has occurred in the North Central region since September 1982? What potential for additional fuel switching and conservation exists?

g. What would be the adverse financial effects on the various parties to this import arrangement if it were to be suspended or terminated?

h. Would a decision to terminate, suspend or modify this existing import arrangement have an adverse effect on the financing of other gas import projects? If so, what would the nature and extent of such effects be?

i. What investments have Sonatrach and other foreign parties make to facilitate this project?

j. Are the costs being incurred by TLC under the transportation agreements with Lachmar and Sonatrach excessive? If so, how might these costs be reduced?

k. What is the rate of return for Lachmar for this project? Is this rate of return appropriate under the circumstances?

2. TLC, Panhandle/Trunkline, Lachmar.

a. What are Panhandle Eastern and Trunkline Gas companies' current (most recent six-month period) and projected gas supplies (next twelve months) by source, location, price, volume and NGPA price category, identifying those supplies purchased from producer affiliates? What are the contract levels for these supplies?

b. From September 1982 to the present, what has been the monthly effect of the importation of the LNG on the price (on an MMBtu basis) of gas supplies on both the Panhandle Eastern and Trunkline Gas systems? What increased take-or-pay obligations have there been during this period as a result of this import? What has been the effect on the aggregate price of the supply?

VII. Consolidation of ERA Dockets

In this order the docket under which TLC filed its July 25, 1983, amendment to its authorization (ERA Docket No. 83-04-LNG) is consolidated with the ongoing TLC proceeding (ERA Docket No. 82-12-LNG). The decision to consolidate these two dockets is based on the substantial similarity of the issues in both proceedings and TLC's contention that the recently filed proposed changes to its authorization "respond favorably to each of the outstanding concerns or uncertainties" of the ERA in Docket No. 82-12-LNG and of the FERC in Docket CP74-138, *et al.* Protests or petitions for intervention in this consolidated proceeding are invited. Those who are currintly parties to the proceeding in ERA Docket No. 82-12-LNG are parties in this consolidated proceeding.

VIII. Procedural Schedule

A. Intervention

Protests or petitions for intervention in this consolidated proceeding are invited. All persons who are parties to the proceeding in ERA Docket No. 82-12-LNG will automatically become parties to this consolidated proceeding. All protests or petitions should be filed in accordance with the requirements of the rules of practice and procedure [18 CFR 1.8 and 1.10]. Such protests or petitions for intervention will be accepted for consideration if filed no later than 4:30 p.m., e.d.t., October 26, 1983.

A copy of TLC's proposed amendment to its import authorization is available for public inspection and copying in the Natural Gas Division Docket Room, Room GA-007, 1000 Independence Avenue, S.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30

[21] The LNG import authorization was orginally granted on the premise that the LNG would be a high-cost gas supply rolled in with lower cost supplies to be marketable

p.m., Monday thorugh Friday, except Federal holidays.

B. Comments

Comments are requested from all parties on whether the proposed amendment is responsive to the concerns expressed in Order 50, and on whether approving the amendment would not be inconsistent with the public interest. Further, comments are requested from all parties on the appropriate remedies available if the determination is made that the present and proposed import arrangements are inconsistent with the public interest. Finally, comments and information are requested from all parties to supplement the record and provide the information necessary to reach a decision in this proceeding.

All comments should be filed no later than 4:30 p.m., e.d.t., October 26, 1983.

All replies to the written submissions of other parties should be submitted by no later than 4:30 p.m., e.s.t., November 14, 1983.

IX. ORDER

For reasons set forth above, pursuant to section 3 of the Natural Gas Act,

The ERA Administrator Orders:

A. Trunkline LNG Company (TLC) shall serve, by mail or personal delivery, within seven days after issuance of this order, all parties in ERA Docket No. 82–12–LNG with a copy of its July 25, 1983, filing with the ERA entitled "Application For Amendment of Authorization to Import Liquefied Natural Gas."

B. All parties in the proceeding, including TLC, who wish to comment on TLC's July 25, 1983, proposed amendment to its authorization, shall file no later than 4:30 p.m., e.d.t., October 26, 1983.

C. All parties, including TLC, who wish to comment on the appropriate remedies available if the record demonstrates that the present and proposed import arrangements are inconsistent with the public interest shall file no later than 4:30 p.m., e.d.t., October 26, 1983.

D. All parties, including TLC, who wish to provide the information requested to supplement the record or to comment on the price issue for the consolidated proceeding shall file no later than 4:30 p.m., e.d.t., October 26, 1983.

E. Any party, including TLC, who wishes to submit replies to the written submissions of other parties shall file such replies by no later than 4:30 p.m., e.s.t., November 14, 1983.

F. ERA Docket No. 83–04–LNG is hereby consolidated with ERA Docket No. 82–12–LNG. Parties to the latter proceeding are parties to this consolidated proceeding. All persons seeking to intervene in this consolidated proceeding must file a motion to intervene with ERA no later than 4:30 p.m., e.d.t., October 26, 1983.

G. All responses to this order shall be files with the ERA and all parties to the proceeding. Service shall be by mail or by personal delivery to all parties. Responses served upon the ERA shall be delivered to the Economic Regulatory Administration, Natural Gas Division Docket Room, Room GA–007, RG–43, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585.

Issued at Washington, D.C., on September 23, 1983.

Rayburn Hanzlik,

Administrator, Economic Regulatory Administration.

[FR Doc. 83-26716 Filed 9-29-83; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. QF83-416-000]

B & C Energy, Inc.; Application for Commission Certification of Qualifying Status of a Small Power Production

September 27, 1983.

On September 6, 1983, B & C Energy Inc., of Box 34, Twin Falls, Idaho 83301, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 30 megawatt hydroelectric facility is located on the Snake River near Murtaugh, Idaho.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26722 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. OF83-419-000]

Biomass Power Corp.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On September 8, 1983, Biomass Power Corp., of 145 Camp Drive, Dunnellon, Florida, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located two miles northeast of Madison, Florida. The primary energy source will be biomass in form of wood chips and peanut shells. The power production capacity will be 7,500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26723 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-398-000]

Braum Ice Cream Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On August 19, 1983, Braum Ice Cream Company, of P.O. 25429, Oklahoma City, Oklahoma 73125, filed with the Federal Energy Regulatory Commission

(Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at the Braum Dairy Farm in Tuttle, Oklahoma. The primary energy source will be municipal waste in the form of methane gas. The power production capacity will be 900 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26724 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-401-000]

Farmers Irrigation District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On August 24, 1983, Farmers Irrigation District of 1185 Tucker Road, Hood River, Oregon 97031, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The hyroelectric facility will be located on the Hood River, in Hood River, Oregon. The power production capacity will be 1.65 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26725 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-400-000]

Farmers Irrigation District; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On August 24, 1983, Farmers Irrigation District of 1185 Tucker Road, Hood River, Oregon, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The hydroelectric facility will be located on the west bank of the Hood River in Hood River, Oregon. The power production capacity will be 2.5 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26726 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-404-000]

Maine Energy Recovery Co.; Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On August 26, 1983, Maine Energy Recovery company of One Monument Square, Portland, Maine 04101, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located on Smith Street, in Biddeford, Maine. The primary energy source will be biomass in the form of municipal solid waste and waste wood chips. The power production capacity will be 24 megawatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26727 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-409-000]

Scott Paper Company, Oconto Falls; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On August 29, 1983, Scott Paper Company of Scott Plaza, Philadelphia, Pennsylvania 19113, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The 1,810 kilowatt hydroelectric facility is located on the Oconto River, Oconto Falls, Wisconsin.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26728 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-407-000]

The Valley Hilton Hotel; Notice of Application for Commission Certification of Qualifying Status of a Cogeneration Facility

September 27, 1983.

On September 1, 1983, The Valley Hilton Hotel of 15433 Ventura Boulevard, Sherman Oaks, California 91403, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations.

The topping-cycle cogeneration facility will be located at 15433 Ventura Boulevard, Sherman Oaks, California 91403. The primary energy source of the facility will be natural gas. The power production capacity will be 200 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26729 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. QF83-402-000]

Wehran Energy Corp.—Greater Albany; Notice of Application for Commission Certification of Qualifying Status of a Small Power Production Facility

September 27, 1983.

On August 24, 1983, Wehran Energy Corp., of 666 East Main Street, Middletown, New York 10940, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations.

The facility will be located at Greater Albany Landfill, Rapp Road, Albany, New York 12207. The primary energy source will be municipal waste in the form of methane gas from a sanitary landfill. The power production capacity will be 500 kilowatts.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26730 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CS71-1081-000, et al.]

Crown Central Petroleum Corporation (Mobil Oil Corporation), et al.; Applications for "Small Producer" Certificates [1]

September 27, 1983

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 12, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the Requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS71-1081-000	[1] 9/19/83	Crown Central Petroleum Corporation (Mobil Oil Corporation), 4747 Bellaire Boulevard, Bellaire, Texas 77401.
CS83-96-001	[2] 9/8/83	La Parrita Oil & Gas Inc. (Amoco Production Company), P.O. Box 392, Rosenberg, Texas 77471.
CS83-117-000	9/13/83	Natural Gas Associates, P.O. Box 5660, Denver, Colorado 80217.
CS83-118-000	9/19/83	Morgan Properties, a South Carolina limited partnership, 400 Writer Square, 1512 Larimer Street, Denver, Colorado 80202.
CS83-119-000	9/19/83	Hall Consulting Company, Inc., 2235 Del Monte, Houston, Texas 77019.
CS83-120-000	9/19/83	Winifred K. Ponder, 1800 North Staton Street, El Paso, Texas 79902.
CS83-121-000	9/19/83	Barbara J. Wilson, individually and on behalf of Barbara J. Wilson, Personal Representative of the Estate of Robert P. Wilson, Deceased, P.O. Box 1039, Liberal, Kansas 67901.
CS83-122-000	9/19/83	Cramon Stanton, Inc., 5906 Barmuda Dunes Drive, Houston, Texas 77069.

[1] Effective December 1, 1982, Mobil Oil Corporation assigned all of its interest in the Lane 1-26, Beaver County, Oklahoma to Crown Central Petroleum Corporation.
[2] Effective April 1, 1983 La Parrita Oil & Gas Inc., purchased from Amoco Production Company certain producing properties.

[FR Doc. 83-26814 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TC83-40-000; etc.]

El Paso Natural Gas Co., et al.; Tariff Sheet Filings

September 27, 1983.

Take notice that the following pipelines [1] have filed revised tariff sheets to become effective November 1, 1983, pursuant to § 281.204(b)(2), of the Commission's Regulations which section requires interstate pipelines to update their respective index of entitlements annually to reflect changes in priority 2 entitlements (Essential Agricultural Users).

Pipeline and Docket No. and Tariff Sheets

(1) El Paso Natural Gas Company, TC83-40-000—Fourteenth Revised Sheet, No. 63-C.3 of FERC Gas Tariff, Original Volume No. 1; Fifteenth Revised Sheet, No. 1-M.3 of FERC Gas Tariff, Third Revised Volume No. 2; Fifteenth Revised Sheet, No. 7-MM.3 of FERC Gas Tariff, Original Volume No. 2A.

[1] Addresses of the pipelines are listed in the Appendix hereto

(2) K N Energy, Inc., TC83-40-000—Seventh Revised Sheet, Nos. 33 through 37, Fifth Revised Sheet, Nos. 38 through 49, Second Revised Sheet, Nos. 51 through 53 of FERC Gas Tariff, Third Revised Volume No. 1.

(3) Colorado Interstate Gas Company, TC83-40-000—Fourth Revised Sheet, No. 61H of FERC Gas Tariff, Original Volume No. 1.

(4) North Penn Gas Company, TC83-44-000—Second Revised Sheet, No. 12K, Second Revised Sheet, No. 12L, of FERC Gas Tariff, First Revised Volume No. 1.

(5) Mississippi River Transmission Corporation, TC83-45-000—Original Sheet, Nos. 79 through 83 of FERC Gas Tariff, Second Revised Volume No. 1.

(6) Tennessee Gas Pipeline Company, a Division of Tenneco Inc., TC83-46-000—Second Revised Sheet, Nos. 55, 98, 99, and 135, Third Revised Sheet, Nos. 91, 102, 104, 131, and 134, Fourth Revised Sheet, No. 10, Fifth Revised Sheet, Nos. 22, 23, 24, 43, 92, and 93, Seventh Revised Sheet, No. 2, of FERC Gas Tariff, Original Volume No. 1A.

(7) East Tennessee Natural Gas Company, TC83-47-000—Third Revised Sheet Nos. 263, through 277 of FERC Gas Tariff, Original Volume No. 1.

(8) Arkansas Louisiana Gas Company, TC83-48-000—Fifth Revised Sheet, No. 3E, Fifth Revised Sheet, No. 3F, Fifth Revised Sheet, No. 3G, Fifth Revised Sheet, No. 3H, Fifth Revised Sheet, No. 3I, Fifth Revised Sheet, No. 3J, of FERC Gas Tariff, First Revised Volume No. 1.

Any person desiring to be heard or to make any protests with reference to said tariff sheet should on or before October 11, 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.

Appendix

El Paso Natural Gas Company, P.O. Box 1492, El Paso, Texas 79978.

K N Energy, Inc., P.O. Box 1265, Lakewood, Colorado 80215.

Colorado Interstate Gas Company, P.O. Box 1087, Colorado Springs, Colorado 80944.

North Penn Gas Company, 76-80 Mill Street, Port Allegany, Pennsylvania 16743.

Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124.

Tennessee Gas Pipeline Company, a Division of Tenneco Inc., Tenneco Building, P.O. Box 2511, Houston, Texas 77001.

East Tennessee Natural Gas Company, Tenneco Building, P.O. Box 2511, Houston, Texas 77001.

Arkansas Louisiana Gas Company, P.O. Box 21734, Shreveport, Louisiana 71151.

[FR Doc. 83-26815 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-498-000]

The Inland Gas Company, Inc.; Application

September 27, 1983.

Take notice that on September 6, 1983, The Inland Gas Company, Inc. (Inland), 340 17th Street, Ashland, Kentucky 41101, filed in Docket No. CP83-498-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Columbia Gas Transmission Corporation (Columbia) for a term of ten years pursuant to an agreement dated April 18, 1983, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Inland requests authorization to transport for Columbia up to 15,000 Mcf of gas per day on a best-efforts basis from a proposed point of interconnection in Johnson County, Kentucky, to an existing point of interconnection in Floyd County, Kentucky. Columbia has the right to purchase gas from a source in Lawrence County, Kentucky, which is remote from Columbia's facilities, but convenient to Inland's. Inland states that it would construct measuring facilities in Johnson County under its blanket authorization in Docket No. CP83-139-000 and would be reimbursed by Columbia. Inland asserts that Columbia would utilize the gas as a part of its system supply.

Inland proposes to charge 15.81 cents per Mcf for the transportation service, which rate reflects Inland's average systemwide unit transmission cost.

Any person desiring to be heard or to make any protest with reference to said application should on or before October

18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Inland to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26816 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-492-000]

The Inland Gas Company Inc.; Application

September 27, 1983.

Take notice that on September 1, 1983, the Inland Gas Company, Inc. (Applicant), 340 Seventeenth Street, Ashland, Kentucky 41101, filed in Docket No. CP83-492-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain natural gas facilities to provide service to Kentucky Revised Statutes (KRS) customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that Kentucky Revised Statute 278.485 provides:

> Every gas pipeline company obtaining gas from producing wells located within this state, upon the request of the owner of the property on or over which any producing well or gas gathering pipeline is located or the owner of real estate whose property and point of desired service is located within one-half air-mile of said company's producing gas well or gas gathering pipeline shall furnish gas service to such owner * * *.

Applicant proposes as a result of this requirement, to construct and operate gas service taps and metering facilities for 75 KRS customers in Boyd, Floyd, Johnson, Knott, Lawrence, Carter, Letcher, and Magoffin Counties, Kentucky.

Applicant estimates that the average cost for each of the proposed installations is $250.00 for a total estimated cost of $18,750.00, which would be financed from internally generated funds. Applicant asserts that each of the 75 residential customers would utilize approximately 0.4 Mcf of gas per day for a total of 30 Mcf per day.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214, or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any Persons wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26817 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-493-000]

Northwest Pipeline Corp.; Application

September 27, 1983.

Take notice that on September 1, 1983, Northwest Pipeline Corporation (Applicant), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP83-493-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 4.6 miles of 24-inch and 30-inch loop pipeline and appurtenant facilities on its main transmission system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Applicant's main transmission system traversing the Douglas Pass area of Garfield County, Colorado, has had numerous pipeline failures since being placed in operation on September 1, 1956. It is further stated that Applicant has experienced operating problems in the vicinity of its Muddy Creek Compressor Station. To remedy these problems, Applicant requests authority to construct and operate the following:

(a) Approximately 3.7 miles of 30-inch loop pipeline on its 26-inch Sumas-to-Ignacio mainline in the vicinity of mainline mile posts 243.3 to 247.0;

(b) A pipeline tunnel approximately 3,500 feet in length; and

(c) Approximately 0.9 mile of 24-inch pipeline from the interconnection of Applicant's Opal 30-inch and 16-inch lines and its 26-inch mainline to Applicant's Muddy Creek Compressor Station.

Applicant states that the soil and rock conditions at Douglas Pass are relatively unstable and have caused land shifting which has resulted in the lateral movement of Applicant's pipeline. It is submitted that these unstable conditions, which normally occur in the spring when the ground is saturated from melting snow, have existed over the years and have caused pipeline movement sufficient to buckle the pipeline and/or to cause a pipeline

failure. It is explained that Applicant has been advised by geotechnicians that the adverse soil conditions are confined to a section of Applicant's 26-inch mainline extending from mile post 243.3 on the south side of Douglas Pass to mile post 247.0 on the north side of Douglas Pass. Therefore, Applicant plans to construct 3.7 miles of 30-inch loop pipeline in soils less susceptible to lateral movement. Due to the conditions at the summit of Douglas Pass, Applicant is considering constructing a 3,500-foot tunnel for that section of the loop pipeline that would pass through the summit, it is asserted.

Applicant also intends to construct 0.9 mile of 24-inch pipeline extending from the interconnection of its mainline and its Opal processing plant to its Muddy Creek Compressor Station. Applicant explains that these facilities are needed to provide operational flexibility in the production of natural gas from the Big Pine gas supply area, a major gas supply source upstream of Applicant's Opal processing plant. Currently, under certain operating conditions, Applicant states, it is required to utilize additional manpower to coordinate the start-up of the Muddy Creek Compressor Station with the operations of the Opal processing plant in order to eliminate pressure surges which tend to disrupt the operation of the Opal plant and in turn reduce the production from the Big Piney field.

Applicant states that the estimated cost of the facilities proposed herein is $12,473,000 and that such cost would be initially financed from internally generated funds to be subsequently refinanced under a long-term financing arrangement which, as of the filing of this proposal, has not been determined.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commissioner's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26818 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-491-000]

Tennessee Gas Pipeline Co., a Division of Tenneco Inc.; Application

September 27, 1983.

Take notice that on September 1, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Applicant), P.O. Box 2511, Houston, Texas 77001, filed in Docket No. CP83-491-000 an application pursuant to Section 7(c) of the Natural Gas Act and Subpart F of Part 284 of the Commission's Regulations for a limited-term certificate of public convenience and necessity authorizing the transportation of natural gas for Central Hudson Gas & Electric Corporation (Central Hudson), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to transport for Central Hudson during the period beginning with the date deliveries commence and ending on November 3, 1983, up to 25,000 Mcf of natural gas per day. Applicant estimates that it would transport up to 1,250,000 Mcf for Central Hudson during the proposed transportation period.

Applicant states that the gas to be transported would be purchased by Central Hudson from New York State Electric & Gas Corporation (NYSEG) and would be made available to Applicant by NYSEG, for the account of Central Hudson at Applicant's existing Lockport sales meter station delivery point to NYSEG located in Niagara County, New York. It is stated that Applicant would receive said gas at that point and deliver equivalent volumes to Central Hudson at Applicant's existing Cedar Hills sales meter station delivery point to Central Hudson in Albany County, New York.

Applicant indicates that the transportation rate applicable to the proposed service is currently 21.32 cents per Mcf pursuant to Applicant's Rate Schedule IT.

Applicant submits that the volumes of natural gas proposed to be transported and delivered by Applicant would be used by Central Hudson solely to displace fuel oil it would otherwise use in its electric generating stations. Applicant further submits that the gas would be transported only to the extent its operating condition and available capacity permit through the utilization of existing facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public

convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26819 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-463-000]

Zenith Natural Gas Co.; Application

September 27, 1983.

Take notice that on August 12, 1983, Zenith Natural Gas Company (Applicant), 601 South Boulder Avenue, Tulsa, Oklahoma 74119, filed in Docket No. CP83-463-000 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the acquisition and operation of natural gas facilities and the sale for resale of natural gas and for permission and approval to abandon the exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to abandon an existing exchange arrangement between Applicant and Northwest Central Pipeline Corporation (Northwest Central), to acquire by purchase from Northwest Central and operate certain facilities owned by Northwest Central and which are connected to Applicant's pipeline system and sell natural gas for resale to The Gas Service Company. Applicant also proposes to acquire from Northwest Central the right to purchase certain gas under 11 gas purchase contracts through total or partial assignment.

It is indicated that the exchange agreement was certificated by order issued in Docket No. CP65-316 (33 FPC 1137) on May 29, 1965, and provides for the gathering, delivery, and exchange of gas between Applicant and Northwest Central in the Barber County, Kansas, area. Applicant states that the facilities required by the exchange consist of approximately 13.6 miles of pipeline, measuring, and appurtenant facilities. It is stated that Applicant would purchase the facilities for $55,137, their net book value, and that internally generated funds would be used to finance the acquisition.

Applicant states that since the facilities to be acquired are attached to its system, from a practical view point, the subject facilities are already a part of its system. While Northwest Central considers its cost of maintaining such facilities excessive in relation to the gas production, Applicant states that its proximity to the facilities would result in less maintanence cost and that current production would support such cost. Furthermore, Applicant states that by reducing the operating pressure of the facilities more gas can be received therein.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 83-26870 Filed 9-29-83; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-53053; TSH-FRL 2443-8]

Premanufacture Notices; Monthly Status Report for August 1983

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** at the beginning of each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for August 1983.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E-106 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments are to be identified with the document control number "[OPTS-53053]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Management Support Divison, Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M Street, SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-229, 401 M Street, SW., Washington, DC 20460, (202-382-3736).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during August; (b) PMNs received previously and still under review at the end of August; (c) PMNs for which which the notice review period has ended during August; (d) chemical substances for which EPA has received a notice of commencement to manufacture during August, and (e) PMNs for which the review period has been suspended. Therefore, the August 1983 PMN Status Report is being published.

Dated: September 23, 1983.

Linda A. Travers,

Acting Director, Management Support Division.

Premanufacture Notices Monthly Status Report, August 1983

I. 85 Premanufacture Notices Received During the Month

PMN No.	Identity and generic name	FR citation	Expiration date
83-1009	1-propanaminium, 2,3-di-hydroxy-N,N,N-trimethyl-chloride	48 FR 36648 (8/12/83)	Oct. 29, 1983.
83-1010	Generic name: Aromatic, tertiary amine containing polyether polyurethane prepolymer	48 FR 36648 (8/12/83)	Do.
83-1011	Generic name: Thioalkylamidoamine	48 FR 36648 (8/12/83)	Do.
83-1012	Generic name: Bis(sulfophenylchlorotriazine-aminosulfophenylazo) hydroxyaminodisulfo-naphthalene.	48 FR 36648 (8/12/83)	Oct. 30, 1983.
83-1013	Generic name: Substituted(oxyphenyl)tetrazo-cyylene	48 FR 36648 (8/12/83)	Do.
83-1014	Generic name: Hydroxy functional acrylic copolymer	48 FR 36648 (8/12/83)	Do.
83-1015	Generic name: Isocyanato functional poly-carbamoyl (polyalkylene oxide) oligomer	48 FR 36649 (8/12/83)	Oct. 31, 1983.
83-1016	Generic name: Isocyanato functional poly-carbamoyl (plyalkylene oxide) oligomer	48 FR 36649 (8/12/83)	Do.
83-1017	Generic name: Isocyanato functional poly-carbamoyl (polyalkylene oxide) oligomer	48 FR 36649 (8/12/83)	Do.
83-1018	Generic name: Substitute-naphthalenyl-tetrazodisulfonic acid, bis[(substituted-hydroxyphenyl azo)phenyl] derivative.	48 FR 36649 (9/12/83)	Do.
83-1019	Generic name: Substituted polyhydroxy benzene derivative	48 FR 36649 (8/12/83)	Do.
83-1020	Generic name: Substituted polyhydroxy benzene derivative	48 FR 36649 (8/12/83)	Do.
83-1021	Generic name: Hydroxy functional acrylic copolymer	48 FR 36649 (8/12/83)	Nov. 1, 1983.
83-1022	Generic name: Saturated polyester	48 FR 36649 (8/12/83)	Do.
83-1023	Generic name: Alkyl aryl phosphine	48 FR 36649 (8/12/83)	Do.
83-1024	Generic name: Polyether urethane-methacrylate blocked	48 FR 37699 (8/19/83)	Nov. 2, 1983.
83-1025	Generic name: Amino disubstitutedsulfamoyl carbomonocycle	48 FR 37699 (8/19/83)	Do.
83-1026	Generic name: Disubstitutedsulfamcylcarbomono-cycle azo substituted naphthalene sulfonic acid, sodium salt.	48 FR 37699 (8/19/83)	Do.
83-1027	Generic name: Haloalkyl diphosphorohalidic acid	48 FR 37699 (8/19/83)	Do.
83-1028	Generic name: Polyester resin	48 FR 37699 (8/19/83)	Nov. 6, 1983.
83-1029	Generic name: Substituted heterocycle	48 FR 37699 (8/19/83)	Do.
83-1030	Generic name: Hydroxy functional acrylic	48 FR 37699 (8/19/83)	Do.
83-1031	Generic name: Oil modified polyester	48 FR 37699 (8/19/83)	Do.
83-1032	Generic name: Substituted alkyl cyclic amine	48 FR 37700 (8/19/83)	Nov 7, 1983.
83-1033	Generic name: C_{8-9} carboxylic acid	48 FR 37700 (8/19/83)	Nov 8, 1983.
83-1034	Generic name: Polyoxyalkylene acetate ester	48 FR 37700 (8/19/83)	Do.
83-1035	Generic name: Substituted polyoxyalkylene aniline	48 FR 37700 (8/19/83)	Do.
83-1036	Generic name: Chromophore substituted polyoxyalkylene	48 FR 37700 (8/19/83)	Do.
83-1037	Generic name: Chromophore substiuted polyoxyalkylene	48 FR 37700 (8/19/83)	Do.
83-1038	Generic name: Acrylamide polymer	48 FR 37700 (8/19/83)	Do.
83-1039	Generic name: Cycloalkylamine salt	48 FR 37700 (8/19/83)	Do.
83-1040	Generic name: Thioalkyl substituted nitrogen heterocycle	48 FR 37700 (8/19/83)	Do.
83-1041	Generic name: Siloxanes and silicones, dimethyl, methyl (acetamido alkyl) trimethyl endblocked	48 FR 37700 (8/19/83)	Do.
83-1042	Acridine, 9-phenyl	48 FR 37700 (8/19/83)	Do.
83-1043	Generic name: Hydrogen <2-[2-[a-[2-hydroxy-3,5-substituted phenyl azo]-arylhydrazino]4-substitutedaryl]cuprate, sodium salt.	48 FR 37700 (8/19/83)	Do.
83-1044	Generic name: Hydrogen <2-[a-[2-hydroxy-3,5-substituted phenylazo]-arylhydrazino]-5-substitutedaryl]cuprate, sodium salt.	48 FR 37700 (8/19/83)	Do.
83-1045	Generic name: 1,3-naphthalenedisulfonic acid, 4-amino-5-hydroxy-6-arylazo	48 FR 37700 (8/19/83)	Do.
83-1046	Generic name: 1,5-naphthalenedisulfonic acid, 3-[(3-arylazo)arylazo]	48 FR 37700 (8/19/83)	Do.
83-1047	Polymer of benzophenone tetracarboxylic dianhydride, methylene dianilina, bicyclo (2,2,1)-5-hepten-2,3 dicarboxylic anhydride.	48 FR 38890 (8/26/83)	Nov 9, 1983.
83-1048	Generic name: Polyether polyurethane	48 FR 38890 (8/26/83)	Do.
83-1049	Generic name: Alkoxy polyalkyleneoxy alkyl trialkoxy silane	48 FR 38890 (8/26/83)	Do.
83-1050	Generic name: Cationic acrylamide copolymer	48 FR 38890 (8/26/83)	Nov. 12, 1983.
83-1051	Thiomolybdic acid, diammonium salt	48 FR 38890 (8/26/83)	Do.
83-1052	Polymer of: tannin, formaldehyde, monoethanolamina, hydrochloric acid	48 FR 38890 (8/26/83)	Do.
83-1053	Generic name: Epoxy resin	48 FR 38890 (8/26/83)	Nov. 13, 1983.
83-1054	Generic name: Substituted polyether polyurethane	48 FR 38890 (8/26/83)	Do.
83-1055	Generic name: Trisubstituted heteromonocycle	48 FR 38890 (8/26/83)	Do.
83-1056	Generic name: Trisubstituted heteromonocycle	48 FR 38890 (8/26/83)	Do.
83-1057	Generic name: 1,1-di(alkylsubstituted)hydrazine	48 FR 38890 (8/26/83)	Do.
83-1058	Generic name: Methylated alkene-yne	48 FR 38890 (8/26/83)	Do.
83-1059	Generic name: Amine salt of perfluoroalkylamido carboxylate	48 FR 38891 (8/26/83)	Nov. 14, 1983.
83-1060	Generic name: Polyamide of tall oil, diethylene-triamina, and polybasic acid	48 FR 38891 (8/26/83)	Nov. 15, 1983.
83-1061	Generic name: Tetracarboxylic compound	48 FR 38891 (8/26/83)	Do.
83-1062	Generic name: Polycarboxylic acid	48 FR 39689 (9/1/83)	Noy, 19, 1983.
83-1063	Generic name: Reaction product of melamine, formaldehyde, and polyol	48 FR 39689 (9/1/83)	Do.
83-1064	Generic name: Cyanoacetate ester	48 FR 39689 (9/1/83)	Do.
83-1065	Generic name: Cyanoacrylate ester	48 FR 39689 (9/1/83)	Do.
83-1066	Magnesium aluminum hydroxy phosphate-monobasic form	48 FR 39689 (9/1/83)	Nov. 20, 1983.
83-1067	Magnesium aluminum hydroxy phosphate-dibasic form	48 FR 39689 (9/1/83)	Do.
83-1068	Magnesium aluminum hydroxy phosphate-tribasic form	48 FR 39690 (9/1/83)	Do.
83-1069	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1069	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1071	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1072	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1073	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1074	Generic name: Ethylene, polymer with mixed alpha olefins	48 FR 39690 (9/1/83)	Do.
83-1075	Generic name: Reaction products of triglycerides and polyethylene glycol	48 FR 39690 (9/1/83)	Do.
83-1076	Generic name: Polyester urethane-isocyanate terminated	48 FR 39690 (9/1/83)	Do.
83-1077	Generic name: Polyester urethane-isocyanate terminated	48 FR 39690 (9/1/83)	Do.
83-1078	Generic name: Unsaturated polyester	48 FR 39690 (9/1/83)	Do.
83-1079	2-(3-heptyloxy) acetic acid	48 FR 39690 (9/1/83)	Do.
83-1080	Generic name: Silylated silica gel	48 FR 39690 (9/1/83)	Do.
83-1081	Generic name: Quaternary ammonium chloride	48 FR 39690 (9/1/83)	Do.
83-1082	Docosyl methacrylate	48 FR 39691 (9/1/83)	Nov. 21, 1983.
83-1083	Generic name: Modified polyether polyurethane from substituted alkanepolyols and an aromatic diisocyanate.	48 FR 39691 (9/1/83)	Do.
83-1084	Generic name: Hydrocarbon novolac	48 FR 39691 (9/1/83)	Nov. 22, 1983.
83-1085	Generic name: Substituted phenylacetamide	48 FR 39691 (9/1/83)	Do.
83-1086	Generic name: Aliphatic unsaturated copolyester	48 FR 40782 (9/9/83)	Nov. 23, 1983.
83-1087	Generic name: Sodium poly[1-oxyalkyl-1-amino-2-(tert-butyl-2-sulfonate)-1-oxoalkyl-1-amino (N,N-dimethane)].	48 FR 40782 (9/9/83)	Do.
83-1088	Generic name: Polyester from an alkanediol, alkanoic acid and a carbomonocyclic anhydride	48 FR 40782 (9/9/83)	Do.
83-1089	Generic name: Unsaturated polyester with halogenated polyol	48 FR 40782 (9/9/83)	Do.

I. 85 Premanufacture Notices Received During the Month—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-1090	Generic name: Mono and polycarbocyclic poly (ester-amide)	48 FR 40782 (9/9/83)	Do.
83-1091	Generic name: Reaction product of: mixed aliphatic and amino aliphatic alcohols and dimer diisocyanate and 1, 1'-methylenebis [4-isocyanate]-cyclohexane.	48 FR 40782 (9/9/83)	Nov. 26, 1983.
83-1092	Generic name: Mixed castor amide with diethylene triamine	48 FR 40783 (9/9/83)	Nov. 28, 1983.
83-1093	Generic name: Mixed castor amide with amino ethyl ethanol amine	48 FR 40783 (9/9/83)	Do.

II. 126 Premanufacture Notices Received Previously and Still Under Review at the End of the Month

PMN No.	Identity and generic name	FR citation	Expiration date
83-882	Generic name: Ester of gluco-heptonic acid	48 FR 32381 (7/15/83)	Sept. 28, 1983.
83-883	Generic name: Modified rosin calcium salt	48 FR 32381 (7/15/83)	Do.
83-884	Generic name: Poly(ester amide)	48 FR 32381 (7/15/83)	Do.
83-885	Generic name: Styrene containing copolymer	48 FR 32381 (7/15/83)	Do.
83-886	Generic name: Carbocyclic diol	48 FR 32381 (7/15/83)	Do.
83-887	Generic name: Carbocyclic isocyanate	48 FR 32381 (7/15/83)	Do.
83-888	Generic name: Carbocyclic isocyanate	48 FR 32381 (7/15/83)	Do.
83-889	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83-890	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83-891	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83-892	Generic name: Carbocyclic urethane	48 FR 32382 (7/15/83)	Do.
83-893	Generic name: Substituted sulfobenzoic acid	48 FR 32382 (7/15/83)	Do.
83-894	Generic name: Trisubstituted benzenesulfonic	48 FR 32382 (7/15/83)	Do.
83-895	Generic name: Disubstituted benzenesulfonic acid	48 FR 32382 (7/15/83)	Do.
83-896	Generic name: Trisubstituted benzenesulfonic acid, alkali metal salt	48 FR 32382 (7/15/83)	Do.
83-897	Generic name: Polymer of ethylene oxide, maleic anhydride and alkanepolyol and polymer of ethylene oxide, maleic anhydride and alkanepolyol, ammonium salt.	48 FR 32382 (7/15/83)	Do.
83-898	Generic name: Polyether CR12268	48 FR 32382 (7/15/83)	Do.
83-899	Generic name: Alkyl (hydroxy aryloxy) alkanoate	48 FR 32382 (7/15/83)	Do.
83-900	Generic name: Polyglycol, polyalkyl polymer with polyalkanolamine	48 FR 32382 (7/15/83)	Do.
83-901	Generic name: Polyglycol, polyalkyl polymer with polyalkanolamine acetate	48 FR 32382 (7/15/83)	Do.
83-902	Generic name: Polyglycol, polyalkyl polymer with polyalkanolamine hydrochloride	48 FR 32382 (7/15/83)	Do.
83-903	Generic name: Polyalkylenepolyammonium alkanoate hydrohalide	48 FR 32383 (7/15/83)	Do.
83-904	Generic name: 4,4'-thio diether dianhydride	48 FR 32383 (7/15/83)	Do.
83-905	Generic name: Acetyl anilino ether	48 FR 32383 (7/15/83)	Do.
83-906	Generic name: Brominated aryl alkyl ether	48 FR 32383 (7/15/83)	Do.
83-907	Generic name: Substituted benzoyl benzoic acid	48 FR 32383 (7/15/83)	Do.
83-908	Generic name: Ethylated amino phenol	48 FR 32383 (7/15/83)	Do.
83-909	Generic name: Amino phenol	48 FR 32383 (7/15/83)	Do.
83-910	Generic name: Anilino-ether	48 FR 32383 (7/15/83)	Do.
83-911	2,2-dimethyl butanoic acid	48 FR 32383 (7/15/83)	Oct. 3, 1983.
83-912	Generic name: Substituted, amine salt	48 FR 32383 (7/15/83)	Do.
83-913	Generic name: Copper sulfonylphenazopolyhydroxy phenazobenzoate	48 FR 32383 (7/15/83)	Do.
83-914	Generic name: Polyster of dicarboxylic acids and substituted alkanes	48 FR 32383 (7/15/83)	Do.
83-915	Generic name: Poly alkylene polyol	48 FR 32383 (7/15/83)	Do.
83-916	Generic name: [(Benzoquinolinyl)-(Methimidazolylmethylene)] Indenedion deriv	48 FR 32383 (7/15/83)	Do.
83-917	Generic name: Substituted (cyanophenyl-thiazolyl) tetrazo dimethoxybenzene	48 FR 32383 (7/15/83)	Do.
83-918	Generic name: Aminomethyl sulfide	48 FR 32384 (7/15/83)	Do.
83-919	Generic name: Trisubstitutedpyrimidine	48 FR 32384 (7/15/83)	Do.
83-920	Generic name: Phosphonocarboxylic acid derivative	48 FR 32384 (7/15/83)	Do.
83-921	Generic name: Hydrolyzed copolymer based on maleic anhydride	48 FR 32384 (7/15/83)	Do.
83-922	Generic name: Substituted aniline	48 FR 32384 (7/15/83)	Oct. 4, 1983.
83-923	Generic name: Substituted vinylpyridine salt	48 FR 32384 (7/15/83)	Do.
83-924	Generic name: Polymer of substituted vinly-pyridine salt	48 FR 32384 (7/15/83)	Do.
83-925	Generic name: Substituted benzenesulfonamide	48 FR 32384 (7/15/83)	Do.
83-926	Generic name: Substituted benzenesulfonamide	48 FR 32384 (7/15/83)	Do.
83-927	Generic name: Amino aliphatic propoxylate	48 FR 32384 (7/15/83)	Do.
83-928	Generic name: Polyglycolamine	48 FR 32384 (7/15/83)	Do.
83-929	Generic name: Mixed phthalic-glycol polyester polymer	48 FR 32384 (7/15/83)	Do.
83-930	Generic name: Modified phenol/formaldehyde resin	48 FR 33532 (7/22/83)	Oct. 5, 1983.
83-931	Generic name: Branched polyamidoamine	48 FR 33532 (7/22/83)	Do.
83-932	Vinylbenzal-2,4-disodium disulfonate/vinyl alcohol copolymer	48 FR 33532 (7/22/83)	Do.
83-933	Polymer of styrene and sodium styrene sulfonate	48 FR 33532 (7/22/83)	Do.
83-934	Generic name: Fatty acid polyamide	48 FR 33532 (7/22/83)	Do.
83-935	Generic name: Fatty acid polyamide	48 FR 33532 (7/22/83)	Do.
83-936	Generic name: Alkyl ester of alkenyl succinic acid	48 FR 33532 (7/22/83)	Do.
83-937	Generic name: Fatty acid polymide	48 FR 33533 (7/22/83)	Do.
83-938	Generic name: A polymer of methacrylic acid derivatives and a substituted alkane	48 FR 33533 (7/22/83)	Do.
83-939	Oxo-heptyl acetate	48 FR 33533 (7/22/83)	Do.
83-940	Generic name: Aromatic carbonate	48 FR 33533 (7/22/83)	Oct. 6, 1983.
83-941	Generic name: Reaction product of hexane, 1-6 diisocyanato and 2 alkenoamide, 2 methyl-N-(substituted methoxy).	48 FR 33533 (7/22/83)	Do.
83-942	Generic name: Ethylene polymer with mixed alpha olefins	48 FR 33533 (7/22/83)	Do.
83-943	Generic name: Vinyl aromatic methacrylate polymer	48 FR 33533 (7/22/83)	Do.
83-944	Generic name: Cationic polymer	48 FR 33533 (7/22/83)	Do.
83-945	Generic name: Poly [amide ester]	48 FR 33533 (7/22/83)	Do.
83-946	Generic name: Polyglycol alcohol polymer	48 FR 33533 (7/22/83)	Do.
83-947	Generic name: 1-hydrocarbyl pyridinium halide	48 FR 33533 (7/22/83)	Do.
83-948	Generic name: Halogenated aryl alkoxide	48 FR 33533 (7/22/83)	Do.
83-949	Generic name: Polyglicidyl ethers of hydrocarbon novolac	48 FR 33534 (7/22/83)	Do.
83-950	Generic name: Carboxylated arylalkene alkadiene copolymer	48 FR 33534 (7/22/83)	Do.
83-951	Generic name: Polypropylene glycol/bisphenol copolymer	48 FR 33534 (7/22/83)	Do.
83-952	Void		
83-953	Generic name: Modified phenol-formaldehyde alkyl ether amine	48 FR 33534 (7/22/83)	Do.
83-954	Generic name: Modified styrene—acrylic polymer	48 FR 33534 (7/22/83)	Do.
83-955	Generic name: Polybutadiene ester acylcaprolactam	48 FR 33534 (7/22/83)	Do.
83-956	Generic name: Polyallylether polymer	48 FR 33534 (7/22/83)	Do.
83-957	Generic name: Spiro [isobenzofuran xanthene]	48 FR 33534 (7/22/83)	Do.

II. 126 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-958	Generic name: Dialkylphenyl substituted amine	48 FR 33534 (7/22/83)	Do.
83-959	Generic name: Cresol-formaldehyde resin	48 FR 33534 (7/22/83)	Oct. 9, 1983.
83-960	Generic name: Silicone modified polyester resin	48 FR 33534 (7/22/83)	do.
83-961	2,2-dihydroxydiethylamine p-methoxy cinnamate	48 FR 33534 (7/22/83)	do.
83-962	Generic name: Acrylic unsaturated acid terpolymer	48 FR 33534 (7/22/83)	do.
83-963	Generic name: Modified dialdehyde starch	48 FR 33534 (7/22/83)	do.
83-964	Magnesium aluminum hydroxy anion chloride	48 FR 33535 (7/22/83)	Oct. 8, 1983.
83-965	Magnesium aluminum hydroxy anion carbonate	48 FR 33535 (7/22/83)	do.
83-966	Magnesium aluminum hydroxy anion bicarbonate	48 FR 33535 (7/22/83)	do.
83-967	Generic name: Isocyanie terminated ricinoleate prepolymers	48 FR 33535 (7/22/83)	Oct. 10, 1983.
83-968	Generic name: Isocyanate terminated ricinoleate prepolymers	48 FR 33535 (7/22/83)	do.
83-969	Generic name: Terpolymer of alkyl methacrylates and divinyl benzene	48 FR 33535 (7/22/83)	do.
83-970	Generic name: Aromatic aliphatic branched polyester resin	48 FR 33535 (7/22/83)	do.
83-971	Generic name: Alkyl metallic halide	48 FR 33535 (7/22/83)	do.
83-972	Methyl fluorene-9-carboxylate	48 FR 33535 (7/22/83)	do.
83-973	9-methyl carboxylate-9-aminophenyl (4-dimethylamino) fluorene	48 FR 33535 (7/22/83)	do.
83-974	Methyl 9-bromofluorene-9-carboxylate	48 FR 33535 (7/22/83)	do.
83-975	Generic name: (Polyurethane from polyhydroxy-alkyls and an aromatic diisocyanate)	48 FR 33535 (7/22/83)	Oct. 11, 1983.
83-976	Generic name: Fluoroalkylamine	48 FR 34507 (7/29/83)	Oct. 12, 1983.
83-977	Generic name: Acrylic polymer	48 FR 34507 (7/29/83)	Oct. 16, 1983.
83-978	Generic name: Aromatic copolyester	48 FR 34507 (7/29/83)	do.
83-979	Generic name: Blocked nitrile fumarate polymer	48 FR 34507 (7/29/83)	Oct. 17, 1983.
83-980	Generic name: Cyanoacetate ester	48 FR 34507 (7/29/83)	do.
83-981	Generic name: Quaternized alkyl amine	48 FR 34507 (7/29/83)	Oct. 18, 1983.
83-982	Generic name: Cyanoacrylate ester	48 FR 34507 (7/29/83)	do.
83-983	Generic name: Styrene/acrylic copolymer	48 FR 34507 (7/29/83)	do.
83-984	Generic name: Styrene/acrylic copolymer	48 FR 34507 (7/29/83)	do.
83-985	Generic name: Styrene/acrylic copolymer	48 FR 34507 (7/29/83)	Do.
83-986	Generic name: Amino silane	48 FR 34507 (7/29/83)	Do.
83-987	Generic name: Amino silane	48 FR 34508 (7/29/83)	Do.
83-988	Generic name: Hydroxy functional silane	48 FR 34508 (7/29/83)	Do.
83-989	Generic name: Substituted carboxylated cocoimidazoline	48 FR 35713 (8/5/83)	Oct. 22, 1983.
83-990	3-aminonaphthalene-1,5-disulfonic acid, monosodium salt	48 FR 35713 (8/5/83)	Do.
83-991	Generic name: Substituted sulfated naphthylazo sodium salt	48 FR 35713 (8/5/83)	Do.
83-992	Generic name: Copolymer of styrene and an alkyl methacrylate	48 FR 35713 (8/5/83)	Do.
83-993	Polymer of: adipic acid, dipropylene glycol, lauric acid, trimellitic anhydride, trimethylol propane, and triphenyl phosphite.	48 FR 35713 (8/5/83)	Oct. 23, 1983.
83-994	Generic name: Saturated natural fatty acid choline chloride	48 FR 35713 (8/5/83)	Do.
83-995	Generic name: Complex of a substituted oxazoline and a metal-substituted pyrazol	48 FR 35713 (8/5/83)	Do.
83-996	1,3-benzenedicarboxylic acid, polymer with 1,4 benzenedicarboxylic acid, (1,1' biphenyl)-4,4'-diol and 4-hydroxybenzoic acid.	48 FR 35713 (8/5/83)	Do.
83-997	Generic name: 6-diethylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35713 (8/5/83)	Do.
83-998	Generic name: 6-dibutylamino-2-(substituted) spiro(xanthene-9,3'-phthalide)	48 FR 35714 (8/5/83)	Do.
83-999	Generic name: Substituted oxazoline	48 FR 34714 (8/5/83)	Oct. 24, 1983.
83-1000	Generic name: Heptasodium salt of 3,5-bis(4-(7-(2-substituted-phenylazo)-3,6-disulfo-8-hydroxy-1-naphthylamino)-6-chloro-1,3,5-triazin-2-ylamino)benzoic acid.	48 FR 35714 (8/5/83)	Oct. 25, 1983.
83-1001	N,N,N',N',N'',N''-hexaisopropyl thiomelamine	48 FR 36647 (8/12/83)	Oct. 26, 1983.
83-1002	Hexamethylene-1,6-bisthiosulfate, nickel salt, hexahydrate	48 FR 36647 (8/12/83)	Do.
83-1003	Propanoic acid, 3-[(dibutoxyphosphinothioyl) dithio]-methyl ester	48 FR 36648 (8/12/83)	Do.
83-1004	Hexamethylene 1,6-bisthiosulfate, disodium salt, dihydrate	48 FR 36648 (8/12/83)	Do.
83-1005	Generic name: Polycarboxylic acid, alkanolamine salt	48 FR 36648 (8/12/83)	Do.
83-1006	Generic name: (Amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedisulfonic acid, salts with sodium and potassium.	48 FR 36648 (8/12/83)	Do.
83-1007	Generic name: (Substituted)-(substituted)-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36648 (8/12/83)	Do.
83-1008	Generic name: Dihydro-(substituted)-(substituted)-(substitutad)-1H-indole	48 FR 36648 (8/12/83)	Do.

III. 121 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY.)

PMN No.	Identity and generic name	FR citation	Expiration date
83-335	Generic name: ((Substituted phenyl)azo) naphthalenesulfonic acid, sodium salt	48 FR 73 (1/3/83)	Aug. 1, 1983.
83-341	Generic name: 7-[4-[4-chloro-6-[3-[2-[hydroxysulfonyloxy]ethylsulfonyl]anilino]-1,3,5-triazin-2-ylamino]-2-ureidophenylazo]-1,3,6-naphthalenetrisulfonic acid, tetrasodium salt.	48 FR 862 (1/7/83)	Aug. 16, 1983.
83-394	Generic name: Polyglycidyl amine	48 FR 5304 (2/4/83)	Do.
83-433	Generic name: Mono azo aromatic compound	48 FR 6397 (2/11/83)	Aug. 22, 1983.
83-454	Generic name: Acrylamide copolymer	48 FR 6589 (2/14/83)	Aug. 12, 1983.
83-543	Generic name: Polymer of diethylenetriamine and higher polyamines with dibasic esters, reacted with epichlorohydrin.	48 FR 11500 (3/18/83)	July 20, 1983.
83-606	9,10-Anthracenedione, 2-methyl-1-nitro-	48 FR 15182 (4/7/83)	Aug. 27, 1983.
83-654	Lauryl sulfate salt with 2-amino-2-methyl-1-propanol	48 FR 20488 (5/6/83)	Aug. 30, 1983.
83-678	Generic name: Dibutyltin mercaptoacetate derivative	48 FR 20491 (5/6/83)	Aug. 11, 1983.
83-679	Generic name: Alkyl ester of an epoxy acid	48 FR 20491 (5/6/83)	Do.
83-589	Generic name: Water reducible alkyd resin	48 FR 21371 (5/12/83)	Aug. 1, 1983.
83-690	Generic name: Quaternary salt of a polymer of methyl methacrylate, butyl acrylate, and substituted methacrylate.	48 FR 21371 (5/12/83)	Do.
83-691	Generic name: Trisubstituted benzothiazole salt	48 FR 21371 (5/12/83)	Do.
83-692	Generic name: Trisubstituted benzothiazole salt	48 FR 21371 (5/12/83)	Do.
83-693	N,N'-diaminopropyl ethyl piperazine	48 FR 21371 (5/12/83)	Do.
83-694	Generic name: Polyester of phthalic anhydride and polyhydric saturated alcohols	48 FR 21372 (5/12/83)	Aug. 2, 1983.
83-695	Generic name: Copolymer of vinyl amides	48 FR 21372 (5/12/83)	Do.
83-696	Generic name: Dimer fatty acids, monocarboxylic acid, and polyamines polymer, modified with an acrylic acid copolymer.	48 FR 21372 (5/12/83)	Do.
83-697	Generic name: Fatty acid alkyd based polymer	48 FR 21372 (5/12/83)	Do.
83-698	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 22793 (5/20/83)	Aug. 3, 1983.
83-699	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 22793 (5/20/83)	Do.
83-700	Generic name: Copolymer of unsaturated organic compounds with polyols and isocyanates	48 FR 22793 (5/20/83)	Do.

III. 121 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY.)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-701	3-[2-(2,4-dinitrophenyl)ethenyl]-1H-indole	48 FR 22793 (5/20/83)	Do.
83-702	Generic name: Modified styrene-acrylic polymer	48 FR 22793 (5/20/83)	Aug. 6, 1983.
83-703	Generic name: Sodium alkyl allyl sulfosuccinate	48 FR 22793 (5/20/83)	Do.
83-704	Cyclohexanecarbonitrile, 1,1'-azobis	48 FR 22793 (5/20/83)	Aug. 7, 1983.
83-705	Cyclohexanecarbonitrile, 1-amino	48 FR 22793 (5/20/83)	Do.
83-706	Generic name: Resorcinol—fatty acid polymer	48 FR 22793 (5/20/83)	Do.
83-707	Generic name: Chromophore substituted poly (oxyalkylene)	48 FR 22793 (5/20/83)	Do.
83-708	Generic name: Chromophore substituted poly (oxyalkylene)	48 FR 22793 (5/20/83)	Do.
83-710	Further clarification needed before a generic name can be established	48 FR 23903 (5/27/83)	Do.
83-711	Generic name: Metal oxide, reaction products with fatty alcohol and mineral acid	48 FR 22794 (5/20/83)	Do.
83-712	Generic name: Polyhydroxyaromatic amine sulfonate salt	48 FR 22794 (5/20/83)	Do.
83-713	Generic name: Aliphatic polyurethane resin based on adipic acid polyesters and dicyclohexyl methane diisocyanate.	48 FR 22794 (5/20/83)	Do.
83-714	Generic name: Polyester urethane resin based on ethylene glycol, 1,4-butanediol, adipic acid and MDI.	48 FR 22794 (5/20/83)	Do.
83-715	Generic name: Polyester urethane resin based on neopentyl glycol, 1,6-hexanediol, adipic acid, aliphatic isocyanates and aliphatic amines.	48 FR 22794 (5/20/83)	Do.
83-716	Generic name: Aliphatic polyurethane resin based on adipic acid polyesters and dicyclohexyl methane diisocyanate.	48 FR 22794 (5/20/83)	Do.
83-717	Generic name: Oxopentadecanolide	48 FR 22794 (5/20/83)	Do.
83-718	Generic name: Mixed phthalic acid—tall oil fatty acid alkyd resin	48 FR 22794 (5/20/83)	Do.
83-719	Generic name: Saturated mixed glycols/mixed acids copolyester	48 FR 22794 (5/20/83)	Do.
83-720	Generic name: Cellulose, alkyl alkoxy ether	48 FR 22794 (5/20/83)	Do.
83-721	Generic name: Alkylbiphenyls	48 FR 22794 (5/20/83)	Do.
83-722	Generic name: Alkyl acrylate copolymer	48 FR 22794 (5/20/83)	Do.
83-723	Generic name: Metal chloro carbonyl dimer	48 FR 22794 (5/20/83)	Do.
83-724	Generic name: Metal substituted B-diketonate	48 FR 22794 (5/20/83)	Do.
83-725	Methyl lactate	48 FR 22795 (5/20/83)	Do.
83-726	Generic name: Reaction product of an aliphatic diisocyanate, aliphatic diol, aliphatic triol, and aliphatic dicarboxylic acid.	48 FR 22795 (5/20/83)	Do.
83-727	Generic name: Reaction product of an aliphatic diisocyanate, aliphatic diol, aliphatic triol, and aliphatic dicarboxylic acid.	48 FR 22795 (5/20/83)	Do.
83-728	Generic name: Organic silane-sulfonyl azide	48 FR 22795 (5/20/83)	Do.
83-729	Generic name: Copolymer of mixed alkyl esters of acrylic and methacrylic acids	48 FR 23904 (5/27/83)	Aug. 10, 1983.
83-730	Oxo-hexyl acetate	48 FR 23904 (5/27/83)	Do.
83-731	Generic name: Acrylic resin	48 FR 23904 (5/27/83)	Do.
83-732	Generic name: Polymer of styrene with divinylbenzene substituteed partially by N-hydroxyalkyl-N,N-dialkyl ammonium alkyl and partially by N,N-dialkylaminoalkyl.	48 FR 23904 (5/27/83)	Do.
83-733	Cyclohexanedimethanol—isophthalic acid—trimellitic anhydride condensation product	48 FR 23904 (5/27/83)	Do.
83-734	Generic name: Toluene di-isocyanate adduct with a poly hydroxy compound	48 FR 23904 (5/27/83)	Do.
83-735	Generic name: Ketimine	48 FR 23904 (5/27/83)	Do.
83-736	Generic name: Alkoxylated polyamine	48 FR 23904 (5/27/83)	Do.
83-737	Generic name: Hydroxy functional acrylic resin	48 FR 23904 (5/27/83)	Aug. 13, 1983.
83-738	Generic name: Hydroxy functional acrylic resin	48 FR 23904 (5/27/83)	Do.
83-760	Generic name: Methylpropenylpyridine	48 FR 24967 (6/3/83)	Aug. 20, 1983.
83-761	Generic name: Substituted cyclopentadione	48 FR 24968 (6/3/83)	Do.
83-762	Generic name: Octenal	48 FR 24968 (6/3/83)	Do.
83-763	Generic name: N,N'-bis(substituted alkyl) dicarboxylic acid diamide	48 FR 24968 (6/3/83)	Do.
83-764	Generic name: N,N'-bis(substituted alkyl) dicarboxylic acid diamide	48 FR 24968 (6/3/83)	Do.
83-765	Generic name: Poly[alkylene-bis(amidoalkyl)-bis(dialkyl) oxaalkylene diammonium dichloride]	48 FR 24968 (6/3/83)	Do.
83-766	Generic name: Poly[alkylene-bis(amidoalkyl)-bis(dialkyl) oxaalkylene diammonium dichloride]	48 FR 24968 (6/3/83)	Do.
83-767	Generic name: Trisubstituted heterocycle	48 FR 24968 (6/3/83)	Aug. 21, 1983.
83-768	Generic name: Trisubstituted heterocycle	48 FR 24969 (6/3/83)	Do.
83-772	Generic name: [(Haloheterocyclic oxy)aryloxy] alkanoate	48 FR 24968 (6/3/83)	Do.
83-773	Generic name: Polyester	48 FR 24969 (6/3/83)	Do.
83-774	Generic name: Substituted phenolic derivative, alkyl ester	48 FR 24969 (6/3/83)	Do.
83-775	Generic name: Polymer of mixed acrylates and methacrylates	48 FR 24969 (6/3/83)	Do.
83-739	Generic name: Diamide of polybutenyl succininc anhydride	48 FR 23904 (5/27/83)	Aug. 14, 1983
83-740	Generic name: Polymer of acrylic acid and mixed alkyl acrylates	48 FR 23904 (5/27/83)	Do.
83-741	Generic name: Substituted polyalkylene polyamine	48 FR 23904 (5/27/83)	Do.
83-742	Generic name: Polyalkyleneoxy alkanoate	48 FR 23904 (5/27/83)	Do.
83-743	Generic name: Alkoxy alkyl halo alkanoate	48 FR 23905 (5/27/83)	Do.
83-744	Generic name: Heteroazine	48 FR 23905 (5/27/83)	Aug. 15, 1983.
83-745	Generic name: Modified rosin ester	48 FR 23905 (5/27/83)	Do.
83-746	Generic name: Esterified vinyl, alkenyl polymer	48 FR 23905 (5/27/83)	Do.
83-747	Generic name: Copolymer of alkyl methacrylates and substituted alkyl methacrylates	48 FR 23905 (5/27/83)	Aug. 16, 1983.
83-752	Generic name: Benzothiazole, N-substituted-2-substituted	48 FR 23905 (5/27/83)	Do.
83-753	Generic name: Styrene acrylic copolymer	48 FR 24967 (6/3/83)	Aug. 17, 1983
83-754	Generic name: Polyimide ester	48 FR 24967 (6/3/83)	Do.
83-756	Generic name: (Substituted)(substituted naphthalene sulfonic acid, and (substituted) (substituted naphthalene sulfonic acid, choloride.	48 FR 24967 (6/3/83)	Do.
83-776	Generic name: Hydrogenated diene copolymer	48 FR 24969 (6/3/83)	Aug. 21, 1983.
83-777	Generic name: Disubstituted methanone	48 FR 24969 (6/3/83)	Do.
83-778	Generic name: Cyclomethylene citronellal	48 FR 24969 (6/3/83)	Do.
83-779	Generic name: Cyclomethylene citronellol	48 FR 24969 (6/3/83)	Do.
83-780	Generic name: Aryl borate	48 FR 24969 (6/3/83)	Aug. 22, 1983.
83-781	Generic name: An organic complex of a halogenated metal	48 FR 24969 (6/3/83)	Aug. 23, 1983.
83-782	Generic name: Product of alcohol, halogenated metal, organic complex of halogenated metal	48 FR 24969 (6/3/83)	Do.
83-783	Generic name: An organic complex of a halogenated metal	48 FR 24969 (6/3/83)	Do.
83-784	Generic name: Substituted heteromonocycle sulfonyl aniline	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-786	Generic name: Ester of a substituted phenol and an inorganic acid	48 FR 26884 (6/10/83)	Do.
83-787	Generic name: Salt of diester of phosphorodithioic acid	48 FR 26884 (6/10/83)	Do.
83-788	Generic name: Reaction product of fatty alkene amine and isocyanate	48 FR 26884 (6/10/83)	Do.
83-789	Generic name: Reaction product of a fatty alkene amine, aromatic amine and isocyanate	48 FR 26884 (6/10/83)	Do.
83-790	Generic name: Heterocyclic carboxylic acid	48 FR 26884 (6/10/83)	Do.
83-791	Generic name: Vegetable oil polyamide resin	48 FR 26884 (6/10/83)	Do.
83-792	Generic name: Alkylamine salt of polyalkyl polycyclic sulfonic acid	48 FR 26885 (6/10/83)	Do.
83-793	Generic name: 2-chloro-4 (N,N-diethylamino)-5-substituted aryloxydiazonium tetrafluoroborate	48 FR 26885 (6/10/83)	Do.
83-794	Generic name: Lignosulfonate, reaction product with an alkenoic acid	48 FR 26885 (6/10/83)	Do.
83-795	4-Methylumbelliferyl-B-D-glucuronide	48 FR 26885 (6/10/83)	Aug. 28, 1983.

III. 121 PREMANUFACTURE NOTICES FOR WHICH THE NOTICE REVIEW PERIOD HAS ENDED DURING THE MONTH. (EXPIRATION OF THE NOTICE REVIEW PERIOD DOES NOT SIGNIFY THAT THE CHEMICAL HAD BEEN ADDED TO THE INVENTORY.)—Continued

PMN No.	Identity and generic name	FR citation	Expiration date
83-796	Generic name: Aminomethylphosphonic acid	48 FR 26885 (6/10/83)	Aug. 29, 1983.
83-797	Generic name: Aminomethylene phosphonic acid	48 FR 26885 (6/10/83)	Do.
83-798	Generic name: Blocked polyurethane prepolymer	48 FR 26885 (6/10/83)	Do.
83-799	N, N,-dimethyl-S-benzyldithiocarbamate	48 FR 26885 (6/10/83)	Do.
83-800	Polymer of: coconut oil, coconut fatty acid, glycerin, phthalic anhydride, and maleic anhydride	48 FR 26885 (6/10/83)	Do.
83-801	Polymer of: tall oil fatty acids, isophthalic acid, phthalic anhydride, pentaerythritol, dipentaerythritol, trimethylpentane diol, trimellitic anhydride.	48 FR 26885 (6/10/83)	Do.
83-802	Generic name: Polymer of mixed fatty acids, unsubstituted aromatic and aliphatic dicarboxylic acids, an alky-substituted triol, and substituted alkyl diols.	48 FR 26885 (6/10/83)	Do.
83-803	Generic name: Prepolymerized halogenated silicon magnesium aluminum oxotitanate	48 FR 26885 (6/10/83)	Do.
83-804	3'-(p-(dimethylamino)phenyl)Spiro-(fluorene-9,4'-oxazolidine)-2',5' dione	48 FR 26885 (6/10/83)	Do.
83-805	Generic name: Saturated polyester resin	48 FR 26886 (6/10/83)	Do.
83-806	Generic name: Metal oxide	48 FR 26886 (6/10/83)	Do.
83-807	Generic name: Substituted azo substituted benzenesulfonic acid	48 FR 26886 (6/10/83)	Aug. 30, 1983.
83-808	2-,3-, and 4-pinanol mixture	48 FR 26886 (6/10/83)	Do.
83-809	Generic name: Saturated polyster	48 FR 26886 (6/10/83)	Do.
83-810	Generic name: Cyclo alkyl acrylate	48 FR 26886 (6/10/83)	Do.
83-811	Generic name: Aliphatic alkyl acrylate	48 FR 26886 (6/10/83)	Do.
83-812	Generic name: Blocked polyurethane prepolymer	48 FR 26886 (6/10/83)	Do.

IV. 57 Chemical Substances for Which EPA has Received Notices of Commencement to Manufacture

PMN No.	Chemical identification	FR citation	Date of commencement
81-260	Trimethylolpropane neopentylglycol, phthalic anhydride, siloxanes and silicones, de-me, methoxy Ph, polymers with Ph silesquioxanes, methoxy-terminated.	46 FR 35344 (7/8/81)	Aug. 5, 1983.
81-298	Generic name: Copolymer of styrene alkyl acrylates, alkyl methacrylate, methacrylic acid with substituted acrylamide.	46 FR 36243 (7/14/81)	Do.
81-330	Generic name: Acrylic modified alkyd resin	46 FR 38580 (7/28/81)	Aug. 10, 1983.
81-425	Aromatic aliphatic branched polyester resin	46 FR 45808 (9/15/81)	Aug. 5, 1983.
82-374	Generic name: Alkyl thiodiazole	47 FR 23554 (5/28/82)	Aug. 29, 1983.
82-389	Reaction product of [[(phosphonomethyl) imino] bis[6,1-hexanediyl-nitrilobis(methylene)]] tetrakis phosphonic acid and (2,2' oxybisethanol, reaction products with ammonia; morpholine derivatives, residues).	47 FR 25401 (6/11/82)	Aug. 1, 1983.
82-418	Generic name: Hydrogen bis[1-[(3,5-disubstituted-2-hydroxyphenyl)azo]-3-(N-monosubstituted)-2-naphthalenolate (2-)]chromate (1-).	47 FR 26235 (6/17/82)	Feb. 15, 1983.
82-467	Generic name: Aromatic aliphatic branched polyester resin	47 FR 30103 (7/12/82)	Aug. 5, 1983.
82-512	Generic name: Phenyl derivative of an ethyl methacrylate	47 FR 33236 (7/30/82)	July 18, 1983.
82-513	Generic name: Alkyl diol, toluene disocyanate, alkene ester, adipic acid resin	47 FR 33236 (7/30/82)	Do.
82-694	Generic name: Trialkyl dioxane	47 FR 44608 (10/8/82)	On or about Sept. 1, 1983.
82-695	Generic name: Alkyl bicyclononane	47 FR 44608 (10/8/82)	Do.
82-696	Generic name: Alkyl spirononane	47 FR 44608 (10/8/82)	Do.
83-49	Generic name: Substituted pyridine	47 FR 49073 (10/29/82)	Aug. 10, 1983.
83-70	Generic name: Benzenedicarboxylic acid saturated mixed glycols copolyester	47 FR 50339 (11/5/82)	Mar. 2, 1983.
83-123	Poly[oxy(methyl-1,2-ethanediyl)] $\alpha\alpha',\alpha''$-1,2,3-propanetriyltris[w-hydroxy-polymer with α-hydro-w-hydroxypoly[oxy-(methyl-1,2-ethanediyl)] and 1,1-methylenebis [4-isocyanatobenzene].	47 FR 52224 (11/19/82)	Apr. 12, 1983.
83-241	Generic name: Polyester polycarboxylate salt	47 FR 53762 (11/29/82)	Mar. 1, 1983.
83-272	Generic name: Substituted pyridine	47 FR 57333 (12/23/82)	Aug. 10, 1983.
83-281	Generic name: Benzenesulfonamide salt	47 FR 57334 (12/23/82)	On or about Apr. 15, 1983.
83-298	Generic name: Toluene alkylate	47 FR 57336 (12/23/82)	JUly 22, 1983.
83-304	Bis(benzyl-thioureidoethyl)-dithiocabamic acid-s-propylester-ω-sulfonic acid sodium	47 FR 57336 (12/23/82)	Aug. 15, 1983.
83-306	Generic name: Poly alkyl benzoic sulfonate	47 FR 57337 (12/23/82)	July 22, 1983.
83-314	Generic name: Ester of aromatic acids and aliphatic polyols	47 FR 57337 (12/23/82)	Aug. 22, 1983.
83-441	Polymer of methyl acrylate, ethyl acrylate and acrylamide	48 FR 6397 (2/11/82)	Apr. 1983.
83-449	2-ethyl-2-methyl butanoic acid	48 FR 6589 (2/14/83)	June 16, 1983.
83-465	Generic name: Metal polyisobutenylsuccinate	48 FR 7300 (2/16/83)	Aug. 22, 1983.
83-485	Generic name: Alkyl branched alkanoate	48 FR 8343 (2/28/83)	Aug. 5, 1983.
83-502	Generic name: Aminoheterocyclyl branched alkane	48 FR 9366 (3/4/83)	Aug. 8, 1983.
83-535	N,N'-bis(2,2,6,6-tetramethyl-4-piperidyl) hexamethylenediamine polymer with ethane-1,2-dibromo	48 FR 11500 (3/18/83)	July 13, 1983.
83-566	Generic name: Substituted chlorobenzene	48 FR 12592 (3/25/83)	On or about Aug. 2, 1983.
83-567	Generic name: Modified acrylic copolymer	48 FR 12592 (3/23/83)	July 15, 1983.
83-573	Generic name: Unsaturated polyester	48 FR 14035 (4/1/83)	July 8, 1983.
83-577	Generic name: 2-(2-haloaryl)amino-6-(N,N-dialkylamino) fluoran	48 FR 14035 (4/1/83)	Aug. 1, 1983.
83-592	Generic name: Acrylic acid polymer	48 FR 15181 (4/7/83)	July 27, 1983.
83-598	Generic name: Polyester resin of aliphatic polyols, mixed aromatic diacids and aliphatic diacid	48 FR 15181 (4/7/83)	July 8, 1983.
83-599	Generic name: Polyester resin of aliphatic polyol, mixed aromatic diacids, aliphatic diacid and aromatic diisocyanate.	48 FR 15181 (4/7/83)	July 13, 1983.
83-601	Generic name: Halogenated alkene acid ester	48 FR 15181 (4/7/83)	July 1, 1983.
83-631	Generic name: Polymer of formaldehyde and substituted phenols	48 FR 17385 (4/22/83)	July 21, 1983.
83-661	Generic name: Polyimide ester	48 FR 20490 (5/6/83)	Aug. 12, 1983.
83-665	Generic name: Mixed polyalkoxy alkyl siloxanes and silsesquioxanes	48 FR 20490 (5/6/83)	On or about July 25, 1983.
83-666	Generic name: Aromatic alkyd	48 FR 20490 (5/6/83)	Aug. 3, 1983
83-670	Polymer of: neopentyl glycol, trimellitic anhydride, phthalic anhydride, trimethyl pentanediol	48 FR 20491 (5/6/83)	Aug. 4, 1983.
83-675	Generic name: Vinyl acetate, butylacrylate, substituted methacrylate, terpolymer	48 FR 20491 (5/6/83)	Aug. 1, 1983.
83-683	1-ethynyl-1-cyclopentanol	48 FR 21371 (5/12/83)	Do.
83-684	1,4-bis(1-hydroxy cyclopentyl)butadiyne	48 FR 21371 (5/12/83)	Do.
83-707	Generic name: Chromophore substituted poly(oxy-alkylene)	48 FR 22793 (5/20/83)	Aug. 10, 1983.
83-718	Generic name: Mixed phthalic acid-tall oil fatty acid alkyd resin	48 FR 22794 (5/20/83)	Aug. 8, 1983.
83-729	Generic name: Copolymer of mixed alkyl esters of acrylic and methacrylic acids	48 FR 23904 (5/27/83)	Aug. 15, 1983.
83-735	Generic name: Ketimine	48 FR 23904 (5/27/83)	Aug. 11, 1983.
83-763	Generic name: N,N'bis(substituted alkyl) dicarboxylic acid diamine	48 FR 24968 (6/3/83)	Aug. 22, 1983.
83-764	Generic name: N,N'-bis(substituted alkyl) dicarboxylic acid diamine	48 FR 24968 (6/3/83)	Do.
83-765	Generic name: Poly[alkylene-bis(amidoalkyl]-bis (dialkyl) oxoalkylene diammonium dichloride	48 FR 24968 (6/3/83)	Do.

IV. 57 Chemical Substances for Which EPA has Received Notices of Commencement to Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
83-766	Generic name: Poly[alkylene-bis(amidoalkyl)-bis (dialkyl) oxoalkylene diammonium dichloride	48 FR 24968 (6/3/83)	Do.
83-777	Generic name: Disubstituted methanone	48 FR 24969 (6/3/83)	Aug. 23, 1983.
83-781	Generic name: An organic complex of a halogenated metal	48 FR 24969 (6/3/83)	On or about Sept. 1, 1983.
83-782	Generic name: Product of alcohol, halogenated metal, organic complex of halogenated metal	48 FR 24969 (6/3/83)	Do.
83-783	Generic name: An organic complex of halogenated metal	48 FR 24969 (6/3/83)	Do.

V. 42 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
80-146	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters, zinc salt	45 FR 49153 (7/23/80)	Sept. 17, 1980.
80-147	Phosphorodithioic acid *O,O'*-di(isohexyl, isoheptyl, isooctyl, isononyl, isodecyl) mixed esters	45 FR 49153 (7/23/80)	Do.
81-561	4-[4-[2-(hydroxysulfonyoxy)ethylsulfonyl]-5-methyl-2-methoxyphenylazo]-3-methyl-1-(3-sulfophenyl)-5-pyrazolone disodium salt	46 FR 55146 (11/6/81)	Jan. 27, 1982.
81-661	4-hydroxy-3-[2-methoxy-5-methyl-4-(2-(hydroxy-sulfonyloxy)ethylsulfonyl)phenylazo)-6-(3-sulfophenyl)amino-2-naphthalenesulfonic acid trisodium salt.	47 FR 1021 (1/8/82)	Mar. 28, 1982.
82-60	Generic name: Zinc, O,O-bis alkylphosphoro dithioate	47 FR 5932 (2/9/82)	Apr. 15, 1982.
82-387	Phosphorodithioic acid, O,O', secondary butyl and isooctyl mixed esters	47 FR 25401 (6/11/82)	July 30, 1982.
82-388	Phosphorodithioic acid, O, O', secondary butyl and isooctyl mixed esters, zinc salt	47 FR 25401 (6/11/82)	Do.
82-678	Generic name: Chlorinated aromatic azo anthraquinone pigment	47 FR 43161 (9/30/82)	Aug. 2, 1983.
82-679	Generic name: Chlorinated aromatic azo pigment	47 FR 43161 (9/30/82)	Do.
83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 46371 (10/18/82)	Oct. 22, 1982.
83-110	Generic name: Saturated acid diester	47 FR 52223 (11/19/82)	Jan. 26, 1983.
83-115	Generic name: Naphthalenedisulfonic acid, disodium salt, ((2-((sodium sulfooxyethyl) sulfonyl)aryl)azo), and monochlorotriazinyl amino, substituted, copper complex.	47 FR 52224 (11/19/82)	Apr. 1, 1983.
83-333	Generic name: Reaction product of polycycle-sulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite alkali.	48 FR 73 (1/3/83)	Mar. 14, 1983.
83-370	8-acetyl-3-dodecyl-7,7,9,9-tetramethyl-1,3,8-triazaspiro [4,5]decane-2,4-dione	48 FR 3045 (1/24/83)	Apr. 15, 1983.
83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethylphenylazo-	48 FR 5304 (2/4/83)	Aug. 18, 1983.
83-418	Generic name: Benzenedisulfonic acid, chloro-triazinyl-amino-dimethylphenylazo-sulfo-naphthaleneazo	48 FR 5306 (2/4/83)	Do.
83-434	Generic name: Unsaturated aliphatic diether	48 FR 6397 (2/11/83)	Apr. 20, 1983.
83-461	Generic name: Substituted alkoxy silane	48 FR 7300 (2/18/83)	Apr. 25, 1983.
83-479	Generic name: Monoazo substituted aromatic	48 FR 7301 (2/18/83)	May 2, 1983.
83-486	Generic name: Zirconium propanoate, substituted	48 FR 8343 (2/28/83)	May 6, 1983.
83-523	1,1' [isopropylidenebis(6-hydroxy-m-phenylene)] bis(tetrahydrothiophenium hydroxide) mixed salts	48 FR 10470 (3/11/83)	May 27, 1983.
83-532	Generic name: Glyceryl propoxy diacrylate	48 FR 10470 (3/11/83)	May 30, 1983.
83-622	1,3,6-Naphthalenetrisulfonic acid, 7-[[4-[[4-[[4-[(4,8-disulfo-2-naphthalenyl]azo]-3-methyl-phenyl]amino]-6-[(4-sulfophenyl)amino]-1,3,5-triazin-2-yl]amino]-2-methylphenyl]azo]-, hexasodium salt.	48 FR 16332 (4/15/83)	July 14, 1983.
83-634	Generic name: Substituted monoazo aromatic	48 FR 17385 (4/22/83)	July 5, 1983.
83-663	Generic name: Alkyl-substituted aromatic amine	48 FR 20490 (5/6/83)	July 29, 1983.
83-676	1-Naphthalenesulfonic acid, 6-amino-5-hydroxy-	48 FR 20491 (5/6/83)	July 19, 1983.
83-677	Generic name: Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazo-sulfophenylpyrazolone	48 FR 20491 (5/6/83)	Aug. 5, 1983.
83-709	Generic name: Acetamide, N-((4-methoxy-2-((5-nitro-2-thiazoley)azo)-5-(substituted)amino)phenyl)	48 FR 23903 (5/27/83)	Aug. 4, 1983.
83-748	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Aug. 5, 1983.
83-749	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Do.
83-750	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Do.
83-751	Generic name: Alkyl amine salt of a substituted phenol	48 FR 23905 (5/27/83)	Do.
83-755	4-hydroxy-6-phenylaminonaphthalene-2-sulfonic acid	48 FR 24967 (6/3/83)	Aug. 17, 1983.
83-757	Generic name: Functionalized acrylic polymer	48 FR 24967 (6/3/83)	Aug. 20, 1983.
83-758	Generic name: Functionalized acrylic polymer	48 FR 24967 (6/3/83)	Do.
83-759	Generic name: Functionalized acrylic polymer	48 FR 24967 (6/3/83)	Do.
83-769	Generic name: Disubstituted heterocycle	48 FR 24968 (6/3/83)	Aug. 22, 1983.
83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24968 (6/3/83)	Aug. 15, 1983.
83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazosulfonaphthol	48 FR 24968 (6/3/83)	Do.
83-785	Generic name: Substituted heteromonocycle sulfonylphenyl azo substituted naphthalenesulfonic acid, salt	48 FR 26884 (6/10/83)	Aug. 24, 1983.
83-906	Generic name: Brominated aryl alkyl ether	48 FR 32383 (7/15/83)	Aug. 26, 1983.
83-953	Generic name: Modified phenol-formaldehyde alkyl ether amine	48 FR 33534 (7/22/83)	Aug. 25, 1983.

[FR Doc. 83-26755 Filed 9-29-83; 8:45 am]
BILLING CODE 6560-50-M

[OPTS 46012; TSH FRC 2443-5]

New and Revised Test Guidelines for Development of Test Data; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA requests comments on six new test guidelines and one existing test guideline that had been accorded major revisions as a consequence of comments received after it was published by the National Technical Information Service (NTIS) in October 1982. Thirty-nine other test guidelines that had been published in October 1982 were accorded minor revisions in response to public comments. However, since most of these revisions were editorial in nature, the Agency is not soliciting comments on them. The test guidelines represent a continuing effort to make available the best state-of-the-art methods that can be cited in chemical-specific test rules promulgated under section 4(a) of the Toxic Substances Control Act.

DATE: Written comments must be received on or before January 13, 1984.

ADDRESS: Written comments should be sent to: TSCA Public Information Office (TS-793), Office of Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St. SW., Washington, D.C. 20460.

Comments should bear the identifying control number OPTS 46012. The public record regarding this notice is available in Rm. E-107, at the above address from 8:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., S.W., Washington, D.C. 20460, Toll free:

(800–424–9065). In Washington, D.C.: (544–1404). Outside the USA: (Operator-202–554–1404).

SUPPLEMENTARY INFORMATION: Elsewhere in today's **Federal Register** is a notice of the availability of new and revised test guidelines that can be purchased from NTIS. These represent the second cycle of test guideline publication and public review via the process described in the **Federal Register** of September 22, 1982 (47 FR 41857). Comments, due no later than January 13, 1984, should be directed toward the following test guidelines:

1. Freshwater Marine Algae Acute Toxicity Test (EG–22, new guideline).
2. Lemma Acute Toxicity Test (EG–23 and EG–15, new guideline and support document, respectively).
3. Water Solubility, Generator Column Method (CG–1510 and CS–1510, new guideline and support document, respectively).
4. Gas Phase Absorption Cross Section and Sunlight Photolysis (CG 7000 and CS 7000, new guideline and support document, respectively).
5. Photolysis in Aqueous Solution in Sunlight (CG 6000 and CS 6000, major revision of existing guideline and support document, respectively).
6. Functional Observational Battery (HG-Neuro-Battery and HS-Neuro-Battery, new guideline and support document, respectively).
7. Schedule-controlled Operant Behavior (HG-Neuro-operant Behavior and Hs-Neuro-Operant Behavior, new guideline and support document, respectively).

Dated: September 22, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-26758 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS–46013; BH–FRL 2443–6]

New and Revised Test Guidelines; Availability

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces that the Office of Toxic Substances (OTS) is making available, through purchase from the National Technical Information Service (NTIS), several new test guidelines and revisions of certain test guidelines that had been published by NTIS in 1982. These guidelines represent a continuing effort to make available the best state-of-the-art methods that can be cited in chemical-specific test rules promulgated under section 4(a) of the Toxic Substances Control Act (TSCA).

ADDRESS: Copies of the new and revised OTS Test Guidelines may be obtained by ordering them from: National Technical Information Service, 5282 Port Royal Drive, Springfield, Virginia 22161, (703–487–4650).

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, Environmental Protection Agency, Rm. E543, 401 M St., SW., Washington, D.C. 20460, Toll Free: (800–424–9065), Washington, D.C. (554–1404), Outside the USA: (Operator 202–554–1404).

SUPPLEMENTARY INFORMATION:

Background

The first set of OTS test guidelines was published by NTIS in October 1982. The availability and purpose of the guidelines were announced in the **Federal Register** of July 30, 1982 (47 FR 33001). Requests for comments on these guidelines were solicited on September 22, 1982 (47 FR 4185). This announcement includes revisions of some of the original test guidelines that were made in response to public comments as well as new guidelines that were developed as a consequence of recent advances in the state of the art. Support documents for new guidelines and, where feasible, support documents for revised test guidelines are part of the package available through NTIS.

Ordering Information

The new and revised test guidelines are separated into three units: Health Effects, Environmental Effects and Chemical Fate as follows:

Title	Guideline code	Support document code
I. Environmental Effects Tests		
New Guidelines:		
1. Freshwater marine algae acute toxicity test.	EG–22	None.
2. Lemma acute toxicity test.	EG–23	ES–15.
II. Chemical Fate Tests		
A. New Guidelines:		
1. Water Solubility (generator column method).	CG 1510	CS 1510.
2. Gas Phase Absorption Cross Section and Sunlight Photolysis.	CG 7000	CS 7000.
B. Major Revisions:		
Photolysis in Aqueous Solution in Sunlight.	CG 6000	CS 6000.
C. Minor Revisions:		
1. Partition Coefficient (n-octanol/water).	GC 1400	CS 1400.
2. Water Solubility.	CG 1500	CS 1500.
3. Soil Thin-layer Chromatography.	CG 1700	CS 1700.
4. Sediment and Soil Adsorption Isotherm.	CG 1710	CS 1710.
III. Health Effects Tests		
A. New Guidelines:		
1. Functional Observational Battery.	HG-Neuro-Battery	HS-Neuro-Battery.
2. Schedule-controlled Operant Behavior.	HG-Neuro-Operant Behavior.	HS-Neuro-Operant Behavior
B. Minor Revisions:		
1. Inhalation Toxicity.	HG-Acute-Inhal	None.
2. Oral Toxicity	Hg-Acute-oral	None.
3. Dermal Toxicity.	Hg-Subchronic-Dermal.	None.
4. Inhalation Toxicity.	Hg-Subchronic-Inhal.	None.
5. Oral Toxicity	Hg-Subchronic-Oral.	None.
6. Chronic Toxicity.	Hg-Chronic	None.
7. Oncogenicity	Hg-Chronic-Onco	None.
8. Combined Chronic Toxicity/oncogenicity.	Hg-Chronic-Combined.	None.
9. Primary Dermal Irritation.	Hg-Organ/Tissue—	None.
10. Reproduction and Fertility Effects.	Hg-Organ/Tissue—Repro/Fert.	None.
11. Teratogenicity Study.	Hg-Organ/Tissue-Terato.	None.
12. *Salmonella typhimurium* Reverse Mutation Assay.	Hg-Gene Muta—*S. typhimurium.*	None.
13. The *Escherichia coli* WP2 and WP2 *uvrA* Reverse Mutation Assays.	Hg-Gene Muta—*E. coli.*	None.
14. Gene Mutation in *Aspergillus nidulans.*	Hg-Gene Muta—*A. nidulans.*	None.
15. Gene Mutation in *Neurospora crassa.*	Hg-Gene Muta—*N. crassa.*	None.
16. Sex-linked Recessive Lethal Test in *Drosophila melanogaster.*	Hg-Gene Muts-Insects.	None.
17. Detection of Gene Mutations in Somatic Cells in Culture.	Hg-Gene Muts-Somatic Cells.	None.

Title	Guideline code	Support document code
18. The Mouse Visible Specific Locus Test.	Hg-Gene Muta-Mammal.	None.
19. In vitro mammalian Cytogenetics.	Hg-Chromo-In Vitro.	None.
20. In Vivo Mammalian Bone Marrow—Cytogenetics Tests: Chromosomal Analysis.	Hg-Chromo-Bone Marrow.	None.
21. In Vitro Sister Chromatid Exchange Assay.	Hg-Chromo—Sister—Chrom—In Vitro.	None.
22. In Vivo Sister Chromatid Exchange Assay.	Hg-Chromo—Sister—Chrom—In Vivro.	None.
23. In Vivo Mammalian Bone Marrow Cytogenetics Tests: Micronucleus Assay.	Hg-Chromo-Micronuc.	None.
24. Heritable Translocation Test in *Drosophila melanogasier*.	Hg-Chromo-Insects.	None.
25. Rodent Dominant Lethal Assay.	Hg-Chromo-Dom-Lethal.	None.
26. Rodent Heritable Translocation Assays.	Hg-Chromo-Herit-Translocat.	None.
27. Differential Growth Inhibition of Repair Proficient and Repair Deficient Bacteria: "Bacterial DNA Damage or Repair Tests".	Hg-DNA Damage Repair.	None.
28. Unscheduled DNA Synthesis in Mammalian Cells in Culture.	Hg-DNA-Unsched Syn..	None.
29. Mitotic Gene Conversion in *Saccharomyits cerivisiae*.	Hg-DNA-Gene Conversion.	None.
30. Peripheral Nerve Function.	Hg-Neuro-Peri Nerve.	HG-Neuro-Peri Nerve.
31. Motor Activity.	Hg-Neuro-Motor Act.	Hs-Neuro-Motor Act.
32. Acute Delayed Neurotoxicity of Organophosphorus Substances.	Hg-Neuro-Subchronic.	None.
33. Subchronic Delayed Neurotoxicity of Organophosphorus Substances.	Hg-Neuro-Subchronic Delayed.	None.
34. Neuropathology.	Hg-Neuro-Path.....	HS-Neuro-Path.
35. Metabolism	Hg-Spec-Stud-Metab.	None.

Since each unit (Health Effects, Environmental Effects, and Chemical Fate) can be ordered separately, please specify when ordering whether you wish to purchase the complete set or one or more units as follows: Complete set of new and revised guidelines, PB 83-257683—$45; new and revised Health Effects test guidelines, PB 83-257691—$25; new Environmental Effects test guidelines, PB 83-257709—$7; new and revised Chemical Fate test guidelines, PB 83-257717—$25. The original test guidelines including new and revised test guidelines can be ordered as follows:

Complete set of test guidelines, PB 82-232976—$140; Health effects test guidelines, PB 82-232984—$65; Environmental effects test guidelines, PB 82-232992—$67; Chemical fate test guidelines, PB 82-233006—$65.

Dated: September 22, 1983.

Marcia E. Williams,

Acting Director, Office of Toxic Substances.

[FR Doc. 83-26757 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51486; BH-FRL 2443-7]

Premanufacture Notices; Certain Chemicals

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of interim policy published in the **Federal Register** of May 15, 1979 (44 FR 28558) and November 7, 1980 (45 FR 74378). This notice announces receipt of twenty-three PMNs and provides a summary of each.

DATES: Close of Review Period:

PMN 83-1271, 83-1272, 83-1273, 83-1274, 83-1275, 83-1276 and 83-1277—December 14, 1983.

PMN 83-1278, 83-1279, 83-1280, 83-1281, 83-1282, 83-1283, 83-1284, 83-1285, 83-1286, 83-1287 and 83-1288—December 17, 1983.

PMN 83-1289 and 83-1290—December 18, 1983.

PMN 83-1291 and 83-1292—December 19, 1983.

PMN 83-1293—December 20, 1983.

Written comments by: PMN 83-1271, 83-1272, 83-1273, 83-1274, 83-1275, 83-1276 and 83-1277—November 14, 1983.

PMN 83-1278, 83-1279, 83-1280, 83-1281, 83-1282, 83-1283, 83-1284, 83-1285, 83-1286, 83-1287 and 83-1288—November 17, 1983.

PMN 83-1289 and 83-1290—November 18, 1983.

PMN 83-1291 and 83-1292—November 19, 1983.

PMN 83-1293—November 20, 1983.

ADDRESS: Written comments, identified by the document control number "[OPTS-51486]" and the specific PMN number should be sent to: Document Control Officer (TS-793), Office of Toxic Substances, Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-409, 401 M St., SW., Washington, DC 20460, (202-382-3532).

FOR FURTHER INFORMATION CONTACT: Margaret Stasikowski, Acting Chief, Notice Review Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-216, 401 M St., SW., Washington, DC 20460, (202-382-3729).

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address.

PMN 83-1271

Manufacturer. Confidential.

Chemical. (G) Carboxylic acid derivatives of alkoxylated polyamines.

Use/Production. Confidential. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Release is negligible. Disposal by Resource Conservation Recovery Act (RCRA) regulations.

PMN 83-1272

Manufacturer. Confidential.

Chemical. (G) Epoxy modified acrylic polymer.

Use/Production. (S) Site limited intermediate used in metal coating formulation. Prod. range: 500-150,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and disposal: dermal, a total of 11 workers, up to 3 hrs/da, up to 63 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land.

Disposal by incineration and approved landfill.

PMN 83-1273

Manufacturer. Milliken & Company.
Chemical. (G) Chromophore substituted polyoxyalklene.
Use/Production. (G) Colorant. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. Confidential. Disposal by navigable waterway.

PMN 83-1274

Manufacturer. Monsanto Company.
Chemical. (S) Acetamide, 2-chloro-N-chloromethly-N-(2-ethyl-6-methylphenyl).
Use/Production. (S) Industrial process intermediate. Prod. range: Confidential.
Toxicity Data. Acute oral: 1,650 mg/kg; Acute dermal: > 5,000 mg/kg; Irritation: Skin—Corrosive, Eye—Corrosive; LC_{50} 96 hr (trout)—18 mg/L; LC_{50} 96 hr (bluegill)— 11 mg/L; LC_{50} 48 hr (daphnia magna)—15 mg/l; Ingestion—Slightly toxic.
Exposure. Confidential.
Environmental Release/Disposal. Less than 10 kg/yr released to air with 100 to 1,000 kg/yr to water. Disposal by publicly owned treatment system works (POTW).

PMN 83-1275

Manufacturer. Confidential.
Chemical. (S) 3-(5-carboxpentyl)-5(1-ethyl[1], 4-dihydroquinolylidene-4ethylidene)-4-oxo-2-thioxothiazolidine.
Use/Production. (G) Coating component for commercial article. Prod. range: Confidential.
Toxicity Data. Irritation: Skin—Non-irritant, Eye—Minimal; Mutagenicity assays: Negative.
Exposure. Manufacture: dermal, a total of 21 workers.
Environmental Release/Disposal. Release to air. Disposal by incineration and approved landfill.

PMN 83-1276

Manufacturer. Confidential.
Chemical. (S) Quinolinium, 4-[2-[acetylphenylamino]ethenyl]-1-ethyl-, iodide.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-1277

Manufacturer. Confidential.
Chemical. (S) 3-thiazolidinehexanoic acid, 4-oxo-2-thioxo.
Use/Production. (G) Site-limited intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 2 workers.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-1278

Manufacturer. Confidential.
Chemical. (G) Hydroxy functional acrylic copolymer.
Use/Production. (S) Industrial thermosetting decorative and protective coating. Prod. range: 226,796-350,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture: dermal, a total of 40 workers, up to 1 hr/da, up to 8 da/yr.
Environmental Release/Disposal. No release. Disposal by incineration.

PMN 83-1279

Manufacturer. Spencer Kellogg Division of Textron, Inc.
Chemical. (G) Water dispersed oligourethane.
Use/Production. (G) A component of an adhesive to be used in an open non dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

PMN 83-1280

Manufacturer. Spencer Kellogg Division of Textron, Inc.
Chemical. (G) Polyurethane prepolymer resin.
Use/Production. (G) Reactive intermediate. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Confidential.
Environmental Release/Disposal. No release.

PMN 83-1281

Importer. Confidential.
Chemical. (G) Premetallized aromatic substituted disazo.
Use/Import. (G) Industrial end-use application. Import range: Confidential.
Toxicity Data. Acute oral: 8,400 mg/kg; Irritation: Skin-Slight.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 83-1282

Importer. Confidential.
Chemical. (G) Premetallized aromatic substituted disazo.
Use/Import. (G) Industrial end-use application. Import range: Confidential.
Toxicity Data. Acute oral: 7.21 g/kg; Irritation: Skin-Non-irritant, Eye-Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 83-1283

Importer. Confidential.
Chemical. (G) Substituted aromatic disazo.
Use/Import. (G) Industrial end-use application. Prod. range: Confidential.
Toxicity Data. Acute oral: 13,200 mg/kg; Irritation: Skin-Slight.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 83-1284

Importer. Confidential.
Chemical. (G) Aromatic substituted disazo.
Use/Import. (G) Industrial end-use application. Prod. range: Confidential.
Toxicity Data. Acute oral: 8.35 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 83-1285

Importer. Confidential.
Chemical. (G) Aromatic substituted disazo.
Use/Import. (G) Industrial end-use application. Prod. range: Confidential.
Toxicity Data. Acute oral 7.94 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 83-1286

Importer. Confidential.
Chemical. (G) Aromatic substituted triazo.
Use/Import. (G) Industrial end-use application. Import range: Confidential.
Toxicity Data. Acute oral: 10.08 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.
Environmental Release/Disposal. No data submitted.

PMN 83-1287

Importer. Confidential.
Chemical. (G) Aromatic substituted disazo.
Use/Import. (G) Industrial end-use application. Import range: Confidential.
Toxicity Data. Acute oral: 9.66 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.
Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 83–1288

Importer. Confidential.

Chemical. (G) Aromatic substituted disazo.

Use/Import. (G) Industrial end-use application. Import range: Confidential.

Toxicity Data. Acute oral: 6.06 g/kg; Irritation: Skin—Slight, Eye—Non-irritant.

Exposure. Confidential.

Environmental Release/Disposal. No data submitted.

PMN 83–1289

Manufacturer. Pioneer Plastics.

Chemical. (S) Polymer of: 1,4 cyclohexanedimethanol, neopentylglycol, trimethylol propane, isophthalic acid, fumaric acid.

Use/Production. (S) Industrial fiberglass prepregs. Prod. range: 100,000–250,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 10 workers, up to 7 hrs/da, up to 17 da/yr.

Environmental Release/Disposal. No release. Disposal by POTW.

PMN 83–1290

Manufacture. Confidential.

Chemical. (G) Substituted pyridine.

Use/Production. (G) Constituent of a surface finishing additive. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. No release.

PMN 83–1291

Manufacture. Confidential.

Chemical. (G) Polyfunctional mercaptan.

Use/Production. (G) Chemical intermediate for coatings. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by incineration and landfill.

PMN 83–1292

Manufacturer. Confidential.

Chemical. (G) Urethane modified polyester.

Use/Production. (S) Industrial fiber reinforced plastic boats and acrylic bath tubs. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture, processing and use: dermal and inhalation, a total of 7 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. No release. Disposal by POTW, incineration and approved landfill.

PMN 83/1293

Manufacturer. Confidential.

Chemical. (G) 2-(2-chlorophenyl)-1-substituted-2-hydroxyl-1-ethanone.

Use/Production. (S) Site-limited intermediate for photochemical product. Prod. range: 6,000–10,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 10 da/yr.

Environmental Release/Disposal. 1–5 kg/batch released to land. Disposal by approved landfill.

Dated: September 26, 1983.

V. Paul Fuschini,

Acting Director, Management Support Division.

[FR Doc. 83–26736 Filed 9–29–83; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-2444-2]

Availability of Environmental Impact Statements Filed September 19 Through September 23, 1983 Pursuant to 46 CFR 1506.9

RESPONSIBLE AGENCY: Office of Federal Activities; General Information (202) 382–5075 or (202) 382–5076.

EIS No. 830502, Draft, BLM, NV, Winnemucca District WSA's, Wilderness Designations, Due: Dec. 23, 1983

EIS No. 830508, Final, HUD, MD, Germantown-Churchill Town Sector, Mortgage Insurance, Montgomery Co., Due: Nov. 31, 1983

EIS No. 830509, Draft, FHW, OR, Albany-Junction City Hwy./OR–99E Improvement, Queen Ave. to Tangent Dr., Due: Nov. 14, 1983

EIS No. 830510, Draft, FHW, CA, CA–132 Reconstruction, D Street to Las Flores Avenue, Stanislaus Co., Due: Nov. 14, 1983

EIS No. 830511, Final, BLM, OR, Southern Malheur Livestock Grazing Management Program, Malheur County, Due: Oct. 31, 1983

EIS No. 830512, Draft, EPA, REG, Nonmetallic Mineral Processing Plants, Emission Standards, Due: Nov. 14, 1983

EIS No. 830513, Draft, FHW, TN, Briley Parkway Ext., Centennial Blvd. to Knight Rd., Davidson County, Due: Nov. 14, 1983

EIS No. 830514, Draft, FHW, PA, US 220/Appalachian Thruway/LR–1061, Sections 1 & 2 Const., Blair Co., Due: Nov. 21, 1983

EIS No. 830515, Final, COE, TX, Wallisville Lake Project, Trinity River, Liberty and Chambers Cos., Due: Oct. 31, 1983

EIS No. 830516, Draft, BLM, OR, Medford Livestock Grazing Management Program, Due: Dec. 30, 1983

EIS No. 830517, Draft, BLM, CA, Hollister Planning Area, Resource Management Plan, Due: Dec. 31, 1983

EIS No. 830518, Draft, COE, SEV, PA WV Locks and Dams Nos. 7 & 8 Modifications, Monongahela River, Due: Nov. 25, 1983

EIS No. 830519, Final, BPA, PRO, 1983 Bonneville Power Administration Wholesale Power Rate Increase, Due: Oct. 31, 1983

EIS No. 830520, Draft, DOE, SC, L-Reactor Operations Resumption, Savannah River Plant, Aiken County, Due: Nov. 14, 1983

EIS No. 830521, DSuppl, COE, MI, Pointe Mouillee Wetland Establishment, Monroe County, Due: Nov. 14, 1983

EIS No. 830522, FSuppl, UAF, CA, Vandenberg AFB Space Shuttle Program, Santa Barbara County, Due: Oct. 31, 1983

EIS No. 830523, Final, AFS, SEV, AZ NM OK TX SW Region Land/Resource Mgmt., Standards and Guidelines, Due: Nov. 31, 1983

AMENDED NOTICES:

EIS No. 790538, Draft, UMT, MA, North Shore Transportation Improvement Program, Boston, Suffolk County, Published FR 6/8/79—Officially withdrawn.

EIS No. 830490, Final, COE, LA, PRO Terrebonne Parish Forced Drainage System, C/O, 404 Permit, Published FR 9/16/83 Review extended, Due: Oct. 31, 1983

Dated: September 27, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83–26833 Filed 9–29–83; 8:45 am]

BILLING CODE 6560–50–M

[ER-FRL-2444-2]

Oak Bluffs, Mass., Intent to Prepare an Environmental Impact Statement

AGENCY: Environmental Protection Agency (EPA)—Region I.

ACTION: Withdrawal of Notice of Intent to Prepare an Environmental Impact Statement (EIS) for Oak Bluffs, Massachusetts.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth H. Wood, Project Manager, Environmental and Economic Impact Office, Region I, Environmental Protection Agency, John F. Kennedy Federal Building, Boston, MA 02003, (617) 223–3190.

SUMMARY: On February 26, 1980 EPA published in the **Federal Register** (45 FR 12483) a Notice of Intent to prepare an EIS for the proposed Oak Bluffs Wastewater Management Facilities Plan. This EIS was to be prepared conjunctively with the 201 study. These protracted studies have reached a point where it has become reasonably apparent that an acceptable, reimbursable wastewater management

system will not be forthcoming. Therefore, EPA withdraws the Notice of Intent for this project.

Dated: September 27, 1983.

Allan Hirsch,

Director, Office of Federal Activities.

[FR Doc. 83-26832 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-345; PH-FRL 2444-6]

Certain Companies; Pesticide and Food Additive Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments should be submitted to the Product Manager (PM) named in each petition at the following address by mail to: Program Management and Support Division (TS-757C), Office of Pesticide Programs, environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460. In person, bring comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, CM#2, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. The comments are to be identified by the document control number [PF-345] and the petition number. All written comments filed in response to this notice will be available for public inspection in the Program Management and Support Division office at the address above from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: The Product Manager at the telephone and room numbers given in each petition.

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide and feed additive petitions relating to the establishment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

Initial filings

1. *FAP 3H5408.* Stauffer Chemical Co., 1200 S. 47th St., Richmond, CA 94804. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the herbicide 1-(*m*-trifluoromethyl-phenyl)-3-chloro-4-chloromethyl-2-pyrrolidone, in the commodity sunflower oil at 0.2 part per million (ppm). (Robert Taylor, PM-25, CM#2, Rm. 251, 703-557-1800).

2. *PP 3F2951.* Ciba-Geigy Corp., Agricultural Division, P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR 180.368 by establishing tolerances for the combined residues of the herbicide metolachlor [2-chloro-*N*-(2-ethyl-6-methylphenyl)-*N*-(2-methoxy-1-methylethyl) acetamide] and its metabolites determined as 2-[(2-ethyl-6-methylphenyl)-amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as parent metholachlor, in or on the raw commodities sorghum forage and fodder at 10.0 ppm. The proposed analytical method for determining residues is gas chromatography. (Richard Mountfort, PM-23, CM#2, Rm. 247, 703-557-1830).

3. *PP 3F2957.* Ciba-Geigy Corp. Proposes amending 40 CFR 180.368 by establishing a tolerance for the combined residues of the herbicide metolachlor and its metabolites in or on the commodity stone fruits at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography. (Richard Mountfort, PM-23, CM#2, Rm. 247, 703-557-1830).

4. *PP 3F2958.* Ciba-Geigy Corp. Proposes amending 40 CFR 180.368 by establishing tolerances for the combined residues of the herbicide metolacholor and its metabolites in or on the commodities almond hulls at 0.3 ppm; almond shells at 0.1 ppm; and nutmeats at 0.1 ppm. The proposed analytical method for determining residues is gas chromatography. (Richard Mountfort, PM-23, CM#2, Rm. 247, 703-557-1830).

(Sec. 408(d)(2), 68 Stat. 512, (21 U.S.C. 346a(d)(2)); 409(b)(5), 72 Stat. 1786, (21 U.S.C. 348))

Dated: September 26, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-26873 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-55002A; PH-FRL 2445-2]

Florida; Approval of State Plan for Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Federal Insecticide, Fungicide and Rodenticide Act and the implementing regulations of 40 CFR Part 172, Subpart B, require each State desiring to issue experimental use permits to submit a plan to EPA for its experimental use permit program. Any State experimental use permit program under this section shall be maintained in accordance with the State Plan approved under this section. This is a notice of approval of such a plan for Florida.

DATE: This approval became effective on September 30, 1983.

ADDRESS: Complete copies of the Florida State Plan are available for public inspection at:

1. Florida Department of Agriculture, 213 Mayo Building, Tallahassee, Florida 32301.

2. Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Kent Williams, Environmental Protection Agency, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365. (404-881-3222).

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 6, 1983 (48 FR 20489) notice was published of the intent of the Regional Administrator, EPA, Region IV, to approve the Florida State Plan for Issuance of Experimental Use Permits, and public comment was solicited. EPA received one comment from the U.S. Department of the Interior, Fish and Wildlife Service (USDI-FWS). The USDI-FWS requested that during the process of the review which accompanies the experimental use permit, consultation be initiated with the Fish and Wildlife Service in accordance with the provisions of the Endangered Species Act of 1973 (50 CFR 402). As a result of these comments, EPA, the State of Florida, and the Fish and Wildlife Service developed a mutually agreeable way to comply with the Endangered Species Act.

Therefore, it has been determined that the Florida State Plan satisfies the requirements of section 5(f) of the amended FIFRA and 40 CFR 172, and the Florida State Plan is hereby approved.

The Office of Management and Budget (OMB) has granted EPA an exemption from OMB review (under the authority of Executive Order 12291, section 8(b)), of final approval of State Plans for issuing state experimental use permits.

(Sec. 5(f), as amended, Pub. L. 95-396, 92 Stat. 819 (7 U.S.C. 136))

Dated: September 23, 1983.

Charles R. Jeter,

Regional Administrator, Region IV.

[FR Doc. 83-25870 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50605; PH-FRL 2444-8]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below:

Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the office location or telephone number cited in each experimental use permit.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

239-EUP-103. Issuance. Chevron Chemical Company, 940 Hensley St., Richmond, CA 94804. This experimental use permit allows the use of 2,000 pounds of the insecticide acephate on citrus to evaluate the control of citrus thrips. A total of 500 acres is involved; the program is authorized only in the States of Arizona and California. The experimental use permit is effective from July 26, 1983 to December 1, 1985. A temporary tolerance for residues of the active ingredient in or on citrus has been established. (William H. Miller, PM 16, Rm. 211, CM#2 (703-557-2600))

241-EUP-106. Issuance. American Cyanamid Company, P.O. Box 400, Princeton, NJ 08540. This experimental use permit allows the use of 787.5 pounds of the insecticide (±) cyano(3-phenoxyphenyl)methyl(+)-4-(difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate on soybeans to evaluate the control of various insects. A total of 9,832 acres is involved; the program is authorized only in the States of Alabama, Arkansas, Georgia, Louisiana, and Mississippi. The experimental use permit is effective from July 18, 1983 to July 18, 1984. A temporary tolerance for residues of the active ingredient in or on soybeans has been established. (Timothy A. Gardner, PM 17, Rm. 207, CM#2 (703-557-2690))

2724-EUP-32. Issuance. Zoecon Corp., 12200 Denton Drive, Dallas, TX 75234. This experimental use permit allows the use of 27.7 pounds of the insecticide propetamphos in 80 residential buildings to evaluate the control of cockroaches. The experimental use permit is effective from July 19, 1983 to July 19, 1984. (William H. Miller, PM 16, Rm. 211, CM#2 (703-557-2600))

2724-EUP-38. Issuance. Zoecon Corp., 12200 Denton Drive, Dallas, TX 75234. This experimental use permit allows the use of 2.3 pounds of the insecticide propetamphos in 20 residential buildings to evaluate the control of cockroaches. A total of 100 buildings is involved for both this permit and the one above; the programs are authorized only in the State of Texas. This experimental use permit is also effective from July 19, 1983 to Jyly 19, 1984. The permits will use the same active ingredient, but different formulations. (William H. Miller, PM 16, Rm. 211, CM#2 (703-557-2600))

47664-EUP-1. Scimetrics International, P.O. Box 513, Conifer, CO 80433. Extension. This experimental use permit allows the use of 47.6 pounds of the rodenticide zinc phosphide on rangeland, sugarcane, dormant orchards, and in and around non-residential buildings to evaluate control of Richardson's ground squirrels, black-tailed prairie dogs and pocket gophers on rangeland; voles in non-dormant orchards; cotton rats and roof cats in sugarcane; and Norway rats and house mice in and around non-residential buildings. A total of 390 acres is involved; the program is authorized only in the States of Colorado, Florida, Idaho, and Virginia. The experimental use permit is effective from July 28, 1983 to July 28, 1984. A permanent tolerance for residues of the active ingredient in grasses (rangeland) and sugarcane has been established (40 CFR 180.284). (William H. Miller, PM 16, Rm. 211, (703-557-2600))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA Headquarters Office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 [7 U.S.C. 136c])

Dated: September 26, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-25872 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[PF-346]

Certain Companies Pesticide Petitions; Ciba-Geigy Corp., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities.

ADDRESS: Written comments identified by the document control number [PF-346], should be submitted by mail to:

Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM#2, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Written comments may be submitted while the petitions are pending before the Agency. All written comments filed in response to the notice will be available for public inspection in the PM's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT: Henry Jacoby, PM-21 (703-557-1900).

SUPPLEMENTARY INFORMATION: EPA gives notice that the Agency has received the following pesticide petitions relating to the establishment and/or amendment of tolerances for residues of certain pesticide chemicals in or on certain commodities in accordance with the Federal Food, Drug, and Cosmetic Act. The analytical method for determining residues, where required, is given in each petition.

I. Initial Filing

PP 3F2955. Ciba-Geigy Corp., P.O. Box 18300, Greensboro, NC 27419. Proposes amending 40 CFR 180.408 by establishing tolerances for the combined residues of the fungicide metalaxyl [*N*-(2,6-dimethylphenyl)-N-(methoxyacetyl) alanine methyl ester] and its metabolites containing the 2,6-dimethylaniline moiety, and *N*-(2-hydroxymethyl-6-methylphenyl)-*N*-(methoxyacetyl) alanine methyl ester, each expressed as

metalaxyl, in or on the following raw agricultural commodities broccoli, cabbage, and cauliflower at 2.0 ppm. The proposed analytical method for determining residues is gas chromatography using a nitrogen/phosphorus detector.

II. Amended Petitions

1. *PP 3F2882.* Merck & Co., Inc., P.O. Box 2000, Rahway, NJ 07065. EPA issued a notice published in the **Federal Register** of June 1, 1983 (48 FR 24451) which announced that Merck & Co., Inc. had submitted pesticide petition 3F2882 to the Agency proposing to amend 40 CFR 180.242 by increasing the established tolerance for residues of the fungicide thiabendazole (2-(4-thiazolyl) benzimidazole) in or on potatoes (pre and post-H) from 3.0 to 8.0 ppm.

Merck has amended the petition by increasing the tolerance from 8.0 to 10.0 ppm. The proposed analytical method for determining residues is spectrophotofluorometry.

2. *PP 3F2854.* Mobay Chemical Corp., P.O. Box 4913, Hawthorn Rd., Kansas City, MO 64120. EPA issued a notice published in the **Federal Register** of April 20, 1983 (48 FR 19680) which announced that Mobay Chemical Corp. had submitted pesticide petition 3F2854 to the Agency proposing to amend 40 CFR Part 180 by establishing tolerances for the combined residues of the fungicide beta-(4-chlorophenoxy-alpha-(1,1-dimethlethyl)-1*H*-1,2,4-triazole-1-ethanol and its metabolite 4-(4-chlorophenoxy)-2,2-dimethly-4-(1*H*-1,2,4-triazol-1-yl)-1,3-butanediol in or on certain raw agricultural commodities.

Mobay Chemical Corp. has amended the petition by decreasing and or increasing tolerance levels for the following commodities:

Commodities	Levels as proposed (48 FR 19680, Apr. 20, 1983)	New tolerance levels proposed
Corn, forage	1.0	0.05
Corn, fodder	0.1	0.05
Meat, fat, and mbyp of cattle, goats, hogs, horses, and sheep	0.1	0.2
Eggs	0.005	0.01
Meat, fat, and mbyp of poultry	0.05	0.01

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

Dated: September 26, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-26874 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30230; PH FRL 2445-1]

Maag Inc.; Applications to Register Pesticide Products Containing New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces receipt of applications to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended.

DATE: Comment by October 31, 1983.

ADDRESS: By mail, submit comments to: Program management and Support Division (TS-757C), Attn: Product manager (PM) 17, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., S.W., Washington, D.C. 20460.

In person bring comments to: Rm. 236, CM#2, (Attn: PM 17), Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Timothy Gardner, PM 17 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA received applications as follows to register pesticide products containing active ingredients not included in any previously registered pesticide products pursuant to the provisions of section 3(c)(4) of FIFRA. Notice of receipt of these applications does not imply a decision by the Agency on the applications.

Applications Received

1. File Symbol: 35977-L. Applicant: Maag Agrochemicals, 520 Alabama Federal Bldg., PO Box 2408, Tuscaloosa, AL 35403. Product name: Fenoxycarb Technical. Insecticide. Active ingredient: Fenoxycarb(ethyl[2-p-phenoxyphenoxy)ethyl]carbamate 96%. Proposed classification/Use: General. For manufacturing purposes only. Type registration: Conditional.

2. File Symbol: 35977-U. Applicant: Maag Agrochemicals. Product name: Logic™ Fire Ant Bait. Insecticide. Active ingredient: Fenoxycarb(ethyl[2-(p-phenoxyphenoxy)ethyl]carbamate 1%. Proposed classification/Use: General. For the control of fire ants. Type registration: Conditional.

Comments received within the specified time period will be considered before a final decision is made; comments received after the time specified will be considered only to the extent possible without delaying processing of the application.

Written comments filed pursuant to this notice, will be available in the product manager's office from 8:00 a.m. to 4:00 p.m., Monday through Friday, except legal holidays. It is suggested that persons interested in reviewing the application file, telephone the product manager's office to ensure that the file is available on the date of intended visit.

(Sec. 3(c)(4) of FIFRA, as amended)

Dated: September 26, 1983.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 83-26875 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

[OPTS—42017A; PH-FRL 2413-8]

Methyl Isobutyl Ketone and Methyl Ethyl Ketone Decision to Adopt Negotiated Testing Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA published a notice in the **Federal Register** announcing a preliminary decision not to initiate rulemaking under section 4(a) of the Toxic Substances Control Act (TSCA) to require health effects testing of methyl isobutyl ketone (MIBK) or methyl ethyl ketone (MEK). The basis for the decision was EPA's evaluation of the existing data and the Agency's preliminary acceptance of a program submitted to EPA by the Ketones Program Panel of the Chemical Manufacturers Association. On the basis of its review and consideration of comments received, the Agency finds no reason to alter its preliminary decision not to propose, at this time, a section 4(a) rule to require health effects testing of MIBK or MEK.

FOR FURTHER INFORMATION CONTACT: Jack P. McCarthy, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Room E-547, Washington, D.C. 20460. Toll Free: (800-424-9065), in Washington, D.C. (554-1404), outside the USA (Operator—202-554-1404).

SUPPLEMENTARY INFORMATION:

I. Background

EPA issued a notice in the **Federal Register** on December 29, 1982 (47 FR 58025), which announced the Agency's preliminary decision not to propose a rule under section 4(a) of the Toxic Substances Control Act (TSCA) to

require health effects testing of methyl isobutyl ketone (MIBK) or methyl ethyl ketone (MEK). This decision was based on the Agency's evaluation of a testing proposal submitted by the Ketones Program Panel of the Chemical Manufacturers Association (CMA) and the existence of certain data about these substances.

A draft of the Ketones Panel proposal was included in the public record (docket number OPTS–42017). The Agency requested comments on the tentative decision not to develop a test rule for MIBK or MEK and on the proposed testing scheme.

II. EPA's Response to Public Comments

The Agency received comments from the Natural Resources Defense Council (NRDC) and from the Ketones Panel of CMA; no other comments were received. The Ketones Panel advocated acceptance of the program submitted to EPA. NRDC raised various legal issues about EPA's acceptance of a negotiated testing agreement. They were also concerned about the setting of schedules for testing. Their basic concerns, along with EPA's response to each, are discussed below. NRDC did not raise any concerns about the substance of the testing program proposed by the Ketones Panel.

NRDC criticized EPA's policy of accepting negotiated testing agreements in lieu of rulemaking to require testing under section 4 of TSCA. The Council argued that the "plain language" of TSCA mandates that testing of section 4(e) chemicals must be accomplished by rule. In addition, NRDC contended that negotiated testing has procedural and legal deficiencies; in its comments NRDC particularly cited the lack of enforceability of negotiated testing agreements and their failure to trigger other provisions which would be triggered by a section 4 rule.

EPA has previously addressed NRDC's general concern about negotiated testing in a **Federal Register** notice issued on January 5, 1982 (47 FR 335), discussing the negotiated testing program for alkyl phthalates. A more detailed analysis of NRDC's arguments was prepared for inclusion in the public record of that action. As was indicated in that notice, EPA believes that neither TSCA nor its legislative history support NRDC's contention that the Congress believed rules were the exclusive means for accomplishing testing. EPA believes that negotiated testing is consistent with the statutory purpose that adequate data on chemicals be developed expeditiously by the involved companies.

EPA agrees that negotiated testing is not legally enforceable, but as the Agency previously indicated, there are strong practical reasons why it expects that the involved companies will live up to their agreements in the vast majority of cases. Furthermore, the Agency disagrees with NRDC's contention that if EPA is forced to develop a rule because of failure of a negotiated program, the entire program will take substantially longer than if EPA had pursued rulemaking from the beginning. Rather, EPA believes that it could conduct an expedited rulemaking which, in many cases, would not substantially lengthen the entire process.

NRDC is correct in asserting that acceptance of a negotiated testing program will not trigger certain other statutory provisions that would have been brought into play if the Agency proposed, and then promulgated, a testing rule for these substances. But EPA believes that NRDC has considerably exaggerated the practical impact of this difference. Although a negotiated testing program does not trigger the obligation of a manufacturer of a new substance subject to a section 4 rule to submit test data under section 5(b)(1), and to delay manufacturing, that particular requirement only relates to EPA actions under section 4 concerning categories of chemical substances and would not be applicable to MIBK or MEK which were submitted to the Agency as individual chemical substances by the ITC.

In addition, contrary to NRDC's claim, EPA has the same authority to disclose health and safety data generated from negotiated testing as it would if the testing were conducted under a rule. Section 14(b) (1)(A) (i) concerns data from any health and safety study on a chemical in "commercial distribution" (which includes all non-category chemicals designated by the ITC) and makes no distinction based upon how the Agency receives the data.

EPA's position that negotiated testing is a legally sufficient alternative to section 4 rulemaking was examined by the General Accounting Office (GAO) during 1982. The GAO concluded that "neither section 4(a) nor 4(e) compels the promulgation of a test rule proceeding where adequate test data may be developed pursuant to voluntary testing agreements." GAO further concluded that "since voluntary agreements are consistent with the significant purposes of section 4, implied authority exists for EPA to negotiate such agreements." (GAO. 1982. EPA Implementation of Selected Aspects of the Toxic Substances Control Act. General Accounting Office. December 7, 1982. GAO/RCED–83–62 pp. 15).

NRDC stated in their comments that, "in the case of teratology testing for methyl isobutyl ketone, a schedule—has not yet been established." Final schedules had not been set by the time the proposed agreement was published. However, the protocol submitted to the Agency as required for completion of the negotiated testing agreement specified submission of a preliminary summary of results on the probe study on July 15, 1983 with treatment to begin on August 3, 1983 (mice), and August 7, 1983 (rats), following consultation with EPA on the selection of dose levels based on the results of the probe study. The draft of the final report is scheduled for December 1983. EPA met with CMA on July 25, 1983 to recommend doses. The submitted results, schedules and summary of the meeting are in the public record. It is apparent that progress on this testing is far ahead of any testing that would be initiated as a result of a rule.

On the above basis, EPA continues to believe that, where appropriate testing is being undertaken, negotiated testing agreements are an appropriate alternative to expensive, time-consuming rulemaking under section 4 of TSCA.

No new substantive issues have arisen during the comment period and consequently the Agency believes that the final study plan submitted by the Ketones Program Panel of CMA is the best means of meeting all the remaining testing needs for MIBK and MEK.

III. Testing

1. In a notice of a Negotiated Testing Agreement which appeared in the December 29, 1982 **Federal Register** (47 FR 58027), the Agency described the CMA's proposed program. The final study plans for this program are in the public record (docket number OPTS–42017) and include:

a. An inhalation teratology test of MIBK, to be initiated in mid- to late-1983 and for which a final study report will be submitted by the second quarter of 1984.

b. A 90-day subchronic toxicity study of MIBK, which has been completed and for which the final report will be submitted to EPA in mid-1983.

c. Mutagenicity studies on MIBK and MEK, to be initiated within 30 days of publication of this notice in the **Federal Register** and for which final reports will be submitted within a year after publication.

2. EPA has reviewed the study plans on MIBK and MEK and has concluded that:

a. The teratology study will provide sufficient data to establish the potential toxic effects on the fetus as a result of MIBK exposure.

b. The subchronic study is likely to provide sufficient data to assess the potential for chronic effects of MIBK.

As reported in the OTS Workshop on Subchronic Toxicity Testing (EPA-560/11-80-028), subchronic toxicity studies can serve as surrogates for full chronic toxicity tests. Therefore, for the purposes of TSCA section 4, the Agency will accept a properly conducted subchronic 90-day study with full histopathology as a basis for predicting the chemical's chronic effects.

c. The mutagenicity studies will provide sufficient data to establish the potential mutagenic effects of MIBK and MEK.

Dated: September 27, 1983.

William D Ruckelshaus,

Administrator.

[FR Doc. 83-26908 Filed 9-29-83; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 83-788]

Petition of the State of Michigan Concerning the Effects of Certain Federal Decisions on Local Telephone Service; Order Extending Time for Filing Comments

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry; extension of comment period.

SUMMARY: This Order extends the time for filing comments on the reports filed by state utility commissions in CC Docket No. 83-788 which concerns the effects of certain Federal decisions on local telephone service. This action is being taken so that commenting parties may have sufficient time to analyze a number of late-filed reports. The staff report contemplated by this proceeding will still be produced by December 1, 1983.

DATES: Comments are now due October 6, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Leonard S. Sawicki, Common Carrier Bureau, (202) 632-6363.

Order Extending Time for Comments

In the matter of petition of the State of Michigan concerning the effects of certain federal decisions on local telephone service, CC Docket No. 83-788; (48 FR 36189; 8-9-83).

Adopted: September 19, 1983.

Released: September 21, 1983.

By the Chief, Common Carrier Bureau.

1. In the *Notice of Inquiry* in this proceeding, September 2, 1983, was set as the date for state utility commissions to file reports and information. Comments on those submissions were due September 26, 1983. FCC Mimeo Number 83-357, released August 1, 1983. We set these short response dates in order to develop a record so that the Bureau staff could prepare a report for the Commission by December 1, 1983.

2. Many states responding to our *Notice* needed additional time to assemble the information which we requested. While we denied a motion to formally extend the time for the submissions by the states, we did note that we would rather have late-filed inforamtion than none at all. We cautioned the states, though, that the longer they delayed the less time other parties would have to scrutinize their reports and that we would have to place less weight on such late filings.

3. Because we have received many late-filed responses, we will extend the date for others to comment on these submissions. We need to receive carefully considered analyses from commenting parties to produce a meaningful report by December 1, 1983. The staff is now analyzing the state filings. A slight delay in the date for filing comments should not unduly affect the timing of the final report but certainly will enhance its quality.

4. Accordingly, it is ordered pursuant to Section 4(j) of the Communications Act, as amended, 47 U.S.C. 154(j), and § 0.291 of the Commission's Rules and Regulations, 47 CFR 0.291. That the date for filing comments on the reports of the states in this proceeding is extended to October 6, 1983.

Jack D. Smith,

Chief, Common Carrier Bureau.

[FR Doc.83-26502 Filed 9-29-83; 8:45 am]

BILLING CODE 6712-01-M

National Industry Advisory Committee, Emergency Broadcast Subcommittee; Meeting

September 22, 1983.

Pursuant to the provisions of Public Law 92-463, announcement is made of a public meeting of the Emergency Broadcast Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, September 27, 1983. The Subcommittee will meet at 10:00 A.M. at the Board Room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

Purpose: To consider emergency communications matters.

Agenda: 1. Opening remarks by Chairman; 2. Review status of current Subcommittee activities; 3. Plan and schedule future Subcommittee activities; 4. Other business; 5. Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency Communications Division at (202) 634-1549.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 83-26830 Filed 9-29-83; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 83-42]

Jones Washington Stevedoring Co., Inc., v. Port of Seattle; Filing Of Complaint And Assignment

Notice is given that a complaint filed by Jones Washington Stevedoring Co., Inc. against Port of Seattle was served September 22, 1983. Complainant alleges that respondent has violated section 17 of the Shipping Act, 1916, in connection with establishment of rules concerning responsibility for loss and damage to persons and property.

This proceeding has been assigned to Administrative Law Judge William Beasley Harris. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-

examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 83-26803 Filed 9-29-83; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Proposed Acquisition of Citizens Brokerage Services, Inc.; Amador Bancshares, Inc.

Amador Bancshares, Inc., Las Cruces, New Mexico, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire voting shares of Citizens Brokerage Services, Inc., Las Cruces, New Mexico.

Applicant states that the proposed subsidiary would engage in discount securities brokerage activities. These activities would be performed from offices of Applicant's subsidiary in Las Cruces, New Mexico, and the geographic area to be served is Dona Ana County, New Mexico. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 21, 1983.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26704 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; B.M.J. Financial Corp., 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 Philadelphia** (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *B.M.J. Financial Corp.*, Bordentown, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Bank of Mid-Jersey, Bordentown, New Jersey. Comments on this application must be received not later than October 24, 1983.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Key Bancorp, Inc.*, Logan, West Virginia; to become a bank holding company by acquiring 80 percent or more of the voting shares of The National Bank of Logan, Logan, West Virginia. Comments on this application must be received not later than October 19, 1983.

C. **Federal Reserve Bank of Chicago** (Franklyn D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *NBG Financial Corporation*, Greenwood, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to The National Bank of Greenwood, Greenwood, Indiana. Comments on this application must be received not later than October 24, 1983.

D. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *J.M.C. Interest, Inc.*, Albuquerque, New Mexico; to become a bank holding company by acquiring at least 99 percent of the voting shares of Southwest National Corporation, Albuquerque, New Mexico and its subsidiary, Southwest National Bank, Albuquerque, New Mexico. Comments on this application must be received not later than October 24, 1983.

2. *Schmidt Bancshares, Inc.*, Marysville, Kansas; to become a bank holding company by acquiring 100 percent of the voting shares of Exchange Bank of Schmidt and Koester, Marysville, Kansas. Comments on this application must be received not later than October 24, 1983.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26705 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Bank Holding Companies; Flat Top Bankshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Flat Top Bankshares, Inc.*, Bluefield, West Virginia; to acquire 100 percent of the voting shares or assets of Peoples Bank of Bluewell, Bluewell, West Virginia. Comments on this application must be received not later than October 26, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Firstbank of Illinois, Co.*, Springfield, Illinois; to acquire 100 percent (less directors' qualifying shares) of the voting shares or assets of the successor by merger to Land of Lincoln Bank, Springfield, Illinois. Comments on this application must be received not later than October 26, 1983.

C. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Bankshares, Inc.*, Abilene, Texas; to acquire 100 percent of the voting shares or assets of Stamford Bancshares, Inc., Fort Worth, Texas, thereby acquiring control of Stamford Financial Corporation, Fort Worth, Texas and The First National Bank in Stamford, Stamford, Texas. Comments on this application must be received not later than October 26, 1983.

2. *Independent Bankshares, Inc.*, Abilene, Texas; To acquire 100 percent of the voting shares or assets of State Bancshares, Inc., Littlefield, Texas, thereby acquiring control of Security State Bank, Littlefield, Texas, Olton State Bank, Olton, Texas, and West Texas Bancshares, Inc., Muleshoe, Texas, and Muleshoe State Bank, Muleshoe, Texas. Comments on this application must be received not later than October 26, 1983.

3. *Texas Capital Bancshares, Inc.*, Houston, Texas; to acquire 100 percent of voting shares or assets of First National Bank of Katy, Katy, Texas. Comments on this application must be received not later than October 26, 1983.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26713 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Proposed Acquisition of Irwin Securities Corporation; First Tulsa Bancorporation, Inc.

First Tulsa Bancorporation, Inc., Tulsa, Oklahoma, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), for permission to acquire 49 percent of the Irwin Securities Corporation, Tulsa, Oklahoma.

Applicant states that the proposed subsidiary would engage in the activities of a discount securities broker pursuant to Regulation Y; extend margin credit in conformance with Regulation T; and engage in incidental activitives within the limitations of Regulation Y. These activities would be performed from offices of Applicant's subsidiary in Tulsa, Oklahoma, and the geographic area to be served is the State of Oklahoma. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City.

Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 26, 1983.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAffe,

Associate Secretary of the Board.

[FR Doc. 83-26714 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Acquisition of Bank Shares by Banking Holding Companies; Fulton Financial Corp; et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(3) of the Banking Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Fulton Financial Corporation*, Lancaster, Pennsylvania; to acquire 100 percent of the voting shares or assets of The Farmers Trust Company of Lebanon, Lebanon, Pennsylvania. Comments on this application must be received not later than October 24, 1983.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Marine Bancorp, Inc.*, Springfield, Illinois; to acquire 100 percent of the voting shares (less directors' qualifying shares) of the successor by merger to American State Bank of Bloomington, Illinois, Bloomington, Illinois. Comments on this application must be received not later than October 24, 1983.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Southside Bancshares Corp.*, St Louis, Missouri; to acquire at least 80 percent of the voting shares or assets of State Bank of DeSoto, DeSoto, Missouri. Comments on this application must be received not later than October 24, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *East-Tex Bancorp, Inc.*, Trinity, Texas; to acquire at least 30 percent of the voting shares of First National Bank of Cleveland, Cleveland, Texas. Comments on this application must be received not later than October 24, 1983.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26706 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Formation of Bank Holding Companies; Maroa Bancshares, Inc., et al.

The companies listed in this notice have applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

A. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Maroa Bancshares, Inc.*, Maroa, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Bank of Maroa, Maroa, Illinois. Comments on this application must be received not later than October 26, 1983.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Pleasant Hope Bancshares, Inc.*, Pleasant Hope, Missouri; to become a bank holding company by acquiring at least 80 percent of the voting shares of The Pleasant Hope Bank, Pleasant Hope, Missouri. Comments on this application must be received not later than October 26, 1983.

C. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President), 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Security Bank Shares, Inc.*, Iron River, Wisconsin; to become a bank holding company by acquiring at least 94 percent of the voting shares of Security State Bank of Port Wing, Wisconsin, Port Wing, Wisconsin. Comments on this application must be received not later than October 26, 1983.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *AmericanBanc Corporation*, Plano, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of American National Bank of Plano, Plano, Texas. Comments on this application must be received not later than October 26, 1983.

2. *Frontier Bancshares, Inc.*, Eagle Pass, Texas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Frontier State Bank, Eagle Pass, Texas. Comments on this application must be received not later than October 26, 1983.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26712 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Company; Proposed de Novo Nonbank Activities; UNB Corp.

The organization identified in this notice has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to the application, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment on the application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. **UNB Corporation**, Fayetteville, Tennessee (financing and insurance agency activities; Tennessee and Alabama): To engage, through its proposed subsidiary, UNB Mortgage Corporation, in consumer and commercial financial activities for its own account or for the account of others; loans and other extensions of credit; servicing loans and other extensions of credit for any person; and acting as agent for the sale of life, and accident and health insurance directly realted to its extensions of credit. These activities would be conducted from an office of said subsidiary located in Fayetteville, Tennessee, serving southern middle Tennessee and northern Alabama. Comments on this application must be received not later than October 26, 1983.

Board of Governors of the Federal Reserve System September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26711 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

Agency Forms Under Review

September 26, 1983.

Background

When executive departments and independent agencies propose public use forms, reporting, or recordkeeping requirements, the Office of Management and Budget (OMB) reviews and acts on those requirements under the Paperwork Reduction Act (44 U.S.C. Chapter 35). Departments and agencies use a number of techniques to consult with the public on significant reporting requirements before seeking OMB approval. OMB in carrying out its responsibilities under the act also considers comments on the forms and recordkeeping requirements that will affect the public. Reporting or recordkeeping requirements that appear to raise no significant issues are approved promptly. OMB's usual practice is not to take any action on proposed reporting requirements until at least ten working days after notice in the **Federal Register**, but occasionally athe public interest requires more rapid action.

List of Forms Under Review

Immediately following the submission of a request by the Federal Reserve for OMB approval of a reporting or recordkeeping requirement, a discription of the report is published in the **Federal Register**. This information contains the

name and telephone number of the Federal Reserve Board clearance officer (from whom a copy of the form and supporting documents is available). The entries are grouped by type of submission—i.e., new forms, revisions, extensions (burden change), extensions (no change), and reinstatements.

Copies of the proposed forms and supporting documents may be obtained from the Federal Reserve Board clearance officer whose name, address, and telephone number apear below. The agency clearance officer will send you a copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letters, and other documents that are submitted to OMB for review.

FOR FURTHER INFORMATION CONTRACT:

Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3829)

OMB Reviewer—Judy McIntosh—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503 (202–395–6880)

Request for Approval of a Revision

1. Report title: Reports of Condition and Income

Agency form number: FFIEC 010–015, 021–023

Frequency: Quarterly

Reporters: State member banks

Small businesses are affected.

General description of report: Respondent's obligation to reply is mandatory (12 U.S.C. 324); a pledge of confidentiality is partially promised.

Detailed schedules of assets, liabilities, and capital accounts in the form of a condition report, and summary statement; detailed schedule of operating income and expense sources and disposition of income and changes in the equity capital in the form of an income statement; and information on past due, nonaccrual, and renegotiated loans and lease financing receivables.

Board of Governors of the Federal Reserve System, September 26, 1983.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 83-26710 Filed 9-29-83; 8:46 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Proposed de Novo Nonbank Activities; Citicorp

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Citicorp*, New York, New York (commercial lending and leasing activities; Florida): To engage through its subsidiary, Citicorp (USA), Inc., in making or acquiring for its own account or for the account of others, commercial loans and other extensions of credit; and leasing personal or real property or acting as agent, broker or adviser in leasing such property and servicing such leases, subject to all qualifications specified in 12 CFR 225.4(a)(6), where the leases serve as the functional equivalent of an extension of credit to the lessee of the property. Such activities would be conducted from an office in Tampa, Florida, serving the entire State of Florida. Comments on this application must be received not later than October 24, 1983.

2. *Citicorp*, New York, New York (discount brokerage and securities credit lending activities; nationwide): To establish a *de novo* subsidiary to be known as Citicorp Financial Services, Inc., with two initial offices to be located in New York, New York. The activites in which the *de novo* subsidiary proposes to engage are: providing securities brokerage services, related credit actities pursuant to the Board's Regulation T, and incidental activities, subject to the qualifications specified in 12 CFR 225.4(a)(15). The *de novo* subsidiary will conduct the aforementioned activities nationwide. Comments on this application must be received not later than October 24, 1983.

3. *Citicorp*, New York, New York (credit-related insurance activities; California): To engage through a service corporation subsidiary of its Citicorp Savings subsidiary, in the sale of credit-related life and accident and health insurance by licensed agents or brokers, as required; the sale of mortgage life and mortgage disability insurance directly related to extensions of mortgage loans; and the sale of unemployment insurance, pursuant to Section 601(A) of the Garn-St Germain Depository Institutions Act of 1982. These activities would be conducted from the 80 offices of Citicorp Savings located throughout California, serving the State of California. Comments on this application must be received not later than October 24, 1983.

B. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *NCNB Corporation*, Charlotte, North Carolina, (consumer finance and insurance activities, sale of money orders; Florida): To engage, through its subsidiary, TranSouth Financial Corporation of Florida, in making direct loans for consumer and other purposes, purchasing retail installment notes and contracts, selling at retail money orders having a face value of not more than $1,000 and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit; and through its subsidiary, TranSouth Mortgage Corporation of Florida, in making direct loans for consumer and other purposes under the general usuary statutes, purchasing retail installment notes and contracts, making direct loans to dealers for the financing of inventory (floor planning) and working capital purposes and acting as agent for the sale of credit life, credit accident and health and physical damage insurance directly related to its extensions of credit. These activites will be conducted from a common office to be located in Jacksonville, Florida, serving an area consisting of a 25 mile radius of said

office. This notification is for the relocation of an existing office in Jacksonville, Florida. Comments on this application must be received not later than October 24, 1983.

C. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Manufacturers National Corporation*, Detroit, Michigan (trust activites; Florida): To engage, through its subsidiary, Manufacturers Trust Company of Florida, National association, in activities that may be carried on by a trust company in accordance with § 225.4(a)(4) of Regulation Y, including excercising full fiduciary powers in the administration of revocable, irrevocable, and testamentary trusts and probate estates, as well as agency and custodial accounts. In addition, self-employed and indivisual retirement accounts will be offered. These activites would be conducted from an office in North Palm Beach, Florida, serving Palm Beach County and the surrounding area. Comments on this application must be received not later than October 18, 1983

Board of Governors of the Federal Reserve System, September 27, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-26782 Filed 9-29-83; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on September 23.

Public Health Service

Centers for Disease Control

Subject: National Disease Surveillance Program-1 Case Reports (0920-0009)—Revision
Respondents: State or local governments
Subject: Epidemic Investigations—New
Respondents: Individuals or households
Subject: Survey of City/County Public Health Agencies to Determine the Development and Use of Program Performance Standards—New
Respondents: State or local governments
OMB Desk Officer: Fay S. Iudicello

Health Care Financing Administration

Subject: Direct Dealing Letter No. 301—Billing for Physical Therapy Services (HCFA-298)—Extension/No Change
Respondents: Physical therapy providers under Medicare Part B and subject to direct reimbursement by HCFA
Subject: Recalculation of Case-Mix Index Based on Total Medicare Discharges (HCFR-9043)—New
Respondents: Hospitals participating in Medicare which prefer a recalculation of case-mix
OMB Desk Officer: Fay S. Iudicello

Social Security Administration

Subject: Representative Payee Report (0960-0068)—Revision
Respondents: Individuals receiving Social Security payments for another beneficiary
Subject: Representative Payee Evaluation Report (0960-0069)—Revision
Respondents: Individuals who have not returned the intitial Representative Payee Report
OMB Desk Officer: Milo Sunderhauf

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202-254-6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, D.C. 20503. Attn.: (name of OMB Desk Officer).

Dated: September 22, 1983.

Robert F. Sermier,

Deputy Assistant Secretary for Management Analysis and System.

[FR Doc. 83-26364 Filed 9-29-83; 8:45 am]

BILLING CODE 4150-04-M

Medicare Program; Inpatient Hospital Deductible for 1984

AGENCY: Office of the Secretary (OS), HHS.

ACTION: General notice.

SUMMARY: This notice announces the inpatient hospital deductible and coinsurance amounts for calendar year 1984 under Medicare's Hospital Insurance Program. The Medicare statute specifies the formula to be used to determine these amounts. The inpatient hospital deductible will be $356. The daily coinsurance amounts will be: (a) $89 for the 61st through 90th days of hospitalization; (b) $178 for lifetime reserve days; and (c) $44.50 for the 21st through the 100th days of extended care services in a skilled nursing facility. Each figure represents an increase of approximately 17 pecent over the corresponding 1983 figure.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Supervisory Actuary, Office of Financial & Actuarial Analysis, 1-C-11 Oak Meadows Building, 6325 Security Blvd., Baltimore, Maryland 21207, (301) 594-1024.

SUPPLEMENTARY INFORMATION: Under the authority in section 1813(b)(2) of the Social Security Act [42 U.S.C. 1395e(b)(2)], the Secretary has determined that the Medicare inpatient hospital deductible for 1984 will be $356.

Section 1813 provides for an inpatient hospital deductible and certain coinsurance amounts to be deducted from the amount payable by Medicare for inpatient hospital services and extended care services furnished an individual. Section 1813(b)(2) requires the Secretary of HHS to determine and publish, between July 1 and October 1 of each year, the amount of the inpatient hospital deductible applicable for the following calendar year.

Because the coinsurance amounts in section 1813 are fixed percentages of the inpatient hospital deductible for services furnished in the same calendar year, the increase in the deductible has the effect of also increasing the amount of coinsurance the Medicare beneficiary must pay. Thus, for inpatient hospital services or extended care services furnished in 1984, the daily coinsurance for the 61st through 90th days of hospitalization (¼ of the inpatient hospital deductible) will be $89; the daily coinsurance for lifetime reserve days (½ of the inpatient hospital deductible) will be $178; and the daily coinsurance for the 21st through the 100th days of extended care services in a skilled nursing facility (⅛ of the inpatient hospital deductible) will be $44.50.

Under the formula in the law, the deductible for calendar year 1984 must be equal to $45 multiplied by the ratio of (1) the current average per diem rate for inpatient hospital services for calendar year 1982 to (2) the average per diem rates for such services in 1966. The amount so determined is rounded to the

nearest multiple of $4. The average per diem rates are based on the amounts paid to participating hospitals by Medicare for inpatient services to insured individuals, plus the deductible and coinsurance amounts.

The average per diem rate for a calendar year is computed from the inpatient hospital bills for all beneficiaries. Each bill shows the number of inpatient days of care and the interim cost (the sum of interim reimbursement, deductible, and coinsurance). The data are summarized for each year, and an average interim per diem rate computed that accurately reflects interim costs on an accrual basis.

In order to reflect the change in the average per diem hospital cost under the program properly, the average interim cost must be adjusted to show the effect of final cost settlements made with each participating hospital after the end of its accounting year. The final settlements adjust the interim payment to the hospital to the actual full cost of providing covered services to beneficiaries. To the extent that the ratio of final cost for 1982 differs fvorm the ratio of final cost to interim cost for 1966, the increase in average interim per diem costs will not coincide with the increase in actual cost that has occurred.

The current average interim per diem rate for inpatient hospital services for calendar year 1982, based on tabulated interim costs, is $302.59; the corresponding amount for 1966 is $37.92. The averages are based on approximately 111 million days of hospitalization in 1982 and 30 million days in 1966 (last 6 months of the year). The ratio of final cost to interim cost is approximately 1.047 for 1982 and 1.055 for 1966. Thus, the inpatient hospital deductible is $45 × (302.59 × 1.047)/(37.92 × 1.055) = $356.36, which is rounded to $356.

Impact Analysis

The inpatient hospital deductible and coinsurance amounts for calendar year 1984 will be 17 percent higher than the 1983 amounts. The inpatient hospital deductible increased from $304 to $356; the daily coinsurance for the 61st through 90th days of hospitalization increased from $76 to $89; the daily coinsurance for lifetime reserve days increased from $152 to $178; and the daily coinsurance for the 21st through 100th days of extended care services in a skilled nursing facility incresed from $38 to $44.50.

The estimated cost to beneficiaries due to these increases is $550 million. This amount is based on an estimated 7.6 million beneficiaries who will have 8.7 million benefit periods and use 5.0 million coinsurance days and 1.2 million lifetime reserve days in 1984.

HCFA computed the 1984 inpatient hospital deductible and coinsurance amounts in the same manner as in previous years as required by section 1813 of the Act. The costs associated with this notice are the result of legislative requirements implemented by this notice. Since this notice merely announces amounts required by legislation and is not a proposed rule or final rule issued after a proposal, no analysis is required under Executive Order 12291 or the Regulatory Flexibility Act.

Review by EOMB E.O. 12291

Because of statutory requirements this notice must be published by October 1, 1983. As authorized by section 8(a)(2) of Executive Order 12291, we are publishing this notice in the Federal Register without the benefit of comment from the Director of the Executive Office of Management and Budget (EOMB). As soon as practical we will notify EOMB of the publication of this notice.

(Sec. 1813(b)(2) of the Social Security Act (42 U.S.C. 1395e(b)(2))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare—Hospital Insurance)

Dated: September 16, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-26867 Filed 9-29-83; 8:45 am]

BILLING CODE 4120-03-M

Medicare Program; Premium Rate for the Uninsured Aged

AGENCY: Office of the Secretary, HHS.

ACTION: General notice.

SUMMARY: This notice announces Medicare's montly hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1984.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Sol Mussey, Supervisory Actuary, Office of Financial and actuarial Analysis, 1-C-11 Oak Meadows Building, Baltimore, Maryland 21207, Telephone: (301) 594-1024.

SUPPLEMENTARY INFORMATION: Under the authority in section 1818(d)(2) of the Social Security Act (42 U.S.C. 1395i-2(d)(2)), I have determined that the monthly Medicare hospital insurance premium for the uninsured aged for the 12 months beginning January 1, 1984, is $155.

Section 1818 of the Social Security Act provides for voluntary enrollment in the hospital insurance program (Part A of Medicare), subject to payment of a monthly premium, of certain persons age 65 and older who are uninsured for social security or railroad retirement benefits and do not otherwise meet the requirements for entitlement to hospital insurance. (Persons insured under the Social Security or Railroad Retirement Acts need not pay premiums for hospital insurance.)

Section 1818(d)(2) of the Act, as amended by section 606(b) of the Social Security Amendments of 1983 (Pub. L. 98-21) requires the Secretary to determine and publish, during the next to last quarter of each calendar year, the amount of the monthly Part A premium for voluntary enrollment for the following calendar year. The formula specified in this section requires that, for the period beginning January 1, 1984, the 1973 base year premium ($33) be multiplied by the ratio of: (1) The 1984 inpatient hospital deductible to (2) the 1973 inpatient hospital deductible, rounded to the nearest multiple of $1 or, if midway between multiples of $1, to the next higher multiple of $1.

Under section 1813(b)(2) of the Act, the 1984 inpatient hospital deductible was determined to be $356. The 1973 deductible was actuarially determined to be $76, although the 1973 deductible was actually promulgated to be only $72, to comply with a ruling of the Cost of Living Council. (See 37 FR 21452, October 11, 1972.)

The monthly premium for the 12-month period beginning January 1, 1984 has been calculated using the $76 deductible for 1973, since this more closely satisfies the intent of the law. Thus, the monthly hospital insurance premium is $33 × (356/76) = $154.58, which is rounded to $155.

Impact Analyses

The monthly hospital insurance premium for the uninsured aged for the 12-month period beginning January 1, 1984, will increase to $155. That amount is 37 percent higher than the $113 monthly premium amount for the period July 1982 to December 1983.

The estimated cost of this increase to the approximately 21 thousand enrollees who do not otherwise meet the requirements for entitlement to hospital insurance will be about $11 million.

Because this notice merely announces an amount required by the formula specified in section 1818(d)(2) of the Act.

and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory flexibility Act, Pub. L. 96–354, are required.

Review by EOMB Under E.O. 12291

Because of statutory requirements this notice must be published prior to October 1, 1983. As authorized by section 8(a)(2) of Executive Order 12291, we are publishing this notice in the **Federal Register** without the benefit of comment from the Director of the Executive Office of Management and Budget (EOMB). As soon as practical we will notify EOMB of the publication of this notice.

(Sec. 1818(d)(2) of the Social Security act (42 U.S.C. 1395i–2(d)(2))

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance)

Dated: September 16, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-26866 Filed 9-29-83; 8:45 am]

BILLING CODE 4120-03-M

Medicare Program; Monthly Actuarial Rates and Monthly Premium Rate

AGENCY: Office of the Secretary, HHS.

ACTION: General notice.

SUMMARY: This notice announces the monthly actuarial rates for aged (age 65 or over) and disabled (under age 65) enrollees in the Medicare Supplementary Medical Insurance (SMI) program for calendar year 1984. It also announces the monthly SMI premium rate to be paid by all enrollees during calendar year 1984.

The premium rate in this notice is calculated under the provisions of sections 1839(a)(3) and 1839(e) of the Social Security Act as revised by section 606 of Pub. L. 98–21, the Social Security Amendments of 1983. Section 1839(e) of the Act temporarily holds the SMI premium at a constant percentage of the monthly actuarial rate for aged beneficiaries, while section 1839(a)(3), as modified by Pub. L. 98–21, provides that the rates apply on a calendar year basis.

EFFECTIVE DATE: January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Joseph N. Romano, Supervisory Actuary, Division of Medicare Cost Estimates, 1–C–11 Oak Meadows Building, Baltimore, Maryland 21235, Telephone: (301) 594–1023.

SUPPLEMENTARY INFORMATION: The Secretary of Health and Human Services is required by law to issue two annual notices relating to the Medicare Supplementary Medical Insurance (SMI) program. Prior to the passage on April 20, 1983 of Pub. L. 98–21, the Social Security Amendments of 1983, publication of those notices was required in December of each year, to be effective for the 12-month period starting the following July 1. Pub. L. 98–21 requires the publication of these notices in September of each year with the rates effective for the calendar year beginning the following January.

One notice announces two amounts that, according to actuarial estimates, will equal, respectively, one-half the expected average monthly cost of SMI for each aged enrollee (age 65 or over) and one-half the expected average monthly cost of SMI for each disabled enrollee (under age 65) during the calendar year beginning the following January. These amounts are called "monthly actuarial rates".

The second notice announces the monthly SMI premium rate to be paid by aged and disabled enrollees for the calendar year beginning the following January. (Although the costs to the program per disabled enrollee are higher than for the aged, the law provides that they pay the same premium amount.) Beginning with the passage of section 203 of Pub. L. 92–603 and until the passage of section 124 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248), the premium rate was limited to the lesser of the actuarial rate for aged enrollees, or the current monthly premium rate increased by the same percentage as the most recent general increase in monthly title II social security benefits. The difference between the premiums paid by all enrollees and total incurred costs is met from the general revenues of the Federal Government.

Section 124 of Pub. L. 97–248, the Tax Equity and Fiscal Responsibility Act of 1982, amended section 1839 of the Social Security Act by temporarily suspending the limitation on annual increases in the SMI premium rate. As further amended by section 606 of Pub. L. 98–21, section 1839 sets the monthly premium rate for calendar years 1984 and 1985 at a level equal to 50 percent of the monthly actuarial rates for aged beneficiaries. In January 1986, calculation of the premium rate will revert to the method used before the passage of section 124 of Pub. L. 97–248, and Pub. L. 98–21.

In addition, section 606 of Pub. L. 98–21 determined the standard monthly premium rate and standard monthly actuarial rates for the transitional 6-month period, July 1, 1983 through December 31, 1983.

The standard monthly premium rate for the 6-month period was frozen at the premium rate which applied in June 1983, superseding the premium rate announced in the December 30, 1982 **Federal Register** notice. Further, the actuarial rates for the 6-month period July 1, 1983, through December 31, 1983 were those rates announced in the December 1982 notice which, prior to the passage of Pub. L. 98–21, were intended to apply to the 12-month period ending June 30, 1984.

We published a notice in the **Federal Register** on June 10, 1983 (48 FR 26891), explaining that Pub. L. 98–21 requires a change in the timing of the publication of the Part B premium amount so that new premium rates effective each January (beginning in 1984) are published in the **Federal Register** during the previous September. (As noted above before the passage of Pub. L. 98-21 publication was in December, for rates effective the following July.)

Enrollees are individually informed of the new monthly premium rate by a notice sent with their Social Security benefit checks (for those whose premiums are deducted from cash benefits) or with their bills (for those who are billed directly). The notice is generally sent to them in the calendar quarter following the publication of the new premium in the **Federal Register**. Accordingly, enrollees have in the past ordinarily received notice of the new premium rate in the second calendar quarter before the premium rate was to be effective. Because of the satutory reduction in the time between the publication and the month the new rate is effective, enrollees will not receive individual notice of the change earlier than the calendar quarter before the new rate is effective.

The notices of the amounts for calendar year 1984, are as follows:

Notice of Monthly Actuarial Rates

As required by sections 1839(a) (1) and (4) of the Social Security Act (42 U.S.C. 1395r(a) (1) and (4)), as amended, I have determined that the monthly actuarial rates applicable for calendar year 1984 are $29.20 for enrollees age 65 and over, and $54.30 for disabled enrollees under age 65. The accompanying statement gives the actuarial assumptions and bases from which these rates are derived.

Notice of Monthly Premium Rate

As required by section 1839(e)(1) of the Social Security Act (42 U.S.C. 1395r(e)(1)), as amended, I have

determined that the basic premium amount will be $14.60 monthly during calendar year 1984. The accompanying statement shows how this amount was derived.

Statement of Actuarial Assumptions and Bases Employed in Determining the Monthly Actuarial Rates and the Standard Monthly Premium Rate for the Supplementary Medical Insurance Program Beginning January 1984

1. Actuarial Status of the Supplementary Medical Insurance Trust Fund

The law requires that the SMI program be financed on an incurred basis; that is, program income during the calendar year for which the actuarial rates are effective must be sufficient to pay for services furnished during that year (including associated administrative costs) even though payment for some of these services will not be made until after the close of the year. The portion of income required to cover benefits not paid until ater the close of the calendar year is added to the trust fund until needed. Thus, the assets in the trust fund at any time should be no less than benefit and administrative costs incurred but not yet paid.

Because the rates are established prospectively, they are subject to projection error. As a result, the income to the progam may not equal incurred costs. Therefore, trust fund assets should be maintained at a level that is adequate to cover a moderate degree of projection error in addition to the amount of incurred but unpaid expenses. Table 1 summarizes the estimated actuarial status of the trust fund as of the end of the financing period for periods from 1982 through 1983.

TABLE 1—ACTUARIAL STATUS OF THE SMI TRUST FUND AS OF THE END OF THE FINANCING PERIODS, JUNE 30, 1982–DECEMBER 31, 1983

[In millions of dollars]

Financing period ending [1]	Assets	Liabilities	Assets less liabilities
June 30, 1982	$5,535	$3,885	$1,650
June 30, 1983	6,780	4,555	2,225
December 31, 1983	6,736	5,019	1,717

[1] Prior to July 1, 1983, the financing periods were the 12-month periods ending June 30. For the transitional period, the financing period is July 1, 1983 through December 31, 1983. After December 31, 1983, the financing periods are the calendar year periods ending December 31.

2. Monthly Actuarial Rate for Enrollees Age 65 and Older

The monthly actuarial rate is one-half the monthly projected cost of benefits and administrative expenses for each enrollee age 65 and older, adjusted to allow for interest earnings on assets in the trust fund and a contingency margin.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for enrollees age 65 and over for calendar year 1984 is $29.90. The monthly actuarial rate of $29.20 provides an adjustment for interest earnings and $.04 for a contingency margin. This margin is positive to maintain the fund at an appropriate level for contingencies.

The contingency margin is an amount appropriate to provide for a moderate degree of projection error and to amortize unfunded liabilities.

The monthly actuarial rate for enrollees age 65 and older for calendar year 1984 was determined by projecting per-enrollee cost for the 12-month periods ending June 30, 1984 and June 30, 1985, by type of service. Although the actuarial rates are not applicable for calendar years, projections of per-enrollee costs are determined on a July to June period, consistent with the July 1 annual fee screen update used for benefits. The values for the 12-month period ending June 30, 1981, were established from program data. Subsequent periods were projected using a combination of program data and data from external sources. The projection factors used are shown in Table 2. These per-enrollee values are then adjusted to apply to a calendar year period. The projected values for financing periods from July 1, 1981, through December 31, 1984, are shown in Table 3.

TABLE 2.—PROJECTION FACTORS [1] 12-MONTH PERIODS ENDING JUNE 30 OF 1982–1985

(In percent)

12-month period ending June 30	Physicians' services		Radiology and pathology	Outpatient hospital services	Home health agency services	Group practice prepayment plans	Independent lab services
	Fees [2]	Residuals [3]					
Aged:							
1982	10.8	10.8	6.0	15.0	−94.4	25.0	5.0
1983	9.6	8.2	14.9	15.3	−62.3	25.0	14.8
1984	6.9	7.0	0.0	13.9	10.0	25.0	−5.5
1985	5.9	6.8	8.9	14.3	10.0	20.0	0.8
Disabled:							
1982	10.8	15.2	15.0	41.0	−100.0	25.0	5.0
1983	9.6	11.8	14.8	30.2	0.0	25.0	15.2
1984	6.9	9.9	−1.0	25.4	0.0	25.0	−13.2
1985	5.9	9.9	10.6	20.1	0.0	20.0	−15.1

[1] All values are per enrollee. Also, some values for 1983 and 1984 differ slightly from those contained in last year's notice due to the implementation of the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248 and the Social Security Act Amendments of 1983, Pub. L. 98-21.
[2] As recognized for payment under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.

TABLE 3.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR ENROLLEES AGE 65 AND OVER (FINANCING PERIODS ENDING JUNE 30, 1982 THROUGH DEC. 31, 1984)

	Financing periods			
	July 1, 1981 through June 30, 1982	July 1, 1982, through June 30, 1983	July 1, 1983 through Dec. 31, 1983	January 1, 1984 through Dec. 31, 1984
Covered services (at level recognized):				
Physicians' reasonable charges	$21.14	$25.06	$28.65	$30.53
Radiology and pathology	1.01	1.16	1.16	1.22
Outpatient hospital and other institutions	3.74	4.31	4.91	5.26
Home health agencies	.02	.01	.01	.01
Group practice prepayment plans	.65	.81	1.01	1.11
Independent lab	.32	.37	.35	.35
Total Services	26.88	31.72	36.09	38.48
Cost sharing:				
Deductible	−2.29	−2.48	−2.50	−2.51
Coinsurance	−4.74	−5.79	−6.72	−7.19
Total benefits	19.85	23.45	26.87	28.78
Administrative expenses	1.01	1.04	1.09	1.12
Incurred expenditures	20.86	24.49	27.96	29.90
Value of interest	−.39	−.58	−.66	−.74
Contingency margin for projection error and to amortize unfunded liabilities	2.13	.69	−.28	.04
Monthly actuarial rate	$22.60	$24.60	[1] $27.00	$29.20

[1] This rate, although originally promulgated for the 12-month period ending June 30, 1984 was modified by Pub. L. 98-21 to apply only to the 6-month period ending December 31, 1983.

3. Monthly Actuarial Rate for Disabled Enrollees

Disabled enrollees are those persons enrolled in SMI because of entitlement to disability benefits for not less than 24 months or because of entitlement to Medicare under the end-stage renal disease program. Projected monthly costs for disabled enrollees (other than those suffering from end-stage renal disease) are prepared in a fashion exactly parallel to projections for the aged, using appropriate actuarial assumptions (see Table 2). Costs for the end-stage renal disease program are projected using a different computer model because of the complex demographic problems involved. The combined results for all disabled enrollees are shown in Table 4.

The projected monthly rate required to pay for one-half of the total of benefits and administrative costs for disabled enrollees for calendar year 1984 is $57.78. The monthly actuarial rate of $54.30 provides an adjustment for interest earnings and $.07 for a contingency margin. This margin is positive to maintain the fund at an appropriate level for contingencies.

TABLE 4.—DERIVATION OF MONTHLY ACTUARIAL RATE FOR DISABLED ENROLLEES:

(Financing Periods Ending June 30, 1982 Through December 31, 1984)

	Financing periods			
	July 1, 1981 through June 30, 1982	July 1, 1982, through June 30, 1983	July 1, 1983 through Dec. 31, 1983	Jan. 1, 1984 through Dec. 31, 1984
Covered services (at level recognized):				
Physicians' reasonable charges	$26.38	$31.92	$36.71	$39.44
Radiology and pathology	1.11	1.27	1.26	1.33
Outpatient hospital and other institutions	21.98	26.14	28.53	30.05
Home health agencies	.00	.00	.00	.00
Group practice prepayment plans	.37	.46	.58	.64
Independent lab	.42	.48	.44	.43
Total services	50.26	60.27	67.52	71.89
Cost sharing:				
Deductible	−2.09	−2.31	−2.34	−2.36
Coinsurance	−9.44	−11.53	−13.03	−13.90
Total benefits	38.73	46.43	52.15	55.63
Administrative expenses	1.95	2.14	2.09	2.15
Incurred expenditures	40.68	48.57	54.24	57.78
Value of interest and other income on fund	−3.45	−3.49	−3.60	−3.55
Contingency margin for projection error and to amortize unfunded liabilities	−.63	−2.98	−4.54	.07
Monthly actuarial rate	$36.60	$42.10	[1] $46.10	$54.30

[1] This rate, although originally promulgated for the 12-month period ending June 30, 1984 was modified by Pub. L. 98-21 to apply only to the 6-month period ending Dec. 31, 1983.

4. Sensitivity Testing

Several factors contribute to uncertainly about future trends in medical care costs. In view of this, it seems appropriate to test the adequacy of the rates announced here using alternative assumptions. The most unpredictable factors that contribute significantly to future costs are outpatient hospital costs, physician residual (as defined in Table 2), and increases in physician fees as constrained by the program's reasonable charge screens and economic index. Two alternative sets of assumptions and the results of those assumptions are shown in Table 5. All assumptions not shown in Table 5 are the same as in Table 2.

Table 5 indicates that, under the assumptions used in preparing this report, the monthly actuarial rates will result in an excess of assets over liabilities of $1,726 million by the end of December 1984. This amounts to 6.6 percent of the estimated total incurred expenditures for the following year. Assumptions which are somewhat more pessimistic and therefore, which indicate the adequacy of the assets to accommodate projection errors, produce a deficit of $640 million by the end of December 1984, which amounts to a −2.3 percent of the estimated total incurred expenditures for the following year. Under fairly optimistic assumptions, the monthly actuarial rates will result in a surplus of $3,961 million by the end of Decembr 1984, which amounts to 16.3 percent of the estimated total incurred expenditures for the following year.

TABLE 5.—PROJECTION FACTORS AND THE ACTUARIAL STATUS OF THE SMI TRUST FUND UNDER ALTERNATIVE SETS OF ASSUMPTIONS

(For Financing Periods Through Dec. 31, 1984)

	12-month periods ending June 30—								
	This projection			Low cost projection			High cost projection		
	1983	1984	1985	1983	1984	1985	1983	1984	1985
Projection Factors (in percent): [1]									
Physicians' services—fees: [2]									
Aged	9.6	6.9	5.9	9.1	6.4	5.4	10.1	7.4	6.4
Disabled	9.6	6.9	5.9	9.1	6.4	5.4	10.1	7.4	6.4
Physicians' services—Residual [3]									
Aged	8.2	7.0	6.8	7.2	5.0	4.8	9.2	9.0	9.8
Disabled	11.8	9.9	9.9	9.8	4.9	4.9	13.8	14.9	14.9
Outpatient hospital services:									
Aged	15.3	13.9	14.3	12.3	6.9	4.3	18.3	20.9	24.3
Disabled	30.2	25.4	20.1	22.2	15.4	10.1	38.2	35.4	30.1

	Financing period as of—								
	June 30, 1983	Dec. 31, 1983	Dec. 31, 1984	June 30, 1983	Dec. 31, 1983	Dec. 31, 1984	June 30, 1983	Dec. 31, 1983	Dec. 31, 1984
Actuarial status (in millions):									
Assets	$6,780	$6,796	$7,396	$6,780	$7,280	$9,259	$6,780	$6,174	$5,419
Liabilities	$4,555	$5,019	$5,670	$4,273	$4,792	$5,298	$4,840	$5,251	$6,059
Assets less liabilities	$2,225	$1,717	$1,726	$2,507	$2,488	$3,961	$1,940	$923	$-640
Ratio of assets less liabilities to expenditures (in percent) [4]	10.5	7.5	6.6	12.4	11.6	16.3	8.8	3.8	-2.3

[1] All values are per enrollee. Also, some values for 1983 and 1984 differ slightly from those contained in last year's notice due to the implementation of the provisions of the Tax Equity and Fiscal Responsibility Act of 1982, Pub. L. 97-248 and the Social Security Act Amendment of 1983, Pub. L. 98-21.
[2] As recognized for payent under the program.
[3] Increase in the number of services received per enrollee and greater relative use of more expensive services.
[4] Ratio of assets less liabilities at the end of the year to total incurred expenditures during the following year, expressed as a percent.

5. Standard Premium Rate

For calendar years 1984 and 1985, the law provides that the standard monthly premium rate for both aged and disabled enrollees shall be 50 percent of the monthly actuarial rate for enrollees age 65 and older. Therefore, the standard monthly premium rate for both aged and disabled enrollees for calendar year 1984 is $14.60, which is 50 percent of the monthly actuarial rate for this period ($29.20).

Impact Analyses

The monthly SMI premium rate of $14.60 for all enrollees during calendar year 1984 is 19.7 percent higher than the $12.20 monthly premium amount for the previous financing period.

The estimated cost of this increase over the current premium to the approximately 29.3 million SMI enrollees will be about $845 million for calendar year 1984.

Because this notice of the SMI premium rate announces an amount required by the formula specified in section 1839(e)(1) of the Social Security Act, and does not alter any regulation or policy, no analyses under Executive Order 12291 or the Regulatory flexibility Act, Pub. L. 96-354, are required.

Review by EOMB Under E.O. 12291

Because of statutory requirements this notice must be published prior to October 1, 1983. As authorized by section 8(a)(2) of Executive Order 12291, we are publishing this notice in the Federal Register without the benefit of comment from the Director of the Executive Office of Management and Budget (EOMB). As soon as practical we will notify EOMB of the publication of this notice.

(Secs. 1839(a) (1), (3) and (4); and (e) (1) and (2) of the Social Security Act; 42 U.S.C. 1395r(a) (1), (3), and (4); and (e) (1) and (2))

(Catalog of Federal Domestic Assistance Program No. 13.774, Medicare-Supplementary Medical Insurance)

Dated: September 16, 1983.

Carolyn K. Davis,

Administrator, Health Care Financing Administration.

Approved: September 27, 1983.

Margaret M. Heckler,

Secretary.

[FR Doc. 83-26880 Filed 9-29-83; 8:45 am]

BILLING CODE 4120-03-M

Alcohol, Drug Abuse, and Mental Health Administration

Advisory Committee Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following national advisory bodies scheduled to assemble during the month of October 1983.

Basic Psychopharmacology Research Subcommittee of the Basic Psychopharmacology and Neuropsychology Research Review Committee

October 6-7; 9:00 a.m.
The Capitol Hill Hotel, 200 C Street, S.E., Washington, D.C. 20003
Open—October 6; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Dr. Dorothy Karp, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to basic psychopharmacology and neuropsychology, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., October 6, the meeting will be open for discussion of administrative announcements and program development. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Cognition, Emotion, and Personality Research Review Committee

October 6-7; 9:00 a.m.
Holiday Inn Georgetown, 2101 Wisconsin Avenue, N.W., Washington, D.C. 20007
Open—October 6; 9:00-10:00 a.m.
Closed—Otherwise
Contact: Shirley Maltz, Room 9C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-3944

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to personality, emotion, cognition, and related higher mental processes, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00-10:00 a.m., October 6, the meeting will be open for discussion of administrative announcements and program development. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Alcohol Biomedical Research Review Committee

October 12-14; 9:00 a.m.
Quality Inn/Embassy Suites, 2000 N Street, N.W., Washington, D.C. 20036
Open—October 12; 9:00-11:00 a.m.
Closed—Otherwise
Contact: Harvey P. Stein, Ph.D., Executive Secretary, Alcohol Biomedical Research Review Committee, Room 18C-26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443-6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and

Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–11:00 a.m., October 12, the meeting will be open for discussion of administrative announcements and program development. Otherwise, the Committee will be performing initial review of grantapplications for Federal assistance and will not be open to the public in accordance with the determination by the Administator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Alcohol Psychosocial Research Review Committee

October 12–14; 9:00 a.m.
Colonial Manor Motel, 11410 Rockville Pike, Rockville, Maryland 20852

Open—October 12; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Laura Weinstein, Ph.D., Executive Secretary, Alcohol Psychosocial Research Review Committee, Room 16C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6106

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Alcohol Abuse and Alcoholism for support of research and training activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda: From 9:00–9:30 a.m., October 12, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychosocial and Biobehavioral Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

October 13–14; 9:00 a.m.
The Shoreham Hotel, Calvert Street and Connecticut Avenue, NW., Washington, D.C. 20008

Open—October 13; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Maureen Eister, Room 9C–14, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4868

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities in the fields of treatment development and assessment and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Behavioral Sciences Research Review Committee

October 13–15
The Capitol Hill Hotel, 200 C Street, SE., Washington, D.C. 20003

Open—October 13; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Naomi Lichtenberg, Room 9C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3938

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities relating to behavioral science areas relevant to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 13, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Apppendix I).

Epidemiologic and Services Research Review Committee

October 17–19; 9:00 a.m.
Key Bridge Marriott Hotel, 1401 Lee Highway, Arlington, Virginia 22209

Open—October 17; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Gloria Yockelson, Room 9C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and research training activities as they relate to mental health epidemiology, mental health service systems research, and evaluation of clinical mental health services, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10:00 a.m., October 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Epidemiology and Prevention Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee

October 17–19; 8:30 a.m.
Connecticut Room, Holiday Inn of Bethesda, 8120 Wisconsin Avenue, Bethesda, Maryland 20814

Open—October 17; 8:30–10:30 a.m.
Closed—Otherwise
Contact: Ron Gold, Executive Secretary, DAPA, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–10:30 a.m., June 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Services Research Subcommittee of the Drug Abuse Epidemiology, Prevention, and Services Research Review Committee

October 17–19; 8:30 a.m.
Gallery Room, Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland 20814

Open—October 17; 8:30–10:30 a.m.
Closed—Otherwise
Contact: H. Noble Jones, Executive Secretary, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 8:30–10:30 a.m., October 16, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Aging Subcommittee of the Life Course and Prevention Research Review Committee

October 20–21; 9:00 a.m.
Shoreham Hotel, Suite 520, Calvert Road and Connecticut Avenue, N.W., Washington, D.C. 20008

Open—October 20; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Victoria Souder, Room 9C–02, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1220

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research and/or research activities in the fields of child, family, and aging, and makes recommendations to the National Advisory Council for final review.

Agenda: From 9:00–10:00 a.m., October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 522b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Mental Health Research Education Review Committee

October 20–21; 9:00 a.m.
Sheraton Inn Washington Northwest, 8727 Colesville Road, Silver Spring, Maryland 20910

Open—October 20; 9:00 a.m.–1:30 p.m.
Closed—Otherwise
Contact: Emilie Embrey, Room 9–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–3857

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the areas of biological sciences, psychological sciences, and the applied behavioral sciences related to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 1:30–3:00 p.m., October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 522b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopharmacological, Biological, and Physical Treatments Subcommittee of the Treatment Development and Assessment Research Review Committee

October 20–21; 9:00 a.m.
Sheraton Washington Hotel, 2660 Woodley Road, NW., Washington, D.C. 2008

Open—October 20; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Pamela J. Mitchell, Room 8C–18, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1367

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of research training activities in the fields of treatment development and assessment with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10 a.m., October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 522b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Psychopathology and Clinical Biology Research Review Committee

October 20–22; 9:00 a.m.
Linden Hill Hotel, 5400 Pooks Hill Road, Bethesda, Maryland 20014

Open—October 20; 9:00–10:00 a.m.
Closed—Otherwise
Contact: Irma Fisher, Room 9C–24, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1340

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute of Mental Health for support of activities in the fields of research and research training activities in the areas of clinical psychopathology and clinical biology as they relate to mental health, with recommendations to the National Advisory Mental Health Council for final review.

Agenda: From 9:00–10 a.m., October 20, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 522b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Clinical and Behavioral Research Review Committee

October 25–27; 9:00 a.m.
Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852

Open—October 25; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Mr. Daniel L. Mintz, Executive Secretary, DACB, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the

public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Drug Abuse Biomedical Research Review Committee

October 25–28; 9:00 a.m.
Holiday Inn, Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852
Open—October 25; 9:00–9:30 a.m.
Closed—Otherwise
Contact: Dr. Alan A. Schreier, Executive Secretary, DABR, Room 10–42, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–2620

Purpose: The Committee is charged with the initial review of applications for assistance from the National Institute on Drug Abuse for support of research and research training activities and makes recommendations to the National Advisory Council on Drug Abuse for final review.

Agenda: From 9:00–9:30 a.m., October 25, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of applications for Federal assistance and will not be open to the public in accordance with the determination by the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of 5 U.S.C. 552b(c)(6), and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive information may be obtained from the contact persons listed above. Summaries of the meetings and rosters of Committee members may be obtained as follows: NIAAA: Mrs. Diana Widner, Committee Management Officer, Room 16C–20, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4375. NIDA: Ms. Claudette Wright, Committee Management Officer, Room 10–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–1644. NIMH: Ms. Helen W. Garrett, Committee Management Officer, Room 17C–26, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4333.

Dated: September 26, 1983.

Sue Simons,

Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 83–26692 Filed 9–29–83; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 83P–0219]

Food for Human Consumption; Enriched Bread Deviating From Identity Standard; Temporary Permit for Market Testing

Correction

In FR Doc. 83–20296 beginning on page 34513 in the issue of Friday, July 29, 1983, make the following correction:

On page 34514, column one, paragraph three, last line, "September 27, 1983." should read "October 27, 1983."

BILLING CODE 1505–01–M

[Docket No. 83P–0220]

Food for Human Consumption; Enriched Bread Deviating From Identity Standard; Temporary Permit for Market Testing

Correction

In FR Doc. 83–20295 appearing on page 34514 in the issue of Friday, July 29, 1983, make the following corrections:

1. On page 34514, column two, **DATE,** line five, "September 29, 1983." should read "October 27, 1983.".

2. On page 34514, column three, line five, "September 29, 1983." should read "October 27, 1983.".

BILLING CODE 1505–01–M

[Docket No. 82N–0015; DESI 12056]

Human Drugs; Combination Drug Containing Sulfamethoxazole and Phenazopyridine Hydrochloride and Related Combination Drugs; Drug Efficacy Study Implementation; Conditions for Approval and Marketing Phenazopyridine-Containing Drug Products; Labeling Requirement

Correction

In FR Doc. 83–20430 beginning on page 34516 in the issue of Friday, July 29, 1983, make the following correction in column one, **SUMMARY,** line fourteen, "sulfamethoxazole/phenazopyridine" should read "sulfonamide/phenazopyridine.".

BILLING CODE 1505–01–M

[Docket No. 83N–0115; DESI 12368]

Isoproterenol Hydrochloride for Oral Use; Drug Efficacy Study Implementation; Withdrawal of Approval

Correction

In FR Doc. 83–25413 beginning on page 41820, in the issue of Monday, September 19, 1983, make the following corrections:

1. On page 41820, second column, in the heading, "Docket No. 83N–0.115" should read "Docket No. 83N–0115".

2. On page 41821, first column, second paragraph, fourth line, "October 10, 1983" should read "October 19, 1983".

BILLING CODE 1505–01–M

[FDA 225–83–3000]

Review of Revisions to Compendial Requirements for Drugs; Working Agreement With the U.S. Pharmacopeial Convention, Inc.

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has executed a working agreement with the United States Pharmacopeial Convention, Inc. (USPC). The purpose of the agreement is to define the working arrangements in regard to the review of revisions to compendial requirements for drugs.

EFFECTIVE DATE: This agreement became effective September 7, 1983.

FOR FURTHER INFORMATION CONTACT: Walter J. Kustka, Intergovernmental and Industry Affairs Staff (HFC–50), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1583.

SUPPLEMENTARY INFORMATION: In accordance with § 20.108(c) (21 CFR 20.108(c)) stating that all agreements and memoranda of understanding between FDA and others shall be published in the **Federal Register,** the agency is publishing the following working agreement:

Working Agreement Between the United States Pharmacopeial Convention, Inc. and the Food and Drug Administration

I. Purpose

This agreement defines the working arrangements between the United States Pharmacopeial Convention, Inc. (USPC), and the Food and Drug Administration (FDA) in

regard to the review of revisions to compendial requirements for drugs.

II. Background

USPC is the publisher of the *United States Pharmacopeia* and the *National Formulary*. These texts and their supplements are designated by 21 U.S.C. 321 as official compendia. Official compendial requirements are recognized in various adulteration and misbranding provisions of the Federal Food, Drug, and Cosmetic Act, such as 21 U.S.C. 351(b). FDA proposed a regulation (21 CFR 314.70) in the **Federal Register** of October 19, 1982 (47 FR 46622) that would allow applicants of approved drug applications to submit changes in the conditions of their approved human drug applications as part of their annual report to FDA if such changes were implemented to comply with an official compendial requirement.

It is a goal of both parties to ensure the availability on the market of uniform and high quality drugs and drug products.

III. Substance of Agreement

A. An FDA–USPC Technical Committee on Human Drug Quality (the Committee) will be formed. The Committee will be composed of four members of the staff of USPC and four members of the staff of FDA as designated by each party to this agreement.

B. The Committee will be concerned with the review of standards, specifications, and methods of analysis for human drugs. Articles classified as biologicals, medical devices, or antibiotics are not ordinarily within the purview of the Committee.

C. The Committee may review and discuss matters or topics of general or specific interest related to human drug quality. By majority of the members voting, the Committee may make recommendations concerning technical matters to USPC. These recommendations may be either general or specific in nature. Members of the Committee act as individual scientists and do not have authority to act on behalf of FDA or USPC.

D. Committee members may recommend that the Committee review any revision proposals that have been published in the *Pharmacopeial Forum*, that are consistent with section III(B) of this agreement.

E. If information of a trade secret or of a confidential nature is provided to FDA members of the Committee by USPC members, FDA will treat the information in accordance with its freedom of information procedures. FDA members of the Committee may divulge to USPC members only information which is otherwise available to the public under the Freedom of Information Act and FDA regulations.

F. After discussion and review of the data (i.e., data provided by USPC and material made available from FDA) involving a matter before the Committee under paragraph D, the following procedures shall be followed.

1. Should the revision proposal be deemed adequate, no further action will be indicated.

2. Should the revision proposal be deemed inadequate by the Committee, it may recommend that USPC request its Revision Committee to obtain additional information to support the proposal prior to its adoption. Such request shall specify, insofar as practical, the type and nature of the data to be obtained.

G. Minutes of meetings held by the Committee will be maintained with copies being provided to liaison officers in FDA and USPC. Copies of these minutes will be publicly available.

H. If policy issues develop in the course of the business of the Committee that are beyond the scope of this Working Agreement, the Committee will promptly refer these issues to the appropriate officials in FDA or USPC for resolution.

IV. Participating Parties

A. United States Pharmacopeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, MD 20852.

B. Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

V. Liaison Officers

A. For the United States Pharmacopeial Convention, Inc.: Executive Associate, (currently Joseph G. Valentino), 12601 Twinbrook Parkway, Rockville, MD 20852, 301–881–0666.

B. For the Food and Drug Administration: Chief, Compendial Operations Branch (HFN–335), (currently I. David Wolfson), National Center for Drugs and Biologics, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–6390.

VI. Period of Agreement

This agreement becomes effective upon acceptance by both parties and shall continue indefinitely. It may be modified by mutual consent or terminated by either party upon the giving of a 60-day written notice.

Approved and accepted for the United States Pharmacopeial Convention, Inc.:

By: s/William M. Heller

Title: *Executive Director and Secretary.*

Date: August 16, 1983.

Approved and accepted for the Food and Drug Administration:

By: s/Joseph P. Hile

Title: *Associate Commissioner for Regulatory Affairs.*

Date: September 7, 1983.

Effective date. This working agreement became effective September 7, 1983.

Dated: September 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26600 Filed 9-29-83; 8:45 a.m.]

BILLING CODE 4160-01-M

Drug Abuse Advisory Committee and Psychopharmacologic Drugs Advisory Committee; Republishing of Meeting Notices

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is republishing the notice announcing a meeting of the Drug Abuse Advisory Committee scheduled for October 6 and 7, 1983. The notice is being republished because discussion of phenylpropanolamine has been deleted from the agenda and the meeting will take place only on October 6. FDA is also republishing the notice announcing a joint meeting of Cardiovascular and Renal Drugs Advisory Committee and the Psychopharmacological Drugs Advisory Committee scheduled for October 31 and November 1, 1983. The notice is being republished because the meeting will not be a joint meeting. However, selected members of the Cardiovascular and Renal Drugs Advisory Committee will be included as consultants and the meeting will take place only on November 1. The meetings were announced in the **Federal Register** of September 16, 1983 (48 FR 41649 and 41650).

Drug Abuse Advisory Committee

Date, time, and place. October 6, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, October 6, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Frederick J. Abramek, National Center for Drugs and Biologics (HFN–120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4020.

General function of the committee. The committee advises the Commissioner of Food and Drugs regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services and the department of Justice with regard to safety, efficacy, and abuse potential of drugs or other substances and recommends actions to be taken by the Department of Health and Human Services with regard to marketing, investigation, and control of such drugs or other substances.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will discuss the following: (1) Nicorette® Gun: Consideration of whether there is a need to schedule the product under the Controlled Substances Act; (2) Buspirone, NDA 18–731: Abuse potential considerations of a new, unapproved, anti-anxiety product.

Psychopharmacologic Drugs Advisory Committee

Date, time, and place. November 1, 9 a.m., Conference Rms. G and H, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, November 1, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 5 p.m.; Frederick J. Abramek, National Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4020.

General function of the committee. The committee reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational prescription drugs for use in the practice of psychiatry and related fields.

Agenda—Open public hearing. Any interested person may present data, information, or views, orally or in writing, on issues pending before the committee.

Open committee discussion. The committee will be asked to assess the relative risks and benefits of ORAP® (pimozide) in the management of Gilles de la Touretts's Syndrome, a rare neuropsychiatric condition. The division of Neuropharmacologic Drug Products is preparing to recommend that ORAP® be approved for this "orphan" use, and asks that the committee either endorse or advise against this proposed action.

Dated: September 26, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-26661 Filed 9-29-83; 8:45 am]

BILLING CODE 4110-01-M

Health Care Financing Administration

Medicare and Medicaid Programs; Schedules of Guidelines for Physical Therapy and Respiratory Therapy Services

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Final notice.

SUMMARY: This notice establishes revised schedules of salary equivalency guidelines for Medicare reimbursement for the reasonable costs of physical therapy and respiratory therapy services furnished under an arrangement by an outside contractor except for inpatient hospital services paid for under the new prospective payment system or reimbursed under the rate of increase limits. The schedules are used by Medicare fiscal intermediaries to determine the maximum allowable cost of those services. We are revising the methodology used to establish the schedules, and we are updating the guideline amounts to account for increases in inflation. The guidelines also apply to certain State Medicaid programs.

Under the prospective payment regulations and conforming changes implementing Pub. L. 98-21 (published September 1, 1983, 48 FR 39752), effective with cost reporting periods beginning on or after October 1, 1983, we eliminated the salary equivalency guidelines for physical and respiratory therapy services provided as inpatient hospital services. The guidelines will continue to apply to outpatient hospital services and to services furnished by other providers.

EFFECTIVE DATE: The revised schedules of guidelines apply to services furnished on or after October 1, 1982.

FOR FURTHER INFORMATION, CONTACT: William Goeller, 301-597-1802.

SUPPLEMENTARY INFORMATION:

I. Background

In accordance with Section 1861(v)(5) of the Social Security Act (the Act), these guidelines apply to:

- Hospital outpatient services;
- Hospital-based skilled nursing facility (SNF) services;
- Hospital-based home health agency (HHA) services;
- SNF services;
- HHA services; and
- Comprehensive outpatient rehabilitation facility (CORF) services.

Section 1861(v)(5) of the Act requires the Secretary to establish criteria for determining the reasonable cost incurred by a provider for services furnished under an arrangement with the provider by therapists or other health related personnel individually or through an organization. Under an arrangement, payment for covered services is made directly to the hospital or other provider (rather than to the therapist or supplier organization). Services that may be provided under arrangement include physical therapy, speech therapy and other therapy services, and services of other health specialists (other than physicians). The reasonable cost for these services may not exceed an amount equal to the prevailing salary costs that the hospital or other provider would normally incur in furnishing these services if it had furnished them directly, plus allowances for certain expenses that may be incurred by the contracting therapy organization in furnishing the services.

These statutory requirements are implemented by regulations at 42 CFR 405.432. Specifically, the regulations provide for:

- Hourly salary equivalency amounts comprised of:

—A prevailing hourly salary rate based on the 75th percentile of salaries paid by providers for similar services in the geographic area.

—A fringe benefit and expense factor to take into account fringe benefits generally received by an employee therapist, as well as expenses (such as maintaining an office, insurance, etc.) that an individual not working as an employee might incur in furnishing services under arrangements.

- A travel allowance to recognize time spent in traveling to the provider's site or patient's home.
- Additional allowances for supervisory or administrative duties and for aides, equipment or supplies furnished by the supplier.
- An exemption for limited part-time or intermittent services.
- An exception for unique circumstances or special labor market conditions.

The regulations further provide that HCFA will issue guidelines establishing the hourly salary equivalency amounts for therapy services furnished to Medicare beneficiaries under arrangements. These guidelines, with updates as necessary, apply only to the amount of reimbursement the Medicare program will make to a provider for therapy services obtained under an arrangement. The guidelines are not intended to dictate or otherwise interfere in the terms of the contract that a provider may wish to enter into with a therapist or therapist organization. The guidelines do not apply to services furnished by employees of a hospital or other provider; the part of these services will continue to be evaluated under the Medicare program's reasonable cost provisions. (See 42 CFR 405.451.)

We have issued schedules of salary equivalency guidelines for the reasonable costs of physical therapy services beginning in 1975, and for respiratory therapy services beginning in 1978. We published the most recent update of these guidelines on March 26, 1982 (47 FR 13047) for cost reporting periods beginning on or after October 1, 1981.

II. Applicability

Until recently, Medicare payment to all participating providers was based on the reasonable costs incurred in furnishing covered services to Medicare beneficiaries, or (except with respect to comprehensive outpatient rehabilitation

services) the provider's customary charges for those services, if lower. As a limitation on reasonable costs, the schedule of guidelines had general applicability to all providers furnishing therapy services under arrangements with an outside contractor.

The Social Security Amendments of 1983 (Pub. L. 98–21) and implementing regulations published on September 1, 1983 (48 FR 39752) provide that all hospitals except excluded hospitals (for example, psychiatric, rehabilitation, children's and other long-term hospitals) will be paid, effective with cost reporting periods beginning on or after October 1, 1983, on a prospective, per discharge basis for their inpatient hospital operating costs. Since the costs of providing therapy services under arrangement are operating costs, the guidelines will not apply to inpatient hospital services covered under the prospective payment system.

Excluded hospitals will be reimbursed on a reasonable cost basis for inpatient hospital services subject to the limitation on the rate of increase in inpatient operating costs per discharge under section 1886(b) of the Act. The rate of increase limitation establishes a strong incentive for hospitals to monitor and control their costs. As a result, the guidelines are unnecessary to meet the statutory limitation on the reasonable cost of therapy services furnished as inpatient hospital services. Therefore, the regulations and conforming changes implementing the prospective payment system provide that, effective with cost reporting periods beginning on or after October 1, 1983, the guidelines will no longer apply to therapy services provided as inpatient hospital services. However, as noted above, the guidelines will continue to apply to therapy services furnished to outpatients and to patients of a hospital-based SNF or hosptial-based HHA as well as to services furnished in other non-hospital provider settings (for example, SNFs and CORFs).

III. Changes in Methodology

Since the initial schedules of guidelines were issued in 1975, we have received periodic comments on the methodology used to develop the guidelines. Some of the problems raised in these comments concerned provisions of the methodology that reflected limitations in the data available to us on therapists' salaries and other expenses therapists incur in furnishing services under arrangements with providers. Other concerns dealt with more technical aspects of the methodology, such as the method used to update the salary equivalency amounts to account for inflation. On August 13, 1981 (46 FR 40924), we proposed changes in the methodology used to establish the salary equivalency guidelines. In the proposal:

- The prevailing hourly salary rates were derived:
  - —From the 75th percentile of hourly therapist salaries in 22 major metropolitan statistical areas (MSAs) surveyed by the Bureau of Labor Statistics (BLS);
  - —For each surveyed metropolitan area based on actual salary data;
  - —For nonsurveyed portions of States by applying a hospital wage index to the national average therapist salary.
- The inflation factor to account for salary increases after the date the survey was conducted was based on increases in service industry wages.
- The fringe benefit component was based on American Hospital Association (AHA) data on employee benefits.
- The expense component was based on an earlier analysis of data on the costs of maintaining an office.
- The standard travel allowance was set at 50 percent of the hourly salary equivalency amount.
- The published amounts were to be adjusted to take into account projected rates of inflation that occurred after the initial effective date.

The proposal provided for a 60-day period for public comment. During that time, we received significant comments on major aspects of the proposed methodology that required evaluation before revised guidelines could be issued. Since that evaluation could not be accomplished quickly, we published the notice on March 26, 1982 to update the guidelines that were then in effect. The updated guidelines were effective for services furnished on or after October 1, 1981.

IV. Summary of Comments

We have now completed our evaluation of the public comments received on the August 13, 1981 proposal. This section summarizes the principal comments received on the proposed methodological changes and presents our response to these comments.

A. Application of Hospital Wage Index to Salary Data

The regulations (§ 405.432) define the prevailing salary as the hourly salary rate based on the 75th percentile of salary ranges paid by providers in the geographic area, by type of therapy, to therapists working full-time in an employment relationship. Our primary source for the prevailing salary is the BLS hospital industry wage survey. This survey is conducted once every three years in 22 major MSAs. We have been unable to identify other statistically valid data on hourly salary rates paid to therapists working full-time in an employment relationship. In the absence of reliable data on therapist salaries outside the 22 MSAs, we must make projections of the BLS survey data to develop prevailing hourly rates appropriate for all areas.

In previous schedules, we averaged prevailing hourly rates for the MSAs within a State to determine the State rate. We grouped contiguous States into regions and used an average of the basic hourly rates applicable to those MSAs within the region for which a survey was completed to establish the rate for States where no survey was conducted.

This method has two major shortcomings. First, where BLS conducted more than one survey in a given State, such as New York, providers located in the surveyed MSAs are subject to the State prevailing rate even though actual salary data are available for those MSAs. Secondly, direct application of individual MSA prevailing rates (or an average of MSA rates) to establish guidelines for providers located outside the surveyed areas is relatively insensitive to geographic variations in wage levels.

In order to address these shortcomings, we proposed to use the actual prevailing hourly rates in the 22 MSAs to establish separate guidelines amounts for providers located in those MSAs. For providers located outside the 22 MSAs, we proposed to take into account estimated salary differentials between the surveyed and nonsurveyed areas by using a hospital wage index to adjust the BLS hourly rates.

By using the wage index, the prevailing salary rate for a nonsurveyed area in relation to prevailing rates in the 22 MSAs reflected the relationship between overall hospital wage levels in that area and hospital wage levels in the 22 MSAs. We proposed to use the hospital wage index because our analysis indicated there is a significant statistical correlation between therapist hourly salary rates and overall hospital wages in the 22 MSAs, and we had no reason to expect that the same relationship would not exist between therapist hourly salary rates and overall hospital wages in the nonsurveyed area. However, we recognized that the index did not fully account for variations in therapist salaries. We indicated that we were exploring data sources with nationwide applicability that could be

used to develop an index specific to therapist wages and that, should such data become available, we would consider substituting an occupation-specific wage index for the overall hospital wage index in developing the final guideline amounts. We invited public comment on the issue.

Comment: One commenter questioned the propriety of relying exclusively on the BLS Hospital Wage Industry Survey to establish the prevailing salary amounts. In particular, the commenter noted that the hospital wage survey data is derived from large metropolitan hospitals and may not be appropriate for smaller and rural hospitals and for nonhospital providers. The commenter suggested that HCFA either obtain compensation by survey or through provider cost reports.

Response: We use the BLS hospital data as our primary source in accordance with the Senate Committee on Finance recommendation (Senate Report 92–1230, 92 Cong., 2nd Session, p. 251 (1972)) that, to the extent feasible, timely and accurate salary data compiled by BLS on the 75th percentile of salaries should be used in determining the prevailing salary amounts. We have not found a more reliable or timely source of data on hourly rates paid to thrapists by providers. The regulations provide that guidelines may be derived from other statistically valid survey data, in lieu of the HCFA guidelines, provided that the study designs, questionnaires, and instructions, as well as the resultant survey data are submitted to and approved in advance by HCFA. None of the commenters offered valid statistical data that establish the BLS information as not reflective of the market.

The 1981 hospital wage survey covered all non-Federal hospitals located in 22 major MSAs that employed 100 workers or more and encompassed all but the smallest (approximately 50 beds or less) facilities in the area. We do not believe reliance on this data source should disadvantage the small or rural providers. Health care wages tend to be higher in urban areas than in rural areas and higher in large hospitals than in smaller ones.

We agree that it would be desirable to incorporate salary data for other providers into the guideline amounts. In addition to the hospital wage survey, BLS conducts a triennial survey of wages for employees in nursing home and personal care facilities in 21 MSAs. We previously examined the data for physical therapists contained in the 1978 survey to determine if those data could be used in deriving separate guidelines for services in SNFs. We determined that the salary data from this survey were insufficient for purposes of developing separate guidelines (46 FR 14063).

The 1981 survey data on nursing and personal care facilities are also insufficient for developing separate guidelines. The data are minimal, with the salaries for full-time physical therapists being reported based on a very small number of observations in only 14 of the 21 areas surveyed. Although the data cannot be used to establish separate guidelines for SNFs, we believe that it is appropriate to merge the nursing and personal care facilities wage data that is available with the hospital wage data in developing the prevailing hourly salary rate. Unlike most nursing home employees, physical therapists employed by nursing homes tend to receive higher salaries than physical therapists employed by hospitals. Our methodology for accompanying this is described below in section V.A. Comparable surveys are not conducted by BLS for other providers of services.

Comment: Several commenters objected to the use of the hospital wage index to establish the prevailing salary rates in the nonsurveyed areas. They argued that HCFA had not established that there was a consistent realtionship between the salaries of therapists and average hospital wages, particularly in the nonsurveyed areas, and that on a national basis the hospital wage index was a poor predicator of therapist salaries. One commenter submitted respiratory therapist data for Maryland and New Jersey that indicated the salaries of respiratory therapists do not vary as greatly between urban and rural areas as do salaries of all hospital workers. Some commeters asserted that, unlike general hospital wages, therapist salaries are higher in rural areas than in urban areas.

Response: We proposes using the hospital wage index to adjust the BLS hourly salary rates because we have no reliable national data on therapists' salaries for the nonsurveyed areas. Without such data, we cannot establish with certainty whether, on a national basis, variations in average hospital wages accurately predict therapist salary levels. As we explained in the proposed notice, we are concerned that the index does not fully account for variations in therapists' salaries in the surveyed areas. If, as indicated by the data submitted for Maryland and New Jersey, there is less variation between therapist salaries than in overall hospital wages, the wage index would tend to understate the prevailing therapists' salary rates in rural areas.

In the absence of national data that may be used to construct an occupation-specific wage index, we are left with two basic alternatives: either account for geographical variations in wage levels by using the hospital wage index or continue the system used in previous published schedules of averaging the prevailing hourly rates within a State to determine the State rate and averaging the rates for MSAs located in designated regions to establish the rate for States where no survey was conducted. We have concluded that the hospital wage index does not demonstratively enhance the validity of the guidelines. Therefore, we have decided to continue the current system until such time as more comprehensive salary data become available. Although our decision may result in guidelines that may be relatively insensitive to area wage differences, we believe it will not disadvantage providers. As previously indicated, salaries in the health care field are generally lower in rural areas. No national salarly data to the contrary have been offered with respect to physical therapists or respiratory therapists. Therefore, applying the urban rates to the rural areas as well should not disadvantage rural providers. Moreover, if the resultant guidelines are not reflective of the actual going rate in the area, affected providers may file for a special labor market exception under 42 CFR 405.432(f)(2).

B. Projected Increase in Therapists' Salaries

As we indicated earlier, our basic data source for prevailing salary rates is the BLS triennial hospital wage survey. In previously published schedules, we updated the BLS salary data to account for inflation between the date the triennial hospital wage surveys were conducted and the effective date of the schedules, by using the percentage increase in overall hospital wages during that period.

When the proposed notice was published, the last BLS survey had been conducted in 1978. We evaluated the appropriateness of using overall hospital wage increases to project therapists' salary increases by comparing the historical percentage increase in overall hospital wages and service industry wages, as shown in the BLS Monthly Employment and Earnings Bulletin, to the percentage increase in average respiratory therapist and physical therapist salaries between the 1975 and 1978 BLS hospital wage surveys.

We found that therapists' salaries did not increase as rapidly as wages for hospital employees in general between

1975 and 1978 and that using the percentage increase in overall hospital wages to project therapist salary increases significantly overestimated the increase. The wage data for 1975–1978 indicated that historical trends in therapist salaries more closely approximated total service industry wage trends than those for hospital workers. Therefore, we proposed to use the percentage increase in service industry wages to estimate increases in therapist salaries between the triennial surveys.

Comment: Several commenters expressed their belief that the service industry group included industries markedly different from health care professionals and suggested that HCFA continue to use the increase in overall hospital wages to project therapist salary increases. One commenter suggested the use of an inflation factor based solely on therapists' salaries.

Response: After the 1981 BLS survey was issued, we reevaluated the appropriateness of using the increase in overall hospital wages to project therapist salary increases. Between the 1978 and 1981 BLS wage surveys, physical therapists' wage rose 35.5 percent and respiratory therapists' wage rose 35.2 percent. Over the same period, overall hospital wages, as reported in the BLS Employment and Earnings Bulletin rose 36.8 percent. Since the increases in overall hospital wages closely paralleled the wage increases for physical and respiratory therapists, we have decided to continue using overall hospital wages to project therapist wage increases. No reliable statistical data are available on which to derive an inflation factor based solely on therapist salaries.

C. Adjustment for Hours Worked

The BLS salary data that we use relate to paid hours (which include vacation and other leave hours), while the guideline amounts are applied only to hours worked (i.e., hours actually spent furnishing services at the provider site) and not to leave hours. In previously published schedules, we have recognized compensation for hours paid, but not worked, as part of the fringe benefit factor. Since the guideline amounts are applied only to hours worked, we believed it would be more appropriate to adjust the BLS hourly rates to relate to hours worked. We proposed, therefore, to make this adjustment and to eliminate payments for leave hours from the fringe benefit factor. We used data from the Hospital Administrative Services Division of the AHA on the median percent of hours worked to paid hours (91.5 percent) to make the adjustment. The adjustment resulted in a higher adjusted hourly salary equivalency amount.

Comment: Although commenters on this adjustment endorsed the conceptual basis for the adjustment, several questioned whether the adjustment factor was adequate. Some suggested that by using data for all hospital employees, including nonprofessional and part-time workers, the percent of hours worked to paid hours was higher than it would be based solely on data for professional, full-time workers.

Response: We do not have separate quantitative data on the percent hours worked compared to paid hours for professional employees. The BLS hospital wage survey does include qualitative data on hospital employee benefits. These data indicate that vacation benefits are more liberal for professional than for nonprofessional employees. Based on 2080 paid hours per year (40 hours/week x 52 weeks) the 91.5 percent adjustment factor derived from the AHA data equates to 1903 hours worked and 177 hours (or 22.2 days) off for holidays, sick leave and vacation. On the basis of the qualitative data in the BLS survey, we agree that the adjustment percentage appears high. The survey data indicate that after 5 years of service, most professional hospital employees are entitled to three weeks of paid vacation. Using 15 vacation days, 10 sick leave days and 9 holidays, or a total of 272 hours we developed an adjustment factor of 86.9 percent. We used this factor in the revised guidelines to adjust the BLS prevailing hourly salary rates to relate to hours worked.

D. Fringe Benefit Component

The fringe benefit and expense factor is an amount that is added to the basic prevailing salary rate in order to recognize fringe benefits that are generally received by an employee therapist, as well as overhead expenses that an individual not working as an employee might incur in furnishing services under arrangements. It is expressed as a percentage of the prevailing hourly rate and is applied to every hour of service furnished at the provider site.

In previous schedules, we derived the fringe benefit component of the factor from an analysis of BLS studies included in the series, "Employee Compensation in the Private Nonfarm Economy." BLS has discontinued this series and has replaced it with the Employment Cost Index. This index is not suitable for our purposes because it does not include information on the amount of fringe benefits relative to wages and salaries.

We proposed to base the fringe benefit component on data on employee benefits contained in the AHA's *Hospital Statistics*. We based our decision on two considerations. First, the fringe benefit component is intended to recognize costs that the provider would normally incur for fringe benefits if the service were furnished in an employment relationship. Therefore, it is appropriate to use data specific to the hospital industry. Secondly, the AHA data pertain to those employee benefits that are supplements to wages and salaries. Since vacation and other leave pay are taken into account by increasing the hourly salary rates to relate to hours worked, the fringe benefit component should consist only of those fringe benefits that are supplements to wages and salaries. We updated the AHA data by comparing the estimated increase in nonagricultural employees supplements to the estimated increase in service industry wages (which we had proposed to use to estimate therapist salary increases).

Comment: One commenter asserted that the AHA data on employee benefits yielded too low a fringe benefit component. The commenter suggested that since the data were for all hospital employees, including part-time workers and lower paid employees, the fringe benefits were understated with references to physical therapists.

Response: We continue to believe the AHA statistics on employee benefits as a percentage of payroll are the best available data source for the fringe benefit component. The inclusion of part-time and lower paid employees does not render the data inappropriate for the therapy guidelines. First, the guidelines apply to regular part-time (15 hours a week or more) therapy services under arrangements as well as full-time arrangements. Secondly, we accounted for the major fringe benefit difference affected by seniority and professional status (vacation pay) by modifying the adjustment for hours paid but not worked. The BLS qualitative data on employee benefits do not show a pattern of professional employees receiving a more comprehensive benefit package than nonprofessional employees with regard to life and health insurance and retirement benefits.

Comment: One commenter noted that the AHA survey form used to compile the hospital statistics financial data specifically identified only Social Security, group insurance, and retirement benefits as employee benefits and expressed uncertainty as to whether other supplements to wages and salaries were included.

Response: The AHA survey form divides labor-related expenses into two components: payroll expenses (all salaries and wages, except those paid to medical and dental residents and interns and other trainees) and employee benefits. Employee benefits are defined as the component of nonpayroll expenses which include hospital expenditures for employees' Social Security, group insurance and retirement benefits. Under the AHA Chart of Accounts, the employee benefit account includes the employers share of: FICA, State unemployment insurance, group health insurance, group life insurance, pension and retirement benefits, workmen's compensation, group disability insurance, and other similar benefits. The reported data should encompass the broad range of supplements to wages and salaries that hospitals typically provide for their employees.

Comment: One commenter questioned the methodology used to estimate the increase in employee benefits in relation to salary between the period covered by the BLS survey and the effective date of the guidelines. The commenter suggested that it would be more appropriate to base the fringe benefit update on the increase in the nonagricultural employees supplements to the increase in the nonagricultural employees wages.

Response: The adjustment is intended to recognize that employee benefits are increasing at a different rate than wages and therefore, represent different percentages of salary over time. In making the adjustment for the proposed guidelines, the increase in nonagricultural employee supplements was used as a proxy for the increase in therapist fringe benefits whereas the increase in service industry wages was used as the proxy for the increase in therapist salaries. In the final guidelines, we have used the increase in overall hospital wages as the proxy for the increase in therapists' salaries. Since the fringe benefit component is expressed as a percentage of the prevailing salary rate, we believe our methodology is appropriate.

E. Expense Component

In the proposed notice, we continued, with minor methodological refinements, to base the expense component of the fringe benefit and expense factor on an earlier estimate of the costs of maintaining an office.

Comment: One commenter suggested that the expense component, derived from information on physical therapy services, is unrelated to the expenses incurred by contract respiratory therapists.

Response: The expense component is an allowance to take into account expenses an individual not working as an employee might have, such as maintaining an office, insurance, etc. It is expressed as a percentage of the prevailing hourly rate and is applied to every hour of service furnished at the provider site. We have no data that would indicate that respiratory therapists generally incur greater overhead expenses than physical therapists. Differences in equipment and supply costs are recognized by an additional allowance for actual equipment or supplies furnished by the contractor.

Comment: One commenter argued that the expense factor should not be tied to the number of hours worked by the contractor on a provider's premises and suggested that it is often more efficent for a contractor to perform administrative services such as equipment purchasing at a central site than at each provider location. This commenter stated that since the allowance is based on the expenses an independent therapist might incur, it does not adequately account for differences in overhead expenses that might be incurred by a large contracting organization operating out of a home office. The commenter did not suggest an alternative way of handling the expense component. The commenter, along with several others, also criticized the expense component for not including all categories of expense that might be incurred by an independent therapist or contracting organziations.

Response: We recognize that overhead expenses vary widely among contractors and that the allowance may not bear a direct relationship to the actual reasonable costs that might be incurred by a given supplier. For example, an independent therapist working full-time at a single provider site may have no need to maintain a separate office. In this situation, the allowance may be significantly greater than the therapist's actual overhead expenses. Even though the hours of services furnished at the home office of a contracting organization are not directly recognized in applying the guidelines, the services are indirectly compensated by the application of the expense factor to every hour of on-site service, including those furnished by assistants and aides. For contractors servicing several providers or with several employees, this may actually result in overcompensating for certain fixed costs. Although these organizations' total overhead expenses are higher than an independent therapist's, they also realize economies of scale so that the expenses should not increase proportionately with the hours of service provided.

F. Currency of Data

The guideline amounts in the proposed notice were developed on the most current data available at the time. The prevailing salary rates were derived from the BLS 1978 hospital wage services.

Comment: Several commenters recommended that publication of the final guideline amounts be delayed until the results of the 1981 BLS hospital wage survey became available.

Response: We used the 1981 BLS hospital wage survey to derive the salary component of the guidelines.

V. Methodology for Determining Hourly Salary Equivalency and Standard Travel Allowance Amounts

We are again providing for three schedules of guidelines for respiratory therapists: one for registered therapists, one for certified therapists, and one for therapists who are neither registered nor certified. We used these categories because they conform to industry practice, as well as to the categories used in the Bureau of Labor Statistics (BLS) hospital industry wage surveys. We have one schedule of physical therapy guidelines, which is for licensed physical therapists. This also corresponds to the BLS survey and general industry practice. We used the same methodology for developing all of the schedules.

A. Determination of Salary Components

We based the prevailing salary component of the guidelines on the 75th percentile of straight-time hourly earnings of therapists employed full-time by non-Federal hospitals. Use of the 75th percentile was recommended by the Senate Finance Committee (Senate Report 92–1230, 92 Cong., 2nd Session, page 251 (1972)). We obtained the occupational earnings data for hospitals from the individual area wage reports contained in the October 1981 BLS hospital industry wage survey. This survey is conducted triennially in 22 MSAs.

For physical therapists, we also used data on the 75th pecentile of earnings by therapists employed full-time by nursing and personal care facilities. The survey was conducted in twenty-one MSAs during May 1981. Sufficient survey data were obtained for full-time physical therapists in fourteen of the twenty-one

MSAs. For those MSAs, we determined the 75th percentile of hourly earnings by full-time physical therapists employed by nursing homes and increased it by a factor of 2.2 percent to account for inflation between May 1981 (when the nursing home wage survey was conducted)and October 1981 (when the hospital wage survey was conducted). We derived the inflation factor from the increase between May 1981 and October 1981 in overall nursing and personal care facility wages of production and nonsupervisory workers from line SIC-805 of the Bureau of Labor Statistics (BLS) Employment and Earnings Bulletin, Table C2. We established the prevailing salary component in those MSAs as the average, weighted by number of physical therapists, of the 75th percentile of the hospital hourly salary rate and the 75th percentile of the nursing and personal care facilities hourly rate (updated to October 1981).

Example: New York City.

	Number of physical therapists	75th percentile of hourly salary rates
Hospitals	503	$10.96
Nursing and Personal care Facilities	42	11.11
Average (Weighted) of the 75th Percentile	$10.97	

We averaged the prevailing hourly rates (weighted by number of therapists) for the MSAs within a State, to determine the State prevailing hourly salary rate. We grouped States into ten regions and used an average (weighted by number of therapists) of the prevailing hourly rates in those MSAs within the region to establish the prevailing salary rate for those States in which no survey was conducted. For example, we determined the physical therapy prevailing hourly rates for Mid-Atlantic States in the following manner (before updating for inflation):

Example: Physical Therapy Prevailing Hourly Rates for Mid-Atlantic States—1981 BLS Survey Data.

	Prevailing rates	number of physical therapists
New York:		
New York City	$10.97	545
Buffalo	8.84	55
New York State	10.77	600
Pennsylvania:		
Philadelphia	$9.49	309
Pennsylvania	9.49	309
New Jersey, Delaware:		
New York State	$10.77	600
Pennsylvania	9.49	309
Mid Atlantic Region	10.34	909

We updated the prevailing salary rates to account for wage increases during the period between October 1981 (date of the BLS hospital wage survey) and April 1, 1983 (the midpoint of a cost reporting period beginning October 1, 1982) based on increases in hospital industry wages. Using the BLS Employment and Earning Bulletin, we determined that the straight-line hourly earnings of production and non-supervisory hospital industry workers increased 12.3 percent during this period.

B. Adjustment of Salary Data

After determining the prevailing salary rates, we made an adjustment so that they relate to hours worked, rather than to hours paid, as explained above. In making this adjustment, we used qualitative data from the hospital industry wage survey to estimate the percent of hours worked to paid hours by a full-time therapist. Assuming 272 hours out of 2080 hours were paid hours for vacation, sick pay and holidays, we divided the prevailing salary rates by 86.9 percent. The effect is to increase the prevailing salary rates by 15.1 percent.

C. Fringe Benefit and Expense Factor

We developed the fringe benefit component from data on hospital payroll and employee benefit expenses. Our source was the American Hospital Association's *Hospital Statistics* 1982 Edition. We computed employee benefits as a percentage of payroll expenses from survey data for the 12-month period ending September 30, 1981. We adjusted this percentage to account for increases in fringe benefits in relation to salaries through March 1983 and arrived at a fringe benefit factor of 16.5 percent of salary.

We have continued to base the expense component of the guidelines on an earlier analysis of the costs of maintaining an office. To determine the rental portion of the expense component, we use 1981 rental income data compiled by The Building Owners and Managers Association International (BOMA) and published in the 1982 BOMA *Experience Exchange Report for Downtown and Suburban Office Building*. The 1982 report has two format modifications that affected our estimate of the rental expense. First, rental income per square feet for rented office space is no longer published. To approximate this statistic, which we have used in prior schedules, we divided the average 1981 income per square feet for rentable office space by the average office occupancy rate.

Secondly, electrical income is no longer published as a separate category to report electricity charges that are imposed separately from the basic rental charges. Instead, income from non-leased energy sales is combined with other non-rental into a single miscellaneous income category. In the August 1981 proposed notice, we had proposed to adjust the basic rental charges to take into account the separate electricity charges. According to the 1979 BOMA report, separate electrical charges were imposed in approximately 33 percent of the office buildings and constituted 35 percent of the reported non-rental income. We used the 1979 relative data to estimate the portion of 1981 non-rental income that constituted non-lease electrical sales and adjusted the rental component for this amount.

Since current data on office rental costs are not available from BOMA, we updated our rental estimate to account for increases to April 1983 based on increases in the residential rent component of the Consumer Price Index (CPI). We updated other expenses, such as for insurance, telephone and other business services to April 1983 based on increases that have occurred in the services component of the CPI.

We added the updated rental amount and the updated amount for other expenses to arrive at a total amount for expenses and then converted this amount to an hourly amount based on hours worked by a full-time employee. We divided this hourly figure by the national average salary component to arrive at a percentage factor for expenses. We computed separate factors for physical therapists and for respiratory therapists of 24.1 percent and 29.3 percent, respectively. Since the physical therapists national prevailing salary is higher than the overall national average prevailing salary for respiratory therapists, the percentage factor for expenses is lower for physical therapists than for respiratory therapists.

These expense factors were added to the fringe benefit factor described above, to yield combined fringe benefit and expense factors equal to 40.6 percent, for physical therapists, and 45.8 percent for respiratory therapists, of the salary component.

D. Adjusted Hourly Salary Equivalency Amount

As explained above, we updated each component of the adjusted hourly salary equivalency amount to April 1, 1983, the mid-point of a cost reporting period beginning October 1, 1982. The schedules of guidelines are based on the projected amounts.

We also projected an average annual rate of increase of 6.9 percent in the adjusted hourly salary equivalency amount. The projected increase is based on a forecasted rate of increase in each component per the 12-month period ending March 31, 1984, and the proportion of each component to the total hourly salary equivalency amount.

The methodology used to forecast the rates of increase in each component parallels that used under the cost limit system under regulations § 405.460. The relative weight for each component of the adjusted hourly salary equivalency amount and the source of the forecast for 1983–1984 are as follows:

ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNT "PRICE" INDEX

Component	Physical therapy relative weight April 1983	Respiratory therapy relative weight April 1983	Forecaster	"Price" variable used
Salary	71.16	68.63	DRI–CFS	Percentage change in average hourly earnings of production and nonsupervisory workers on private nonagriculture payrolls, hospital industry. Source: BLS, *Employment and Earnings*, Table C2.
Fringe benefits	11.72	11.35	DRI–MM	Percentage change supplements to wages and salaries per worker in nonagricultural establishments. Source: For supplements to wages and salaries—U.S. Department of Commerce, Bureau of Economic Analysis, Survey of Current Business (monthly) Table 7 (1.13). July issue has detailed components. For total employment—BLS, *Employment and Earnings, Table B–4.*
Rent	8.32	9.73	DRI–MM	Percentage change in residential rent component of Consumer Price Index, all urban. Source: BLS, *Monthly Labor Review, Table 23.*
Other office expenses	8.80	10.29	DRI–MM	Percentage change in services component Consumer Price Index, all urban. Source: BLS, *Monthly Labor Review, Table 23.*
Total	100.00	100.00		

Sources: DRI–CFS refers to Data Resources, Inc., Cost Forecasting Services, 1750 K Street, N.W., Washington, D.C. 20006 (Forecast 831).
DRI–MM refers to Data Resources, Inc., Macro-Mode (29 Hartwell Avenue, Lexington, Massachusetts 02153 (TrendSong 0383).

We developed a monthly adjustment factor of .6 percent by dividing the annual rate of increase of 12. For providers with cost reports starting after October 1, 1982, the published guidelines will be revised upward by this monthly adjustment factor, for each elapsed month between October 1, 1982 and the beginning month of the provider's cost reporting period. If for any reason we do not publish a new schedule of guidelines to be effective for cost reporting periods beginning on or after October 1, 1983 or do not announce other changes in the current schedule, the current guidelines will remain in effect, increased by the appropriate adjustment factor, until a new schedule of guidelines is issued.

E. Cost of Living Adjustments for Alaska and Hawaii

Generally, Alaska and Hawaii have significantly higher levels of cost in comparison to other States in the nation. As in previous schedules of guidelines, we recognized the higher costs by multiplying the hourly salary equivalency amounts otherwise applicable to those States by a cost of living adjustment factor. The factors were 1.25 and 1.20 for Alaska and Hawaii, respectively, and were based on data obtained from the U.S. Office of Personnel Management as published in their FPM–591 letter series.

F. Standard Travel and Transportation Allowance

We have included in the proposed schedules a standard travel allowance that compensates a therapist for his time in reaching the provider site. As in the current schedules, we have computed this allowance as being equal to one-half of the adjusted hourly salary equivalency amount, based on an estimated average travel time of one-half hour.

In addition to this allowance for travel time, we recognize a standard travel expense, covering the costs of transportation, as an element of allowable costs (see § 1412.6, Part I, Provider Reimbursement Manual, HIM–15. The standard travel expense is based on government mileage rates computed by the General Services Administration (GSA).

VI. Effective Date and Transition Period

The revised guideline amount will be effective for services furnished on or after October 1, 1982. The revised amounts will remain in effect without adjustment until the beginning of the provider's cost reporting period. Effective with cost reporting periods that begin on or after November 1, 1982, the published amounts will be revised upward, as outlined earlier, by an adjustment factor of .6 percent for each elapsed month between October 1, 1982 and the beginning of the provider's cost reporting period. The revised schedules will remain in effect until replaced by a new schedule of guidelines.

Example: Revised Physical Therapy Guidelines, effective October 1, 1982.

State: Alabama; cost report beginning date: January 1, 1983

(a) Adjusted hourly salary equivalency amount effective for services furnished 10/1/82–12/31/82 (from schedules of guidelines) $17.14.

(b) Adjustment for cost reporting period beginning January 1, 1983. (3 months × .6 = *1.8* percent) × *1.018.*

(c) Adjusted hourly salary equivalency amount effective for services furnished 1/1/83–12/31/83, $17.45.

VII. Waiver of 30-Day Delay in Effective Date

As indicated above, the notice containing the schedules of guidelines currently in effect was published on March 26, 1982 and remains in effect until replaced by a new schedule of guidelines. Until the revised guidelines are effective, the current guidelines remain in effect without adjustment for increases in inflation. We believe it would be contrary to the public interest to delay implementation of the revised guidelines. Since the revised guidelines will benefit those providers and therapists affected by the schedules, we find good cause to waive the customary 30-day delay of the effective date.

VIII. Schedules of Guidelines

Adjusted Hourly Salary Equivalency Amounts and Standard Travel Allowances for Physical Therapists (Full-Time, Regular Part-Time, and Home Visits)

The schedule of guidelines set forth below is effective for services furnished on or after October 1, 1982. For a provider that has a 12-month cost reporting period beginning on or after November 1, 1982, the published guildeline amount will be adjusted upward by a factor equal to .6 percent for each elapsed month between

October 1, 1982 and the month in which the provider's cost reporting period begins. For providers with other than a 12 month cost reporting period, the fiscal intermediary will contract HCFA for the adjustment factor.

This schedule is not to be used for physical therapy assistants or aides.

A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

PHYSICAL THERAPY

	Adjusted hourly salary equiv./ amount	Standard travel allowance
Alabama	$17.14	$8.57
Alaska	[1] 26.39	13.20
Arizona	21.11	10.56
Arkansas	16.79	8.40
California	21.11	10.56
Colorado	18.24	9.12
Connecticut	16.71	8.36
Delaware	18.79	9.40
District of Columbia	17.83	8.92
Florida	18.42	9.21
Georgia	16.55	8.28
Hawaii	[2] 25.33	12.67
Idaho	19.52	9.76
Illinois	18.96	9.48
Indiana	19.13	8.57
Iowa	16.97	8.49
Kansas	16.97	8.49
Kentucky	17.83	8.92
Louisiana	16.79	8.40
Maine	16.71	8.36
Maryland	17.82	8.91
Massachusetts	16.71	8.36
Michigan	20.19	10.10
Minnesota	16.97	8.49
Mississippi	17.14	8.57
Missouri	16.97	8.49
Montana	18.24	9.12
Nebraska	16.97	8.49
Nevada	21.11	10.56
New Hampshire	16.71	8.36
New Jersey	18.79	9.40
New Mexico	16.79	8.40
New York	19.58	9.79
North Carolina	17.83	8.92
North Dakota	18.24	9.12
Ohio	18.65	9.33
Oklahoma	16.79	8.40
Oregon	19.65	9.83
Pennsylvania	17.24	8.62
Rhode Island	16.71	8.36
South Carolina	17.14	8.57
South Dakota	18.24	9.12
Tennessee	17.83	8.92
Texas	16.79	8.40
Utah	18.24	9.12
Vermont	16.71	8.36
Virginia	17.83	8.92
Washington	19.45	9.73
West Virginia	17.83	8.92
Wisconsin	17.92	8.96
Wyoming	18.24	9.12

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 20 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

Schedules of Guidelines for Respiratory Therapy Services Furnished Under Arrangements

The schedules of guidelines set forth below are effective for services furnished on or after October 1, 1982. For a provider that has a 12-month cost reporting period beginning on or after November 1, 1982, the published guideline amount will be adjusted upward by a factor equal to .6 percent for each elapsed month between October 1, 1982 and the month in which the provider's cost reporting period begins. For providers with other than a 12 month cost reporting period, the fiscal intermediary will contact HCFA for the adjustment factor.

We have a separate schedule of guidelines for each category of respiratory therapist.

The schedules are not to be used for respiratory therapy aides or trainees.

A provider is considered to require services on a full-time or regular part-time basis, if the total hours of service average 15 or more per week.

ADJUSTED HOURLY SALARY EQUIVALENCY AMOUNTS AND STANDARD TRAVEL ALLOWANCES FOR REGISTERED RESPIRATORY THERAPISTS (FULL-TIME AND REGULAR PART-TIME)

	Adjusted hourly salary equiv./ amount	Standard travel allowance
Alabama	$17.05	$8.53
Alaska	[1] 24.11	12.06
Arizona	19.29	9.65
Arkansas	17.05	8.53
California	19.29	9.65
Colorado	18.46	9.23
Connecticut	16.10	8.05
Delaware	16.90	8.45
District of Columbia	16.23	8.23
Florida	19.03	9.52
Georgia	16.04	8.02
Hawaii	[2] 23.15	11.58
Idaho	19.35	9.68
Illinois	16.87	8.44
Indiana	17.02	8.51
Iowa	16.61	8.31
Kansas	16.61	8.31
Kentucky	16.22	8.11
Louisiana	17.05	8.53
Maine	16.10	8.05
Maryland	16.22	8.11
Massachusetts	16.10	8.05
Michigan	17.00	8.50
Minnesota	16.61	8.31
Mississippi	17.05	8.53
Missouri	16.61	8.31
Montana	18.46	9.23
Nebraska	16.61	8.31
Nevada	19.29	9.65
New Hampshire	16.10	8.05
New Jersey	16.90	8.45
New Mexico	17.05	8.53
New York	16.90	8.45
North Carolina	16.22	8.11
North Dakota	18.46	9.23
Ohio	17.50	8.75
Oklahoma	17.05	8.53
Oregon	17.94	8.97
Pennsylvania	15.93	7.97
Rhode Island	16.10	8.05
South Carolina	17.05	8.53
South Dakota	18.46	9.23
Tennessee	16.22	8.11
Texas	17.05	8.53
Utah	18.46	9.23
Vermont	16.10	8.05
Virginia	16.22	8.11
Washington	19.29	9.65
West Virginia	16.22	8.11
Wisconsin	17.15	8.58
Wyoming	18.46	9.23

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 20 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

CERTIFIED RESPIRATORY

	Adjusted hourly salary equiv./ amount	Standard travel allowance
Alabama	14.55	7.28
Alaska	[1] 22.24	11.13
Arizona	17.79	8.90
Arkansas	14.45	7.23
California	17.79	8.90
Colorado	16.29	8.15
Connecticut	15.81	7.91
Delaware	17.27	8.64
District of Columbia	* 15.72	7.86
Florida	14.55	7.28
Georgia	14.06	7.03
Hawaii	[2] 21.35	10.68
Idaho	16.16	8.08
Illinois	15.36	7.68
Indiana	15.50	7.75
Iowa	14.86	7.43
Kansas	14.86	7.43
Kentucky	15.39	7.70
Louisiana	14.45	7.23
Maine	15.81	7.91
Maryland	14.90	7.45
Massachusetts	15.81	7.91
Michigan	15.44	7.72
Minnesota	14.86	7.43
Mississippi	14.55	7.28
Missouri	14.86	7.43
Montana	16.29	8.15
Nebraska	14.86	7.43
Nevada	17.79	8.90
New Hampshire	15.81	7.91
New Jersey	17.27	8.64
New Mexico	14.45	7.23
New York	18.40	9.20
North Carolina	15.39	7.70
North Dakota	16.29	8.15
Ohio	15.81	7.91
Oklahoma	14.45	7.23
Oregon	16.04	8.02
Pennsylvania	14.66	7.33
Rhode Island	15.81	7.91
South Carolina	14.55	7.28
South Dakota	16.29	8.15
Tennessee	15.39	7.70
Texas	14.45	7.43
Utah	16.29	8.15
Vermont	15.81	7.91
Virginia	15.39	7.70
Washington	16.35	8.18
West Virginia	15.39	7.70
Wisconsin	15.84	7.92
Wyoming	16.39	8.15

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

[2] Adjusted for 20 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

NON-REGISTERED, NON-CERTIFIED

	Adjusted hourly salary equiv./ amount	Standard travel allowance
Alabama	$12.27	$6.14
Alaska	[1] 22.70	11.35
Arizona	18.16	9.08
Arkansas	11.67	5.84
California	18.16	9.08
Colorado	14.89	7.95
Connecticut	13.58	6.79
Delaware	15.28	7.64
District of Columbia	14.10	7.05
Florida	11.93	5.97
Georgia	13.67	6.84
Hawaii	[2] 21.79	10.90
Idaho	15.55	7.78
Illinois	14.88	7.44
Indiana	14.47	7.24
Iowa	12.83	6.42
Kansas	12.83	6.42
Kentucky	13.56	6.78

NON-REGISTERED, NON-CERTIFIED—Continued

	Adjusted hourly salary equiv./ amount	Standard travel allowance
Louisiana	11.67	5.84
Maine	13.58	6.79
Maryland	12.91	6.46
Massachusetts	13.58	6.79
Michigan	13.83	6.92
Minnesota	12.83	6.42
Mississippi	12.27	6.14
Missouri	12.95	6.48
Montana	14.89	7.45
Nebraska	12.83	6.42
Nevada	18.16	9.08
New Hampshire	13.58	6.79
New Jersey	15.28	7.64
New Mexico	11.67	5.84
New York	16.23	8.12
North Carolina	13.56	6.78
North Dakota	14.89	7.95
Ohio	14.00	7.00
Oklahoma	11.67	5.84
Oregon	15.55	7.78
Pennsylvania	14.22	7.11
Rhode Island	13.58	6.79
South Carolina	12.27	6.14
South Dakota	14.89	7.45
Tennessee	13.56	6.78
Texas	11.67	5.84
Utah	14.89	7.45
Vermont	13.58	6.79
Virginia	13.56	6.78
Washington	15.55	7.78
West Virginia	13.56	6.78
Wisconsin	14.15	7.08
Wyoming	14.59	7.45

[1] Adjusted for 25 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.
[2] Adjusted for 20 percent salary differential in accordance with cost of living surveys conducted by the U.S. Office of Personnel Management.

IX. Impact Analyses

A. Executive Order 12291

We have determined that this notice does not meet the criteria for a major rule as it is not likely to result in an economic impact of $100 million or meet any of the other threshold criteria of section 1(b) of the Order.

We have determined that revising the schedules of salary equivalency guidelines for the reasonable costs of physical therapy and respiratory therapy services furnished under arrangement will result in a negligible increase (less than $1 million) in program expenditures. This increase results from our updating the guideline amounts to account for an increase in inflation. As this increase is significantly below the $100 million threshold criterion, a regulatory impact analysis is not required.

B. Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96–354), that this notice will not result in a significant impact on a substantial number of small entities.

Our data show that: (1) of the hospitals currently certified for participation in the Medicare program, 21 percent have arrangements with respiratory therapists to furnish these services; (2) of the total number of participating SNFs, 69 percent have arrangements with physical therapists; and (3) 40 percent of participating HHAs have arrangements with physical therapists (Respiratory therapy services are not covered services in HHA's.)

In view of these factors, we have concluded that the economic impact resulting from our updating of the guidelines is negligible and that the effect on providers is not significant. Therefore, a regulatory flexibility analysis is not required.

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance, and 13.774, Medicare-Supplementary Medical Insurance)

(Secs. 1102, 1814(b), 1833(a), 1861(v)(5), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395f(b), 1395l(a), 1395x(v)(5), and 1395hh); 42 CFR 405.432)

Dated: September 26, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-26740 Filed 9-29-83; 8:45 am]

BILLING CODE 4120-03-M

Medicaid Program; Notice of Hearing: Reconsideration of Disapproval of Two Missouri State Plan Amendments

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on November 8, 1983 in Kansas City, Missouri, to reconsider our decision to disapprove Missouri State Plan Amendments, 82–14, Supplement B, and 83–7.

CLOSING DATE: Requests to participate in the hearing as a party must be received by October 18, 1983.

FOR FURTHER INFORMATION, CONTACT: Docket Clerk, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594–8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove two Missouri State Plan Amendments.

Section 1116 of the Social Security Act and 45 CR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins, in accordance with the requirements contained in 45 CFR 213.15(c)(1).

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Missouri's request to limit title XIX reimbursement to skilled nursing facilities and intermediate care facilities based on an 85 percent occupancy ratio violates section 1902(a)(13)(A), section 1902(a)(8) and section 1902(a)(23) of the Social Security Act and regulations at 42 CFR 442.12(d). Section 1902(a)(13)(A) of the Social Security Act requires, in relevant part, that payment for hospital services under the State plan be through the use of payment rates which the State finds, and makes assurances satisfactory to the Secretary, are reasonable and adequate to meet the costs which must be incurred by efficiently and economically operated facilities in order to provide care and services in conformity with applicable State and Federal laws, regulations and quality safety standards. Under Missouri's proposed plan, if a facility utilized the remaining 15 percent of Medicaid certified beds above the 85 percent limit, the facility would not be reimbursed for those days of care or its per diem rate would be reduced, regardless of whether the facility is efficiently and economically operated. Therefore, HCFA has determined that the State's reimbursement methodology does not meet the requirements at section 1902(a)(13)(A). Section 1902(a)(8) provides that all individuals wishing to make application for medical assistance under the plan shall have opportunity to do so, and that such assistance shall be furnished with reasonable promptness to all eligible individuals. As a result of Missouri's proposed amendments, it is likely that long term care for individuals eligible for Medicaid would be delayed because of the 85 percent occupancy limit. Therefore, HCFA has determined that Missouri's proposed amendments violated section 1902(a)(8). Section

1902(a)(23) of the Social Security Act guarantees a recipient the right to obtain services from any qualified provider that undertakes to provide the recipient any necessary services. As a result of Missouri's proposed Medicaid occupancy limitation, a facility could be forced to refuse admission to Medicaid recipients if the admission would put the facility above the 85 percent limit. Therefore, HCFA has determined that Missouri's proposed plan violated the freedom of choice requirements specified at section 1902(a)(23). Finally, regulations at 42 CFR 442.12(d) provide that a provider agreement may only be terminated for good cause and that the termination must apply to the entire facility. HCFA has determined that Missouri's proposed plan is in violation of this requirement because it would limit provider participation to 85 percent of a facility's certified beds.

The notice to Missouri announcing an administrative hearing to reconsider our disapproval of its State plan amendments reads as follows:

Mr. Barrett A. Toan,
Director, Missouri Department of Social Services, Broadway State Office Building, P.O. Box 1527, Jefferson City, Missouri.

Dear Mr. Toan: This is to advise you that your request for reconsideration of the decision to disapprove Missouri State Plan Amendments 82–14, Supplement B, and 83–7 was received on September 2, 1983. You have requested a reconsideration of whether these plan amendments, which would amend Missouri's long-term care reimbursement plan by establishing a ceiling on title XIX long-term cost reimbursement based on an 85 percent level, conform to the requirements for approval under the Social Security Act and pertinent Federal requirements.

I am scheduling a hearing on your request to be held on November 8, 1983, at 10 a.m., in Room 281, Federal Office Building, 601 East 12th Street, Kansas City, Missouri. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely yours,

Carolyne K. Davis, Ph.D.

(Sec. 1116, Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program)

Dated, September 26, 1983.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 83-26084 Filed 9-29-83; 8:45 am]

BILLING CODE 4160-17-M

Pharmaceutical Reimbursement Board; Suspension of Maximum Allowable Cost Limits on Specific Drug Products

AGENCY: Health Care Financing Administration (HCFA), HHE.

ACTION: Notice of Suspension of Maximum Allowable Cost Limit on Penicillin G Potassium, Oral Tablets, 800 mu.

SUMMARY: The Pharmaceutical Reimbursement Board announces the suspension of the Maximum allowable cost (MAC) limit on penicillin G potassium, oral tablets, 800 mu, effective August 18, 1983. The limit for this drug product was published on December 11, 1978 (43 FR 57972) and became effective on October 15, 1979.

The suspension of the MAC limit on penicillin G potassium, oral tablets, 800 mu, results from the unavailability of this product in the marketplace at or below the MAC limit.

The Pharmaceutical Reimbursement Board may establish a new MAC limit on this drug product in the future.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Spalding, Executive secretary, Pharmaceutical Reimbursement Board, 1–F–1 East Lol Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, (301) 594–5403.

Dated: September 27, 1983.

Peter J. Rodler,

Chairperson, Pharmaceutical Reimbursement Board.

[FR Doc. 83-26602 Filed 9-29-83; 8:45 am]

BILLING CODE 4120-03-M

Health Resources and Services Administration Advisory Committee; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1983:

Name: National Advisory Council on Health Professions Education.

Date and Time: November 7–8, 1983, 9:00 a.m.–5:00 p.m.

Place: Conference Room 2, Building 31, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205.

Open on November 7, 1983, 9:00 a.m. to 5:00 p.m. and November 8, 1983, 9:00 a.m. to 11:30 p.m. Closed for remainder of meeting.

Purpose: The Council advises the Secretary with respect to the administration of programs of financial assistance for the health professions and makes recommendations based on its review of applications requesting such assistance. This also involves advice in the preparation of regulations with respect to policy matters.

Agenda: The open portion of the meeting will cover: welcome and opening remarks; report of the Administrator; budget update; presentation on the Allied Health professions; review and discussion of review process; data collection activities; summary of program impacting on Geriatric Health Care and future agenda items. The meeting will be closed to the public on November 8, 1983, from 11:30 a.m. to 5:00 p.m., for the review of grant applications for Construction Program. The closing is in accordance with the provision set forth in section 552b(c)(6), Title 5 U.S. Code, and the Determination by the Administrator, Health Resources and Services Administration, pursuant to Public Law 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write to or contact Mr. Robert L. Belsley, Executive Secretary, National Advisory Council on Health Professions Education, Bureau of Health Professions, Health Resources and Services Administration, Room 8C–22, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6880.

Agenda items are subject to change as priorities dictate.

Dated: September 27, 1983.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 83-26601 Filed 9-29-83; 8:45 am]

BILLING CODE 4160-15-M

Centers for Disease Control

National Institute for Occupational Safety and Health; NIOSH Voluntary Testing and Certification Programs

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Centers for Disease Control, Public Health Service, HHS.

ACTION: Notice of Termination of Voluntary testing and Certification Programs for Gas Detector Tube Units and Industrial Sound Level Meters.

SUMMARY: NIOSH is terminating its voluntary testing and certification programs for gas detector tube units and industrial sound level meters. NIOSH has determined that interest and

capability exist in the private sector for conducting certification programs of this type. Termination of Federal involvement in this testing and certification activity will promote the concept of self-regulation and facilitate product improvement and innovation.

DATES: Termination is effective on the date of publication of this **Federal Register** notice. NIOSH certification labels affixed to gas detector tube units and industrial sound level meters are invalid on this date.

FOR FURTHER INFORMATION CONTACT: Nancy Bollinger, Assistant Chief, Testing and Certification Branch, Division of Safety Research, NIOSH, 944 Chestnut Ridge Road, Morgantown, WV 26505. Telephone: (304) 291–4331 or FTS 923–4331.

SUPPLEMENTARY INFORMATION: On July 31, 1978, NIOSH announced in the **Federal Register** (43 FR 33247) that it was revoking the regulations governing its voluntary programs for certifying gas detector tube units and industrial sound level meters because regulations were not legally required for these voluntary programs. The announcement stated that the programs would continue to operate under agency guidelines. At this time, there are 63 gas detector tube units certified for 23 gases commonly found in industry and 11 certified sound level meters. Since the inception of the certification programs, manufacturers have made significant improvements in their devices.

NIOSH has determined that the private sector now has the capability for, and the interest in, establishing voluntary certification programs for these types of devices, and the continued existence of the Federal program, even though inactive, may inhibit product improvements.

NIOSH is aware of interest in the private sector in testing these products should the NIOSH program be terminated. NIOSH believes that permitting this voluntary certification activity to be undertaken in the private sector will promote the concept of self-regulation by industry and facilitate product innovation and improvement.

For these reasons, NIOSH is terminating its voluntary certification programs for gas detector tube units and industrial sound level meters on the date of publication of this notice. NIOSH will notify all manufacturers involved that NIOSH certification labels may no longer be placed on devices and that existing certification labels are no longer valid. Notice will also be given to appropriate labor/management officials.

Dated: September 20, 1983.

J. Donald Millar,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 83-26777 Filed 9-29-83; 8:45 am]

BILLING CODE 4160-19-M

Public Health Service

Advisory Committees; Meetings

In accordance with section 10(a)(2) of the Federal Advisory Committee Act Pub. L. 92–463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1983:

Name: Health Services Developmental Grants Review Subcommittee

Date and Time: October 20–21, 1983, 8:30 a.m.

Place: Linden Hill Hotel, Forest Hills Room, 5400 Pooks Hill Road, Bethesda, Maryland 20814.

Open October 20, 8:30 a.m. to 9:00 a.m.
October 20, 4:00 p.m. to adjournment.
Closed for remainder of meeting.

Purpose: The Subcommittee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Servcies Research (NCHSR).

Agenda: The open session of the meeting on October 20 from 8:30 a.m. to 9:00 a.m. will be devoted to a business meeting covering administrative matters and reports. The open session from 4:00 p.m. to adjournment on October 20 will be a presentation by the Director, NCHSR. During the closed sessions, the Subcommittee will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S.C. and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Ms. Elinor Walker, National Center for Health Services Research, OASH, Room 1–52, Park Building, 5600 Fishers Lane, Bethesda, Md. 20857, Telephone (301) 443–3091.

Name: Health Care Technology Study Section

Date and Time: October 27–28, 1983, 8:30 a.m.

Place: Linden Hill Hotel, Pinehurst Room, 5400 Pooks Hill Road, Bethesda, Md. 20814.

Open October 27, 8:30 a.m. to 9:00 a.m.
October 27, 3:30 to adjournment.
Closed for remainder of meeting.

Purpose: The Committee is charged with the initial review of health research grant applications for Federal Assistance in the program areas administered by the National Center for Health Services Research (NCHSR).

Agenda: The open session from 8:30 a.m. to 9:00 a.m. on October 27 will be devoted to a business meeting covering administrative matters and reports. The open session from 3:30 p.m. to adjournment on October 27 will consist of presentations by the Chief, Health Information Systems and Technology Assessment Cluster and by the Director, NCHSR. The closed portion of the meeting will be devoted to review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S.C. and the Determination by the Assistant Secretary for Health, pursuant to Pub. L. 92–463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 1–52, Park Building, 5600 Fishers Lane, Rockville, Maryland 20857, telephone (301) 443–3091.

Agenda items are subject to change as priorities dictate.

Date: September 22, 1983.

John E. Marshall,

Director, National Center for Health Services Research.

[FR Doc. 83-26805 Filed 9-29-83; 8:45 am]

BILLING CODE 1460-17-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Availability of Draft Resource Management Plan and Environmental Impact Statement; Hollister Planning Area, Bakersfield District, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: Notice is hereby given of the availability of the Draft Environmental Impact Statement/Resource Management Plan for 328,378 acres of BLM-administered lands within the Hollister Planning Area, encompassing Fresno, San Benito, Monterey, Madera, Merced, Stanislaus, Santa Clara, San Joaquin, Alameda, Contra Costa, San Mateo, and Santa Cruz counties in California.

SUPPLEMENTARY INFORMATION: The issues and concerns addressed in the

RMP are (1) livestock grazing; (2) oil, gas and minerals; (3) fire management; (4) recreation (including access to public lands); (5) land tenure adjustments (disposal, lease and/or exchange of public lands); (6) sensitive, rare, threatened, or endangered species; (7) soil, air, and water (watershed); (8) wildlife habitat; (9) cultural resources; and (10) visual resources.

The Proposed Action concerns multiple-use management on 328,378 acres of BLM-administered lands in 16 Management Areas.

1. *Livestock Grazing*—Limit livestock forage allocations to suitable and potentially suitable areas only. Develop seven new Allotment Management Plans; improve forage conditions through prescribed burning on 22,400 acres.

2. *Oil, Gas and Minerals*—Reduce mineral segregations to 7,749 acres in the Squaw Leap area, Clear Creek Canyon, Pinnacles Watershed, and San Benito Mountain Natural Area. The remainder of the Planning Area (320,629 acres) would remain open to mineral entry. Designate the Panoche Hills area (18,000 acres) as an Area of Critical Environmental Concern for protection of paleontological resources.

3. *Fire Management*—Reduce wildfire hazard by prescribed burning of 78,000 acres.

4. *Recreation*—Improve access to and increase opportunities on 175,000 acres including Hernandez Reservoir, Clear Creek Recreation Area, and the Joaquin Rocks, Sierra de Salinas, and Tumey Hills areas.

5. *Land Tenure*—Dispose of several hundred parcels ranging from 2 to 600 acres each and totalling 15,108 acres, through sales; consolidate major public land holdings through exchange.

6. *Sensitive, Rare, Threatened, or Endangered Species*—Designate two areas of critical environmental concern: the Panoche Hills and Coalinga areas (12,500 acres) for endangered animals; and the Clear Creek area (30,000 acres) for sensitive and unique plants.

7. *Soil, Air and Water*—Designate the Clear Creek area (30,000 acres) as an Area of Critical Environmental Concern for asbestos hazards and critical watershed values.

8. *Wildlife Habitat*—Develop four new Habitat Management Plans for Coalinga Mineral Springs, New Idria, Williams Hill, and Sierra de Salinas areas; manage for uneven-aged brushfields on 25,000 acres through prescribed burning.

9. *Cultural Resources*—Develop five new Cultural Resource Management Plans for the White Creek District, Ciervo Hills/Cantua Creek area, Mine Mountain, Fresno River, and Squaw Leap areas.

10. *Visual Resources*—Protection of visual resources would be increased in the Sierra de Salinas area, Ventana Wilderness viewshed and the Monterey County portion of the Pinnacles Management Area.

Three alternatives are considered in addition to the Proposed Action. They are: Maximize Protection, Maximize Production, and Present Management (No Action). A discussion of the affected environment is briefly summarized and the environmental consequences occurring from the Proposed Action and each alternative are documented in the EIS.

FOR FURTHER INFORMATION CONTACT: David E. Howell, Resource Area Manager, P.O. Box 365, Hollister, CA 95023.

Copies of the DEIS are available for review at the following BLM offices and public libraries:

U.S. Bureau of Land Management, Hollister Resource Area, P.O. Box 365, Hollister, CA 95023, (408) 637–8183
U.S. Bureau of Land Management, Bakersfield District Office, 800 Truxtun Avenue, Bakersfield, CA 93301, (805) 861–4191
San Jose City Library, Main Branch, 180 W. San Carlos, San Jose, CA 95113, (408) 277–4000
Fresno County Library, 2420 Mariposa, Fresno, CA 93703, (209) 488–3191
King City Public Library, 212 S. Vanderhurst Avenue, King City, CA 93930, (408) 385–3677
John Steinbeck Library, 110 W. San Luis, Salinas, CA 93901, (408) 758–7311
Coalinga District Library, 305 N. 4th, Coalinga, CA 93210, (209) 935–1676

Because of printing costs, copies of the complete DEIS will be sent only to directly affected local organizations, agencies, and individuals. Detailed summaries will be sent to all persons who have expressed an interest in the Hollister planning process. Copies are available upon request to the Hollister Resource Area Manager.

DATES: Written comments concerning issues pertinent to the Hollister Resource Management Plan/Environmental Impact Statement will be accepted for 90 days following publication of this Notice of Availability.

Three public open house meetings have been scheduled:

November 1, 1983.—Hollister, 5 to 9 p.m., Hollister High School Cafeteria, 1220 Monterey Street, Hollister, California
November 2, 1983.—San Jose, 5 to 9 p.m., Willow Glen High School Cafetorium, 2001 Cottle Avenue (located near Pine and Foxworthy), San Jose, California
November 3, 1983.—Fresno, 5 to 9 p.m., Fresno State Building, Assembly Room, 2550 Mariposa Mall, Fresno, California

Dated: September 23, 1983.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26708 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[Designation Order NV-03-8301]

Nevada Off-Road Vehicle Designations

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision.

SUMMARY: All public lands administered by BLM in the 699,481 acre Reno Planning Area of the Carson City District are hereby designated open, limited, or closed to off-road motorized vehicle use in accordance with executive orders and as a result of the Bureau's Planning System.

EFFECTIVE DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Thomas J. Owen, District Manager, Bureau of Land Management, 1050 E. William St., Suite 335, Carson City, NV 89701; telephone (702) 882–1631.

SUPPLEMENTARY INFORMATION: Notice is given concerning use of off-road vehicles on public lands in accordance with the authority and requirements of Executive Orders 11644 and 11989, and regulations contained in 43 CFR 8340. The following lands under administration of the Bureau of Land Management are designated open, limited, or closed to off-road motorized vehicle use.

The 699,481 acre area affected by the designations is known as the Reno Planning Area, which includes lands in Carson, Washoe, Douglas, and Lyon Counties, Nevada, and Alpine and Plumas Counties, California. These designations are a result of resource management decisions made in the 1982 Reno Management Framework Plan. Comments received from three public meetings, two workshops, and numerous written responses influenced the designation decisions.

These designations are final as published September 30, 1983. Under 43 CFR 4.21, an appeal may be filed within 30 days with the Interior Board of Land Appeals. The designations will remain in effect until rescinded or modified by the Carson City District Manager.

A. *Open Designation.* Areas which are designated open comprise approximately 530,001 acres or 76 percent of the public land in the planning area. Open designation was determined to be appropriate for these lands since off-road vehicle use is an important recreational activity and is essential for the conduct of other authorized uses.

B. *Closed Designations.* Areas which are designated closed comprise approximately 6,600 acres or one percent of the public land in the planning area. These closed areas will be identified by maps and on the ground with signs.

1. Prison Hill Recreation Lands—1,480 acres. Located in Carson City, Nevada. Closed to motorized vehicles to protect fragile soils, minimize conflicts with adjacent residential uses, and enhance other recreation opportunities.

2. Peterson Mountain—5,120 acres. Located 15 miles northwest of Reno, Nevada. Closed to motorized vehicles to protect critical wildlife habitat and enhance nonmotorized recreation opportunites.

C. *Limited Designations.* Areas which are designated limited comprise approximately 162,880 acres or 23 percent of the public lands in the Reno Planning Area. These areas are identified on maps available at the Carson City District Office.

1. Limited Season of Use—

a. Jacks Valley Wildlife Area—2,915 acres. Located five miles southeast of Carson City, Nevada. Unmaintained roads and trails are closed from December 1 through April 30 to protect deer using critical winter range.

b. Sand Hills Wildlife Area—13,300 acres. Located 20 miles north of Reno, Nevada. This area will be closed from December 1 through April 30 to protect deer using critical winter range.

c. Bedell Flat—100 acres. Located 20 miles north of Reno, Nevada. This area will be closed from March 1 through May 1 to protect sage grouse during their strutting season.

2. Use Limited to Designated Routes—

a. Bagley Valley—6,200 acres. Located 10 miles southeast of Markleeville, California. Use is limited to reduce conflicts with wildlife, watershed, and scenic values and to minimize conflicts on lands that are adjacent or intermixed with Forest Service recommended wilderness.

b. Indian Creek Recreation Lands—6,065 acres. Located north and east of Markleeville, California. Use is limited to enhance the use of developed recreation facilities and non-vehicle recreation activities including hiking and whitewater boating.

c. Pine Nut Mountain Crest—45,000 acres. Located 15 miles southeast of Carson City, Nevada. Use is limited to designated routes and woodland product sale areas to protect wildlife, recreation, watershed, and scenic values.

d. Bailey-Jumbo Watershed—8,600 acres. Located 10 miles north of Carson City, Nevada.

Peavine Watershed—4,560 acres. Located 10 miles northwest of Reno, Nevada.

Use is limited in these two watershed areas to protect riparian and stream habitat and reduce soil loss and associated flood sediment damage occurring in adjacent urban areas.

e. Steamboat—40 acres. Located 20 miles north of Carson City, Nevada. Use is limited to protect geysers, hot springs, and rare plants.

f. Red Rock Scenic Area—700 acres. Located 20 miles northwest of Reno, Nevada. Use is limited to protect fragile soils and outstanding scenic features.

g. Virginia Mountains/Incandescent Rocks—67,500 acres. Located 25 miles north of Reno, Nevada. Use is limited to protect scenic, wildlife, wild horse, watershed, and recreation values.

h. Carson City Urban Lands—7,900 acres. Located in Carson City County. Use is limited to protect scenic values and minimize conflicts with residential and Washoe State Park developments.

Dated: September 22, 1983.

Thomas J. Owen,

District Manager.

[FR Doc. 83-26701 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13817]

California Realty Action; Sale of Public Land in Nevada County

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. 1712), at no less than the appraised fair market value.

Mount Diablo Meridian, Calif.

T. 16 N., R. 8 E.
Sec. 2 Lot 11.
Containing 10.98 acres more or less.

The above described land will be offered for sale by oral bid using competitive bidding procedures. The sale will be held at 10:00 a.m. on December 5, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. This date is not less than 60 days after the date of this notice. Particulars for this public auction sale will be made available through local newspaper release approximately 30 days before the scheduled sale date.

The sale land is a small isolated tract completely surrounded by private land in an area being developed as homesites. The area is zoned residential-agriculture with a 5 acre minimum parcel size. Because of its location, physical characteristics and size, the sale land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning for the land, and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale area are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Federal law requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any state of the U.S. Proof of citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the sale price. No bids for less than the appraised price will be accepted. The apparent high bidder will be required to submit a non-refundable deposit of one-fifth of the full bid price immediately at the sale. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. 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 a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26785 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 14027]

California; Realty Action Non-Competitive Sale of Public Land in Nevada County

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 ($18,500):

Mount Diablo Meridian, California

T. 16 N., R. 8 E.,
Sec. 12, lot 17.
Containing 3.94 acres more or less.

The above described land, comprising 3.94 acres, is being offered by direct, noncompetitive sale to Riley C. Adcock and agnes A. Adcock his wife, at current fair market value. Mr. and Mrs. Adcock are the current owners and occupants of a residential home and garage which are in trespass on the subject parcel. They have lived in the house since purchasing a quit claim deed to the property in 1964.

The sale land is a small isolated tract bordered on three sides by private land in an area being developed as homesites. The area is zoned residential-agriculture with a 3 acre minimum parcel size. Because of its location, physical characteristics and size, the sale land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning the land, and the public interest would be served by offering this land for sale.

Disposal by direct sale to the Adcocks will legalize their occupancy of the land, protect their equity investment in improvements on the land and resolve a complicated trespass situation.

The land will not be offered for sale for at least 60 days after the publication of this notice. Upon notification of the sale date, the purchaser will be given 30 days to pay the full appraised market value.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. A right-of-way (CA 6304) for a residential water pipeline.

3. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

4. Federal law requires that the purchaser be U.S. citizen or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of Citizenship shall be furnished at the sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office at 63 Natoma St. Folsom, CA 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. 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 a final determinaiton.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26786 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 14322]

California; Realty Actions; Competitive Sale of Public Land in Mariposa County

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.

Mount Diable Meridian, California

T. 3 S., R. 15 E.,
Sec. 10, SE¼NE¼ (Parcel 1);
Sec. 11, NW¼SE¼ (Parcel 2).
Containing 80 acres more or less.

The above described lands are isolated 40 acres parcels completely surrounded by private lands. Both are without legal access and presently under grazing lease to Jesse Wright, Riverbank, California. The lands will be sold as two separate 40 acre parcels. parcel 1 will be offered for sale utilizing competitive bidding procedures. Parcel 2 will be offered through modified competitive bidding with Jesse Wright as the designated bidder given the right to purchase the parcel by meeting the highest bid. Jesse Wright completely surrounds Parcel 2. Refusal or failure to meet the highest bid shall constitute a waiver of such bidding provisions.

The sale is consistent with the land use plan and disposal criteria of (43 CFR 2710.0-3(a).

The following are landowners, which adjoin one or both of the parcels and will receive a copy of this notice: Gail A. Hill, Robert McMillen, Lyle Turpin, Jesse Wright, Francis Young.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the lands will be reserved to the United States (43 U.S.C. 1719).

3. The successful bidder agrees that he takes the real estate subject to the existing grazing use of Jesse Wright, holder of grazing authorization No. 4142. The rights of Jesse Wright to graze domestic livestock on the real estate according to the conditions and terms of grazing authorization No. 4142 shall cease on February 22, 1990. The successful bidder is entitled to receive annual grazing fees from Jesse Wright in an amount not to exceed that which would be authorized under the Federal grazing fee published annually in the **Federal Register.**

Federal law requires that bidders be U.S. Citizens or, in the case of corporation, subject to the laws of any State of the U.S. Proof of Citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. No bids will be accepted for less than fair market value and bids for the parcel must include all the lands in the parcel. The apparent high bidder will be required to submit a nonrefundable deposit of one-fifth of the full bid price immediately after the sale. The remainder of the full price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and deposit shall be forfeited. The sale will be held at 10:00 AM., December 9, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director

who may vacate or modify this reality action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26787 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 14323]

California; Realty Action; Sale of Public Land in El Dorado County

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. 1712), at no less than the appraised fair market value.

Mount Diablo Meridian, California

T. 10 N., R. 9 E.,
Section 10,
SW¼NW¼ (Parcel A) containing 40 acres more of less;
SW¼SW¼ (Parcel B) containing 40 acres more of less.

The above described lands will be offered for sale by oral bid using competitive bidding procedures. The sale will be held at 10:00 a.m. on December 12, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. This date is not less than 60 days after the date of this notice. Particulars for this public auction sale will be made available through local newspaper release approximately 30 days before the scheduled sale date.

The sale lands are 40 acre isolated tracts completely surrounded by private land in an area being developed as homesites. The area is zoned residential-agriculture with a 10 acre minimum parcel size. Because of its location, physical characteristics and size, the sale lands are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistant with the Bureau's planning for the land, and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale area are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Federal law requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the sale price. No bids for less than the appraised price will be accepted. The apparent high bidder will be required to submit a non-refundable deposit of one-fifth of the full bid price immediately at the sale. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modily this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26788 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[Nev-043795, Nev-050936, Nev-054502, Nev-064781]

Nevada; Proposed Continuation of Withdrawal

September 22, 1983.

The Department of Energy proposes that the existing four land withdrawals (PLO 805, PLO 1662, PLO 2568, PLO 3759) that comprise the Nevada Test Site be continued in their entireties in perpetuity pursuant to Sec. 204 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2751; 43 U.S.C. 1714).

The purpose of the withdrawals are to allow nuclear weapons testing which is the primary mission of the Nevada Test Site. NTS also serves as environmental laboratory or other nuclear and non-nuclear experiments. All tests of nuclear devices are done underground in accordance with the Limited Test Ban Treaty and the Threshold Test Ban Treaty.

The withdrawn land is located in Nye County, Nevada about 65 miles northwest of Las Vegas and aggregate a total of apporoximately 792,651 acres.

The land is currently segregated from operation of the public land laws generally, including the mining laws. A portion of the land is further segregated from the mineral leasing laws. No change is proposed in the purpose, use or segregative effect of the withdrawals.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal continuation. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal continuation must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. If the State Director, Bureau of Land Management, determines that a public meeting will be held, the time and place will be announced.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. He will review the withdrawal rejustification to insure that continuation would be consistent with the statutory objectives of the programs for which the land is dedicated; the area involved is the minimum essential to meet the desired needs; the concurrent utilization of the land is provided for; and an agreement is reached on the concurrent management of the land and its resources. He will also prepare a report for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Register.** The existing withdrawal will continue until such final determination is made.

All communications in connection with this proposed withdrawal continuation should be addressed to the Deputy State Director, Operations, Bureau of Land Management, Nevada State Office, P.O. Box 12000, Reno, Nevada 89520.

Wm. J. Melencik,

Deputy State Director, Operations.

[FR Doc. 83-26789 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13818]

California: Realty Action Noncompetitive Sale of Public Land in Nevada County

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 ($8,000.00).

Mount Diablo Meridian, California

T. 15N., R.8E.,
Sec. 3, Lot 112—.02 ac.
Lot 115—2.91 ac.
T. 16N., R.8E.,
Sec. 33, Lot 11—.04 ac.
Sec. 34, Lot 1—.02 ac.
Containing a total of 2.99 acres, more or less.

The above described land is being offered as a direct, noncompetitive sale to the owners (Robinson Enterprises, Inc. and Terra Alta Development Co.) of a 722 acre tract of land which completely surrounds the subject parcels. As a result lands are difficult and uneconomic to manage as part of the public lands and are not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning system, and the public interest would be served by offering this land for sale.

The land will not be offered for sale for at least 60 days after publication of this notice. Upon notification of the sale date, the purchaser will be given 30 days to pay the full appraised market value.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Federal law requires that the purchaser be a U.S. citizen, or in the case of corporations be authorized to own real estate in the State of California. Proof of this requirement must be submitted.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. 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 a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26779 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13812]

California: Realty Action Noncompetitive Sale of Public Land in Tuolumne County

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 ($200.00):

Mount Diablo Meridian, California

T. 2N., R. 14E.,
Sec. 25, Lot 9.
Containing .11 acres, more or less.

The above described land is being offered as a direct, noncompetitive sale to the beneficiary of the estate of Homer Herold. The subject parcel is completely surrounded by private property vested in the estate of Homer Herold, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning system, and the public interest would be served by offering this land for sale.

The land will not be offered for sale for at least 60 days after publication of this notice. Upon notification of the sale date, the purchaser will be given 30 days to pay the full appraised market value.

The terms and conditions applicable to the sale are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

3. Federal law requires that the purchaser be a U.S. citizen. Proof of this requirement must be submitted.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resources Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, Califonia State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. Any adverse comments will be evaluated by the State Director who may vacate or modify this reality action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26780 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[CA 13808]

California; Realty Action Sale of Public Land in Nevada County

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. 1712), at no less than the appraised fair market value.

Mount Diablo Meridian, Calif.

T. 15 N., R. 8 E.,
Sec. 3 Lot 113.
Containing 6.40 acres more or less.

The above described land will be offered for sale by oral bid using competitive bidding procedures. The sale will be held at 10:00 a.m. on December 2, 1983, at the Folsom Resource Area Office, Bureau of Land Management, 63 Natoma Street, Folsom, California 95630. This date is not less than 60 days after the date of this notice. Particulars for this public auction sale will be made available through local newspaper release approximately 30 days before the scheduled sale date.

The sale land is a small isolated tract completely surrounded by private land in an area being developed as homesites. The area is zoned residential-agriculture with a 3 acre minimum parcel size. Because of its location, physical characteristics and size, the sale land is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. The sale is consistent with the Bureau's planning for the land, and the public interest would be served by offering this land for sale.

The terms and conditions applicable to the sale area are:

1. A right-of-way for ditches and canals will be reserved to the United States (43 U.S.C. 945).

2. All minerals in the land will be reserved to the United States (43 U.S.C. 1719).

Federal law requires that bidders be U.S. citizens or, in the case of a corporation, subject to the laws of any State of the U.S. Proof of citizenship shall accompany the bid. The sale will be conducted by oral bidding. Bids must be made by the principal or his agent at the time of the sale. The highest oral bid will establish the sale price. No bids for less than the appraised price will be accepted. The apparent high bidder will be required to submit a non-refundable deposit of one-fifth of the full bid price immediately at the sale. The remainder of the full bid price shall be paid within 30 days of the sale. Failure to pay the full price within 30 days shall disqualify the apparent high bidder and the deposit shall be forfeited and disposed of as other receipts of sale.

Detailed information concerning the sale, including the land report and environmental assessment report are available for review at the Folsom Resource Area Office, 63 Natoma Street, Folsom, California 95630. For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the State Director, California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Sacramento, California 95825. 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 a final determination.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 83-26784 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

Coos Bay District Office, Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Coos Bay District Advisory Council will be held on Friday, November 4, 1983.

The meeting will take place in the Coos Bay District Office, and will include a short trip to a site adjacent to the community. It will begin at 8:00 a.m.

The agenda for the meeting will include:

1. Discussion of old business.
2. Background information on Coos Head Naval Facility withdrawal and relinquishment.
3. Field trip to Coos Head to inspect relinquished lands.
4. Lunch.
5. Workshop session to develop recommendations for use of relinquished lands.
6. Arrangements for the next meeting.

The meeting is open to the public and news media, but persons other than council members are responsible for their own transportation and lunch arrangement. Interested persons may make oral statements to the council during a 30-minute period immediately following lunch, or file written statements for the council's consideration. Anyone wishing to make an oral statement must notify the District Manager at 333 South Fourth Street, Coos Bay, Oregon 97420, telephone 503-269-5880, by close of business October 21, 1983.

Summary minutes of the council meeting will be maintained at the district office, and made available for public inspection or reproduction at the cost of duplication.

Dated: September 21, 1983.

Robert T. Dale,

District Manager.

[FR Doc. 83-26783 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[M 56542]

Montana; Conveyance of Public Land

September 19, 1983.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance of public land in Garfield County, Montana.

SUMMARY: Notice is hereby given that pursuant to Section 203 of the Act of October 21, 1976 (43 U.S.C. 1713 (1976)), the following described land was conveyed to Clarke Murnion:

Principal Meridian, Montana

T. 19 N., R. 35 E.,
Sec. 3, E½SE¼.

The area described contains 80 acres.

The purpose of this notice is to inform State and local government officials and other interested parties of the conveyance of the land to Mr. Murnion.

Edgar D. Stark,

Chief, Lands Adjudication Section.

[FR Doc. 83-26781 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[N-257, N-257B, N-1575, N-1575A]

Nevada; Classifications Vacated

September 19, 1983

1. Pursuant to the authority delegated by Bureau Order 701 and amendments thereto, the following Bureau of Land Management multiple use classifications were published in the **Federal Register:**

Classification	Date published
N-257	July 7, 1967 (FR Doc. 67-7789)
N-257B	Dec. 15, 1970 (FR Doc. 70-16794)
N-1575	Sept. 5, 1969 (FR Doc. 69-10588)
N-1575A	Dec. 15, 1970 (FR Doc. 70-16782)

Pursuant to the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411-18) and the 43 CFR 2460 regulations, these actions classified approximately 2,951,461 acres of public land in Nye and Clark Counties, Nevada, for multiple use management. The land was segregated as follows:

Classification	Acres	Segregated from
N-257	809,361	Agricultural land laws; Sales under R.S. 2455; Sales under Act of Sept. 19, 1964; 98,000 acres from mining.
N-257B	41,800	Agricultural land laws; Sales under R.S. 2455; Sales under Act of Sept. 19, 1964; 2,020 acres from mining.
N-1575	2,074,900	Agricultural land laws; Sales under R.S. 2455; 4,280 acres from mining.
N-1575A	25,400	Agricultural land laws; Sales under R.S. 2455; Sales under Act of Sept. 19, 1964; 21,300 acres from mining.

2. Pursuant to 43 CFR 2461.5(c)(2), the classifications are hereby vacated with the exception of the following described area:

Mount Diablo Meridian, Nevada

(N-257B)

T. 17 S., R. 50 E.,
Sec. 35, E½NE¼, N½NE¼SE¼;
Sec. 36, NE¼, W½, N½SE¼, SE¼SE¼.
T. 17 S., R. 51 E.,
Sec. 31, NE¼NE¼, W½E½, W½.
T. 18 S., R. 50 E.,
Sec. 1, N½N½;
Sec. 2, NE¼.
T. 18 S., R. 51 E.,
Sec. 6, lots 2 through 6, SW¼NE¼, SE¼NW¼, NE¼SW¼, SE¼.

(N-257)

T. 18 S., R. 55 E.,
Sec. 35, NW¼SW¼.
T. 20 S., R. 55 E., MDM
Sec. 12, E½NE¼, NW¼SE¼, SE¼SW¼.
T. 17 S., R. 56 E.,
Sec. 31, SE¼SW¼.
T. 18 S., R. 56 E.,
Sec. 6, lots 2 and 3.
T. 20 S., R. 56 E.,
Sec. 6, lot 7, S½NE¼, NE¼SW¼;
Sec. 7, NW¼NW¼NW¼;
Sec. 8, SW¼NE¼NE¼, SE¼NW¼NE¼, NE¼SW¼NE¼, NW¼SE¼NE¼;
Sec. 10, all.
T. 21 S., R. 56 E.,
Sec. 36, NW¼NW¼.
T. 20 S., R. 57 E.,

Sec. 33, S½SW¼NW¼, N½NW¼SW¼.
T. 21 S., R. 57 E.,
Sec. 8, E½SE¼SE¼;
Sec. 9, W½SW¼SW¼;
Sec. 16, W½NW¼NW¼;
Sec. 17, E½NE¼NE¼.
T. 22 S., R. 57 E.,
Sec. 16, NE¼SE¼.
T. 20 S., R. 58 E.,
Secs. 8 to 28, inclusive;
Sec. 29, N½, SW¼, W½SE¼;
Secs. 30, 31;
Sec. 32, S½NE¼, NW¼NE¼, NW¼, S½;
Secs. 33 to 36, inclusive.
T. 21 S., R. 58 E.,
Sec. 1, lots 2, 3, 4, S½N½, S½;
Secs. 2 to 15, inclusive;
Sec. 16, N½N½, SE¼NE¼, SW¼NW¼, S½;
Secs. 17 to 23, inclusive;
Sec. 24, W½W½;
Sec. 25, W½;
Secs. 26 to 33, inclusive;
Sec. 34, N½, SW¼, SW¼SE¼, N½SE¼;
Sec. 35, N½, SE¼;
Sec. 36, W½.
T. 22 S., R. 58 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, N½SE¼, SE¼SE¼;
Sec. 2, lots 1, 2, 3, S½N½, N½SW¼, NW¼SE¼;
Sec. 3, lots 3, 4, SW¼NW¼, S½SW¼, SE¼;
Secs. 4 to 11, inclusive;
Sec. 12, lots 1 through 6, E½, SE¼SW¼;
Secs. 13 to 18, inclusive;
Sec. 20, NE¼;
Secs. 21 to 28, inclusive;
Secs. 33 to 36, inclusive.
T. 23 S., R. 58 E.,
Sec. 28, SW¼NE¼, NW¼SE¼.
T. 20 S., R. 59 E.,
Secs 7 and 18;
Sec. 19, N½.
T. 21 S., R. 59 E.,
Sec. 5, S½SW¼;
Sec. 6, lot 7, SE¼SW¼, SW¼SE¼;
Sec. 7, all;
Sec. 8, W½;
Sec. 18, all.
T. 24 S., R. 59 E.,
Sec. 4, lots 1, 2, 3, 4, S½N½.

(N-1575A)

T. 14 S., R. 69 E.,
Sec. 14, E½SW¼, NW¼SW¼;
Sec. 15, SE¼SE¼;
Sec. 22, all;
Sec. 27, all;
Sec. 28, NE¼, N½SE¼, N½SW¼, SW¼SW¼;
Sec. 29, SW¼;
Sec. 32, N½NE¼, SW¼NE¼, E½NW¼, N½SW¼, SW¼SW¼.
T. 13 S., R. 70 E.,
Sec. 27, lot 3, SE¼Sw¼;
Sec. 32, S½NE¼, SE¼;
Sec. 33, S½NW¼, SE¼NE¼, SW¼, W½SE¼, NE¼SE¼;
Sec. 34, NW¼, of lot 1, lot 6.
T 14 S., R. 70 E.,
Sec. 4, lots 1, 2, 3, 4, S½N½, N½SW¼, SW¼SW¼;
Sec. 5, E½, SW¼;
Sec. 6, S½;
Sec. 7, lot 2, E½NW¼, NE¼;
Sec. 8, N½

(N-1575)

T. 15 S., R. 70 E.,
Sec. 2, lot 4;
Sec. 12, NW¼NW¼.
T. 16 S., R. 70 E.,
Sec. 22, SW¼SW¼;
Sec. 23, SE¼.

The area described above aggregates approximately 70,896 acres. This area has high public values for recreation, fish and wildlife hibitat and cultural resources and will remain classified for a period of 8 years from the date of this publication at which time the classification will again be reviewed.

3. At 9:00 a.m. on October 31, 1983, all the land except that described in paragraph 2 above is hereby open to the operation of all the public land laws, subject to valid existing rights. All valid applications received prior to or at 9:00 a.m. on October 31, 1983, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

4. At 9:00 a.m. on October 31, 1983, the following described land will also be open to the operation of the minig laws:

Mount Diablo Meridian, Navada

T. 17 S., R. 54 E.,
Sec. 19, E½;
Sec. 20, 21;
Sec. 22, W½;
Sec. 27, W½;
Secs. 28, 29;
Sec. 30, E½;
Secs. 31, 32, 33;
Sec. 34, W½.
T. 18, S., R. 54 E.,
Secs. 8, 9.
T. 17 S., R. 55 E.,
Sec. 35, all;
Sec. 36, W½E½, W½.
T. 18 S., R. 55 E.,
Sec. 1, W½ of lot 1, lots 2, 3, 4, W½NE¼ NE¼, SW¼NE¼, S½NW¼, SW¼, S½N½SE¼, S½SE¼;
Sec. 2, lots 3, 4, S½NW¼, SW¼, S½N½ SE¼, S½SE¼;
Sec. 10, NW¼;
Sec. 15, NW¼;
Sec. 17, SW¼;
Sec. 18, all;
Sec. 19, E½;
Sec. 20, all;
Sec. 21, W½;
Sec. 32, E½, N½N½NW¼, E½SW¼ NE¼ NW¼, SE¼NE¼NW¼, SW¼NW¼NW¼, W½SE¼N W¼NW¼, W½SW¼NW¼, W½E½ SW¼ NW¼, E½W½SE¼NW¼, E½SE¼NW¼;
Secs. 33, 34;
Sec. 35, N½, NE¼SW¼, S½SW¼, SE¼.
T. 19, S., R. 55 E.,
Sec. 4, all;
Sec. 5, E½.
T. 20 S., R. 55 E.,
Sec. 1, all;
Sec. 12, E½NE¼, NW¼, N½SW¼, SW¼SW¼, NE¼SE¼, S½SE¼;
Sec. 13, all.
T. 17 S., R. 56 E.,
Sec. 31, lots 1, 2, 3, 4, NE¼, NE¼NW¼, E½SE¼.
T. 18 S., R. 56 E.,
Sec. 6, lots 1, 4, 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.
T. 20 S., R. 56 E.,
Sec. 6, lots 1 through 6, SE¼NW¼, SE¼SW¼, SE¼;
Sec. 7, lots 2, 3, 4, NE¼ of lot 1, S½ of lot 1, E½, NE¼NW¼, SE¼NW¼, W½SW;
Sec. 8, N½NE¼NE¼, SE¼NE¼NE¼, N½NW¼NE¼, SW¼NW¼NE¼, NW¼SW¼NE¼, S½SW¼NE¼, NE¼SE¼NE¼, S½SE¼NE¼, NW¼, S½;
Secs. 15, 18, 22;
Sec. 31, SE¼SE¼;
Sec. 32, SW¼SW¼;
Sec. 34, SE¼SE¼;
Sec. 35, S½;
Sec. 36, S½.
T. 21 S., R. 56 E.,
Sec. 2, lots 3, 4;
Sec. 3, lots 1, 2, S½NE¼SW¼N½SE¼;
Sec. 36, NE¼NW¼, S½NW¼.
T. 18 S., R. 57 E.,
Secs. 25, 26.
T. 19 S., R. 57 E.,
Sec. 1, lots 5 through 20.
T. 20 S., R. 57 E.,
Secs. 24, 25;
Sec. 31, lots 3, NE¼SW¼, N½SE¼;
Sec. 32, S½NE¼, SE¼NW¼, S½;
Sec. 33, S½NE¼, N½SW¼NW¼, SE¼NW¼, S½NW¼SW¼, NE¼SW¼, N½SE¼;
Sec. 36, all.
T. 21 S., R. 57 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, S½;
Sec. 8, SW¼SE¼, W½SE¼SE¼;
Sec. 9, E½SW¼SW¼, SE¼SW¼;
Secs. 12, 13;
Sec. 16, NE¼NW¼, E½NW¼NW¼, S½NW¼;
Sec. 17, W½NE¼NE¼, NW¼NE¼, S½NE¼;
Secs. 24, 25, 36.
T. 22 S., R. 57 E.,
Sec. 16, NW¼SE¼, S½SE¼;
Sec. 21, NE¼.
T. 18 S., R. 58 E.,
Sec. 29, S½;
Sec. 32, N½, NW¼SE¼;
Sec. 33, S½.
T. 19 S., R. 58 E.,
Sec. 16, NW¼.
T. 23 S., R. 58 E.,
Secs. 2, 11;
Sec. 13, S½;
Sec. 14, N½, SE¼;
Sec. 24, all;
Sec. 30, lots 3, 4, E½SW¼;
Sec. 32, SE¼.
T. 26 S., R. 59 E.,
Sec. 16, S½NW¼, SW¼;
Sec. 17, E½E½SE¼;
Sec. 20, E½NE¼NE¼, NE¼SE¼, SE¼NE¼;
Sec. 21, W½NW¼, W½E½NW¼, w½NE¼SW¼, NW¼SW¼.
T. 19 S., R. 60 E.,
Sec. 1, lots 1, 2, 3, 4, S½N½, SE¼.
T. 20 S., R. 60 E.,

Sec. 9, W½NE¼SE¼NE¼, NW¼SE¼ NE¼, E½NE¼SW¼NE¼;
Sec. 10, NW¼SE¼NE¼SW¼, W½NE¼ SW¼, S½SE¼NE¼SW¼;
Sec. 15, E½NE¼NE¼NW¼, E½NE¼ NW¼SE¼, W½W½SW¼NE¼, NE¼NW¼SW¼NE¼, SE¼SW¼ SW¼NE¼, NE¼NE¼SW¼NE¼, S½NE¼SW¼NE¼, W½SE¼ SW¼NE¼, SE¼SE¼SW¼NE¼;
Sec. 33, lots 60, 61.

T. 21 S., R. 60 E.,
Sec. 3, lots 46, 47, 48, 57, 58, 65;
Sec. 4, lots 49, 50, 69, 70;
Sec. 10, W½SW¼NE¼NW¼, E½SE¼ NW¼NW¼, SE¼NE¼SW¼;
Sec. 11, lots 121, 122, 123, 124, 125, 131, 132, 133, 134;
Sec. 13, W½SW¼SW¼NW¼, NW¼NW¼NW¼SW¼;
Sec. 17, E½NW¼SE¼NW¼, NE¼SE¼ NW¼, E½SE¼NE¼NW¼;
Sec. 28, SE¼SE¼;
Sec. 36, NW¼NE¼NE¼SE¼, SE¼NE¼ NE¼SE¼, NW¼SW¼NE¼SE¼, SE¼SW¼NE¼SE¼, W½SE¼N E¼SE¼, SE¼SE¼NE¼SE¼, W½NW¼NW¼SE¼, NW¼SW¼ NW¼SE¼, NE¼NE¼NW¼SE¼, NE¼NW¼NE¼SE¼, N½SE¼N W¼SE¼, SE¼SE¼NW¼SE¼, W½NW¼SW¼SE¼, NW¼NE¼ SW¼SE¼, SE¼NE¼SW¼SE¼, SE¼SW¼SW¼SE¼, SW¼NW¼ SE¼SE¼, NE¼NE¼SE¼SE¼, N½SW¼SE¼SE¼, SE¼SW¼ SE¼SE¼, NW¼SE¼SE¼SE¼.

T. 19 S., R. 61 E.,
Sec. 5, S½;
Sec. 6, lots 1 through 6, S½NE¼, SE¼NW¼, NE¼SW¼, N½SE¼;
Sec. 7, lots 2, S½NE¼, SE¼NW¼;
Secs. 8, 9, 10;
Sec. 15, N½;
Sec. 16, N½.

T. 21 S., R. 61 E.,
Sec. 31, lots 53, 54, 56, 57, 62, 69, 71, 73, 75, 76, 78, 79, 81 82, SE¼SW¼NE¼SW¼, SW¼NE¼NE¼SW¼, W½NW¼ SE¼SW¼, N½SW¼SE¼SW¼, NW¼NW¼NE¼SW¼.

T. 22 S., R. 61 E.,
Sec. 5, lots 133, 134;
Sec. 8, W½NW¼NE¼SW¼, SW¼NE¼ SW¼, NW¼SE¼SW¼, E½NE¼ SW¼SW¼;
Sec. 10, lots 44, 45;
Sec. 15, E½NW¼SE¼NE¼, E½SW¼ NW¼SE¼NE¼, SW¼SE¼NE¼, E½SE¼NE¼;
Sec. 20, lots 33, 34, 60;
Sec. 28, lots 18, 19, 20, 21, 31, 32, 33, 34, 115, 124, 131, 132.

T. 19 S., R. 62 E.,
Secs. 7, 18.

T. 20 S., R. 62 E.,
Sec. 12, E½SW¼, SE¼, E½NE¼;
Sec. 13, N½, N½S½, S½SE¼;
Secs. 24, 25;
Sec. 35, SE¼;
Sec. 36, all.

T. 21 S., R. 62 E.,
Sec. 1, N½, SW¼;
Sec. 35, W½NE¼NW¼, NW¼NW¼.

T. 20 S., R. 63 E., (unsurveyed) if surveyed lands would probably be described as:
Sec. 7, all;
Sec. 8, W½;
Secs. 17 through 24;
Sec. 26, all.

T. 15 S., R. 70 E.,
Sec. 1, W½;
Sec. 2, lots, 1, 2, 3, S½N½, S½;
Sec. 12, NE¼NW¼, S½NW¼.

T. 17 S., R. 70 E.,
Sec. 26, all.

T. 19 S., R. 70 E.,
Sec. 34, S½, S½N½.

T. 14 S., R. 71 E.,
Sec. 33, SW¼.

T. 15 S., R. 71 E.,
Sec. 4, NW¼.

T. 16 S., R. 71 E.,
Sec. 21, S½NW¼.

T. 19 S., R. 71 E.,
Sec. 7, S½SW¼;
Sec. 18, N½NW¼.

The area described above comprises approximately 56,343 acres in Nye and Clark Counties, Nevada.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

5. All the land described in the classifications remain open to the mineral leasing and material sale laws.

The acreage difference between the land segregated from mining in the original classifications (125,600 acres) and the total of the acreage retained in segregation (70,896) and the acreage restored to mining location (56,343) is due to acreage computation errors in the original classification orders, original or resurveys which modified the acreage in some townships, and approximately 709 acres of privately owned land within the boundaries of the designated Red Rock Canyon Recreation Area.

Inquiries concerning this land should be addressed to the Deputy State Director, Operations, Bureau of Land Management, P.O. Box 12000, Reno, Nevada 89520.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 83-26782 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

Oregon/Washington: Filing of Plats of Survey

September 21, 1983.

The plats of survey of the following described lands were officially filed in the Oregon State Office, Bureau of Land Management, Portland, Oregon on the dates hereinafter stated:

Oregon, Willamette Meridian

T. 32 S., R. 6 W., Dependent resurvey, Group 1018, Accepted August 17, 1983.
T. 4 N., R. 7 E., Dependent resurvey and subdivision, Group 330, Accepted August 5, 1983.

The above two plats were officially filed August 23, 1983.

T. 13 S., R. 3 E., Dependent resurvey, Group 954.
T. 13 S., R. 4 E., Dependent resurvey, Group 954.

The above two plats were accepted August 22, 1983, Officially filed August 29, 1983.

T. 28 S., R. 9 W., Dependent resurvey, Group 1008.
T. 21 S., R. 12 W., Dependent resurvey and subdivision, Group 1064.

The above two plats were accepted August 26, 1983, Officially filed August 29, 1983.

T. 4 N., R. 3 W., Dependent resurvey and subdivision, Group 1032, Accepted August 30, 1983.
T. 19 S., R. 8 W., Dependent resurvey and remonumentation, Group 1000/1029, Accepted August 31, 1983.

The above two plats were officially filed September 2, 1983.

Washington, Willamette Meridian

T. 3 N., R. 9 E., Dependent resurvey, subdivision lines and survey of part of northerly line of Washington State Highway No. 14, Group 327, Accepted and officially filed September 2, 1983.

Harold A. Berends,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 83-26791 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[INT FEIS 83-41]

Colorado, Clear Creek Shale Oil Project; Availability of Final Environmental Impact Statement

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement (FEIS).

SUMMARY: Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the BLM has prepared a

FEIS for the proposed Clear Creek Shale Oil Project.

DATE: Comments will be accepted until November 7, 1983.

ADDRESS: Comments should be sent to: Chevron EIS Team Leader, Bureau of Land Management, 764 Horizon Drive, Grand Junction, CO 81501.

FOR FURTHER INFORMATION CONTACT: Bob Kline, Bureau of Land Management, 764 Horizon Drive, Grand Junction, CO 81501, (303) 243– 6552.

SUPPLEMENTARY INFORMATION: The BLM prepared a FEIS on the proposed Clear Creek Shale Oil Project in northwest Colorado. The project would produce 100,000 barrels per day (bpd) of shale oil. The FEIS analyzes the proposal, three major project configuration, a 50,000 bpd production rate alternative, and various alternative configurations of discrete actions as part of the overall proposal. The FEIS analyzes the environmental and socioeconomic impacts of the proposal and alternatives.

Availability: Single copies of the Final EIS may be obtained at the above address: Public reading copies are also available at the following locations:

Mesa County Public Library, Grand Junction, CO 81501
Mesa College Library, Grand Junction, CO 81501
Conservation Library, Denver Public Library, 1537 Broadway, Denver, CO 81203
Garfield County Public Library Glenwood Springs, CO 81601

Dated: September 16, 1983.

George C. Francis,

Bureau of Land Management, State Director.

[FR Doc. 83-26656 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

[W-75663]

Realty Action; Sale of Public Lands in Uinta County, Wyoming

The following described lands were determined to be suitable for disposal by sale pursuant to Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, at no less than the fair market value of $200/acre, the total value of the 80 acres is $16,000:

Sixth Principal Meridian, Wyoming

T. 16 N., R. 121 W., Sec. 12, E½SE¼.

This amends the Notice of Realty Action for this parcel which was signed on May 25, 1983, and published in 48 FR, Number 118, pages 27842 and 27843 on June 17, 1983.

This parcel will be offered over the counter at no less than fair market value beginning on October 20, 1983, at the Kemmerer Resource Area Office, 415 U.S. Highway 30 North, Diamondville, Wyoming.

The successful bidder can pay in full on the date of purchase or pay a nonrefundable twenty percent (20%) of the purchase price on the sale date and the balance within twenty-nine (29) days from the date of the sale. Payment may be made by personal check, certified check, money order, or cashier's check, made payable to the Bureau of Land Management, or by cash.

September 20, 1983.

Donald H. Sweep,

District Manager.

[FR Doc. 83-26736 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-84-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development and production plan.

SUMMARY: Notice is hereby given that Samedan Oil Corporation has submitted a Development and Production Plan describing the activities it proposes to conduct on Lease OCS 0578, Block 208, Eugene Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

PURPOSE: The purpose of this Notice is to inform the public, pursuant to Section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the Plan and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to Section 930.61 of Title 15 of the Code of Federal Regulations, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the Plan for consistency with the Louisiana Coastal Resources Program.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in Development and Production Plans available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised § 250.34 of Title 30 of the Code of Federal Regulations. Accordingly, a copy of the Plan is available for public review at the Office of the Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

A copy of the Consistency Certification and the Plan are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, *Attention OCS Plans*, Post Office Box 44396, Baton Rouge, Louisiana 70804. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the Plan from the Minerals Management Service.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Public Records, Room 147, 3301 North Causeway Blvd., Metairie, Louisiana 70002, Phone (504) 838–0519.

Dated: September 21, 1983.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region.

[FR Doc. 83-26792 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-MR-M

Outer Continental Shelf Advisory Board, Gulf of Mexico Regional Technical Working Group; Meeting

This notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463. A meeting of the Outer Continental Shelf Advisory Board's Gulf of Mexico Regional Technical Working Group will be held on November 15–17, 1983, in New Orleans, Louisiana. The agenda of the meeting is as follows:

November 15—
9:00 a.m.–5:00 p.m. Gulf of Mexico Information Transfer Meeting

November 16—
8:30 a.m.–5:00 p.m. Continuation of the Information Transfer Meeting

November 17—
9:00 a.m.–12:00 noon: Completion of the Information Transfer Meeting
1:00 a.m.–5:00 p.m. RTWG Business Meeting
A. Update on Offshore Lease Offerings

B. Minerals Management Service Organization Structure
C. Briefing on Offshore Activities/Issue
D. Update on Regional Studies Plan
E. Scoping for 1985 Lease Offerings.

The meeting will be held in the International Hotel, 300 Canal Street, New Orleans, Louisiana. All sessions are open to the public, and interested persons may make oral or written presentations at the Business Meeting upon request. Such requests should be made not later than November 5, 1983, to Sydney H. Verinder, Gulf of Mexico Region, Minerals Management Service, 3301 N. Causeway Blvd., P.O. Box 7944, Metairie, LA 70010, telephone number (504) 838-0627.

A typed transcript of all sessions and complete summary minutes of the meeting will be available for public inspection in the Office of the Regional Manager at the above address not later than 60 days after the meeting.

John L. Rankin,

Regional Manager, Gulf of Mexico OCS Region, Minerals Management Service.

[FR Doc. 83-26778 Filed 9-29-83; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-152]

Import Investigations; Certain Plastic Food Storage Containers; Commission Determination Not To Review Initial Determination Joining Respondent

AGENCY: International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (I.D.) (Order No. 11) reaffirming, after reconsideration, Order No. 5. Order No. 5 joins Griffiths Brothers, Ltd., as a respondent to the investigation. Accordingly, the I.D. has become the Commission's determination in this matter.

AUTHORITY: 19 U.S.C. 1337, 48 FR 20225, May 5, 1983 (to be codified at 19 CFR 210.53(c)).

SUPPLEMENTARY INFORMATION: On July 13, 1983, complainant Dart Industries, Inc., moved (Motion No. 152-3) to amend the complaint in the above-referenced investigation by adding Griffiths as a respondent to the investigation. The motion was granted (Order No. 5) on July 28, 1983. On August 2, 1983, respondents Lamarle, Inc., and Lamarle Ltd. moved (Motion No. 152-9) for reconsideration of Order No. 5. Motion 152-9 was certified to the Commission on August 4, 1983, by the Commission's presiding officer, with a request that Order No. 5 and Motion No. 152-9 be remanded for reconsideration. On August 8, 1983, the Commission remanded Order No. 5 and Motion No. 152-9 for further consideration in light of Motion 152-9 and any responses thereto. *See* 48 FR 36677 August 12, 1983).

On August 25, 1983, the presiding officer determined (Order No. 11) to reaffirm Order No. 5 and to deny Motion No. 152-9. The effect of the Order is to join Griffiths as a respondent. The Commission has determined to not review Order No. 11 and, accordingly, Order No. 11 became the determination of the Commission as of September 26, 1983.

Copies of the orders Nos. 5 and 11 and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202-523-0350.

By order of the Commission
Issued: September 27, 1983.

Kenneth R. Mason,

Secretary.

[FR Doc. 83-26831 Filed 9-29-83; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

Motor Carriers; Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10542(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principle office: CLI Corporation, 5325 S. Madera, Okla. City, OK 73129.

2. Wholly-owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(i) Coldiron Lines, Inc., 5325 S. Madera, Okla. City, OK 73129—Oklahoma Corporation.

(ii) Coldiron Lumber, Inc., 5325 S. Madera, Okla. City, OK 73129—Oklahoma Corporation.

(iii) Coldiron Logging, Inc., 5325 S. Madera, Okla. City, OK 73129—Oklahoma Corporation.

1. The parent corporation and address of it principle office is: W. R. Grace & Co., Grace Plaza, 1114 Avenue of the Americas, New York, NY 10036.

2. Wholly-owned subsidiaries which are participating in the operations and their state(s) of incorporation:

(a) Aeroline, Inc. (Cal.).
(b) Amargosa Pipeline Corporation (Del.).
(c) American Carry Products Corp. (Cal.).
(d) Antilles Chemical Company (Del.).
(e) AquaTrain, Inc. (Del.).
(f) Arrow Inter-America Corporation (W. Va.).
(g) Axial Basin Coal Corporation (Del.).
(h) Axial Basin Ranch Company (a Delaware partnership 50% owned by Grace A-B Inc.)
(i) Bartow Chemical Products (a Florida partnership 50% owned by W. R. Grace & Co.).
(j) Beckett Golf Club, Inc. (N.J.).
(k) Berman Catalog Sales, Inc. (Minn.).
(l) Berry Gas Company (Okla.).
(m) Bison Nitrogen Products Co. (an Oklahoma partnership 35% owned by Woodward Chemical Corporation).
(n) Booker Drilling Company, Inc. (La.).
(o) Camillus Acres, Inc. (N.Y.).
(p) Colagrace, Inc. (Del.).
(q) Colowyo Coal Company (a Delaware partnership 50% owned by Gracoal, Inc.).
(r) Darex Puerto Rico, Inc. (Del.).
(s) Division Specialty Chemical Co. (Del.).
(t) Daylin-Summit, Inc. (N.Y.).
(u) Dearborn Chemical Company (Del.).
(v) DDI Realty, Inc. (Del.).
(w) Devcoa Incorporated (Fla.).
(x) Dewey and Almy Company (Mass.).
(y) DeZaan, Incorporated (N.Y.).
(z) Diner's Rendezvous (Mo.).
(aa) Diversified Restaurant Services, Inc. (Del.).
(ab) Dixie Oil Tools, Inc. (La.).
(ac) Drilling Mud, Inc. (Del.).
(ad) Drys, Inc. (Kansas).
(ae) Duncan, Lagnese and Associates Incorporated (Pa.).
(af) Ecarg, Inc. (N.J.).
(ag) Ecotrol, Inc. (Del.).
(ah) E L Liquidating Corp. (Ohio).
(ai) Elson T. Killam Associates, Inc. (N.J.).
(aj) El Torito-La Fiesta Restaurants, Inc. (Cal.).
(ak) El Torito/Milwaukee, Inc. (Wisc.).
(al) Emerson & Cuming, Inc. (Del.).
(am) Far West Services of Kansas, Inc. (Kan.).

(an) Fort Berthold (an incorporated joint venture).
(ao) Four Corners Mine (a Florida partnership 50% owned by Ridgewood Phosphate Corporation).
(ap) Fred P. Ott's/Madison, Inc. (Wisc.).
(aq) Ft. Meade Chemical Products (a Florida partnership 50% owned by Ridgewood Chemical Corporation).
(ar) GHL Management, Inc. (Del.).
(as) Gilbert/Robinson, Inc. (Del.).
(at) Gloucester New Communities Company, Inc. (N.J.).
(au) GPC Marketing Company (Del.).
(av) Grace A–B, Inc. (Del.).
(aw) Grace Chemical Company of Cuba (Ill.). *
(ax) Grace Communications, Inc. (Del.).
(ay) Grace Consumer Products and Services (Europe), Inc. (Del.).
(az) Grace Corporation (Del.).
(ab) Grace & Co. Central America (Del.).
(bb) Grace Distribution Services, Inc. (Del.).
(bc) Grace Drilling Company (Del.).
(bd) Grace H–G, Inc. (Del.).
(be) Grace Industrial Chemicals, Inc. (Del.).
(bf) Grace Natural Resources Corp. (Del.).
(bg) Grace Oil Corporation (Italy) (Del.).
(bh) Grace Oxo-Alcholos, Inc. (N.J.).
(bi) Grace PAR Corporation (Del.).
(bj) Grace Petroleum Corporation (Del.).
(bk) Grace Petroleum China Incorporated (Del.).
(bl) Grace Petroleum Libya Incorporated (Del.).
(bm) Grace REC Corp. (Del.).
(bn) Grace Restaurant Company (Cal.).
(bo) Grace Retail Corporation (Del.).
(bp) Grace TEC Corporation (Del.).
(bq) Gracoal, Inc. (Del.).
(br) Grappolo, Inc. (Del.).
(bs) W. R. C. Technical Ventures, Inc. (Del.).
(bt) W. R. Grace Capital Corporation (N.Y.).
(bu) W. R. Grace Credit Corp. (Del.).
(bv) W. R. Grace Land Corporation (N.Y.).
(bw) W. R. Grace Properties, Inc. (N.Y.).
(bx) G/R Texas Enterprises, Inc. (TX).
(by) G/R of Penn., Inc. (Pa.).
(bz) Hand Realty Corp. (Texas).
(ca) Hand Realty Properties, Inc. (Del.).
(cb) Handy Dan Hardware, Inc. (Texas).
(cc) Handy Dan Hardware, Inc.—Alabama (Ala.).
(cd) Handy Dan Hardware, Inc.—Denver (Colo.).
(ce) Handy Dan Hardware, Inc.—Tulsa (Okla.).
(cf) Handy Dan Home Improvement Centers, Inc.—Arkansas (Ark.).
(cg) Handy Dan Home Improvement Centers, Inc. (Del.).
(ch) Handy Dan Home Improvement Centers, Inc.—Florida (Fla.).
(ci) Handy Dan Home Improvement Centers, Inc.—Iowa (Iowa).
(cj) Handy Dan Home Improvement Centers, Inc.—Kansas (Kansas).
(ck) Handy Dan Home Improvement Centers, Inc.—Missouri (Mo.).
(cl) Handy Dan Home Improvement Centers, Inc.—Nebraska (Nebr.).
(cm) Handy Dan Realty Corp. (Del.).
(cn) Handy Man Hardware, Inc. (Tex.).
(co) Hanover Square Corporation (Del.).
(cp) Hayden Gulch West Coal Company (a Colorado partnership 50% owned by Grace H–G, Inc.).
(cq) Herman's of Illinois, Inc. (Ill.).
(cr) H–G Coal Company (a Delaware partnership 50% owned by Coalgrace, Inc.).
(cs) Homco International, Inc. (Del.).
(ct) Houlihan's/Arizona, Inc. (AZ.).
(cu) Houlihan's/Bergen County, Inc. (N.J.).
(cv) Houlihan's/Boston, Inc. (MA.).
(cw) Houlihan's/Cupertino, Inc. (CA.).
(cx) Houlihan's/D.C., Inc. (DC.).
(cy) Houlihan's/Encino, Inc. (CA.).
(cz) Houlihan's/Florida, Inc. (Fla.).
(da) Houlihan's Inc. (LA.).
(db) Houlihan's/Long Beach, Inc. (CA.).
(dc) Houlihan's/Maryland, Inc. (MD.).
(dd) Houlihan's/Milwaukee, Inc. (WI.).
(de) Houlihan's of California, Inc. (Cal.).
(df) Houlihan's of Indianapolis, Inc. (Ind.).
(dg) Houlihan's/San Francisco, Inc. (Cal.).
(dh) Intercontinental Advertising, Inc. (Ohio).
(di) J. B. Robinson Jewelers, Incorporated (Del.).
(dj) Jefferson 4740 Corporation (MO.).
(dk) Joe Gilbert Restaurants, Inc. (MO.).
(dl) jojos Restaurants, Inc. (Cal.).
(dm) jojos Restaurants of California, Inc. (Cal.).
(dn) jojos Restaurants of Glendale, Inc. (Cal.).
(do) jojos Restaurants of Indiana, Inc. (Ind.).
(dp) jojos Restaurants of Layton, Inc. (Wisc.).
(dq) jojos Restaurants of Nevada, Inc. (Nev.).
(dr) jojos Restaurants of Wisconsin, Inc. (Wisc.).
(ds) jojos Restaurants of Northridge, Inc. (Wisc.).
(dt) K. C. Stadium Concessions, Inc. (MO.).
(du) Killam-Dearborn Environmental Engineers, Inc. (Ill.).
(dv) Lachman-Rose Company, Inc. (Texas).
(dw) Leather Bottle No. 1, Inc. (MO.).
(dx) Levco—Carona—Daylin Associates, Limited (a New Jersey partnership 33⅓% owned by Grace Retail Corporation).
(dy) Liquor Lounges, Inc. (MO.).
(dz) LKS Enterprises, Inc. (Cal.).
(ea) Marine Culture Enterprises (an Illinois partnership 50% owned by VEN-TECH ONE, Inc.).
(eb) May's Restaurant, Inc. (MO.).
(ec) M–B Food Distributing Company, Inc. (Cal.).
(ed) Midwest Restaurants, Inc. (MO.).
(ee) Mountain View Insurance Company (Colo.).
(ef) New American Restaurant Corp. (De.).
(eg) NRG Eastern Coal Development, Inc. (Del.).
(eh) Offshore Fisheries, Inc. (Mass.).
(ei) Oklahoma Nitrogen Co. (an Oklahoma partnership 50% owned by Woodward Chemicals Corporation).
(ej) One Hundred West Corp. (MO.).
(ek) One Hundred West of St. Louis, Inc. (MO.).
(el) Paramont Coal Company (a Virginia partnership 47.5% owned by Grace PAR Corporation).
(em) Penn 4743 Corp. (MO.).
(en) Petit IV, Ltd. (MO.).
(eo) Plaza 3 Restaurants Corporation (MO.).
(ep) E. A. Polumbus, Jr. & Associates, Inc. (Colo.).
(eq) Process Evaluation and Development Corporation (Del.).
(er) Pursue Gas Processing and Petrochemical Company (a Texas partnership 25% owned by Sourgasco II Corp.).
(es) Rapoca Energy Company (a Virginia partnership 47.5% owned by Grace REC Corp.).
(et) Red-Steer, Inc. (MO.).
(eu) Rent-It, Inc. (Texas).
(ev) Restaurant Supply, Inc. (MO.).
(ew) Ridgewood Chemical Corporation (Del.).
(ex) Ridgewood Phosphate Corporation (Del.).
(ey) Sam Wilson's/Kansas, Inc. (Kan.).
(ez) Seven Hanover Square Corp. (N.Y.).

* Assets and business expropriated by Cuban Government.

(fa) S & Supply Co. (Cal.).
(fb) S & H Beverage Co., Inc. (Tex.).
(fc) Sheplers, Inc. (Kansas).
(fd) Sourgasco II Corp. (Del.).
(fe) Southern Oil, Resin, & Fiberglass, Inc. (Fla.).
(ff) Standard TransPipe Corp. (Del.).
(fg) Standard TransPipe, (Virgina) Inc. (Va.).
(fh) StanTrans, Inc. (Del.).
(fi) Stopover Restaurants, Inc. (MO.).
(fj) Support Terminal Services, Inc. (Del.).
(fk) Terry Eagle Coal Company (a West Virginia partnership 47.5% owned by Grace TEC Corporation).
(fl) Thrift Builders Supply, Inc. (AZ.).
(fm) VEN-TECH ONE, Inc. (Del.).
(fn) VEN-TECH TWO, Inc. (Del.).
(fo) Water Street Corporation (Del.).
(fp) Woodward Chemicals Corporation (Del.).
(fq) Woolwich Sewer Company, Inc. (N.J.).
(fr) Woolwich Water Company, Inc. (N.J.).

1. Parent corporation and address of principal office: Newell Companies, Inc., 29 East Stephenson Street, Freeport, Illinois 61032.

2. Wholly-owned subsidiaries which will participate in the operations and states of incorporation:

(a) Mirro Corporation, 1512 Washington Street, Manitowoc, Wisconsin 54220, (Incorporated in New Jersey).
(b) Counselor Products Ltd., 56 Torlake Crescent, Toronto, Ontario, Canada M8Z 1C1, (Incorporated in Canada).
(c) EZ Paintr Corporation, 4051 S. Iowa Avenue, Milwaukee, Wisconsin 53207, (Incorporated in Delaware).
(d) Newell Industries Canada, Inc., 1666 Aimco Blvd., Mississauga, Ontario, Canada L4N 1VA, (Incorporated in Canada).

1. Parent corporation and address of principal office: Vogel Paint and Wax Co., Inc., Industrial Airpark, Orange City, Iowa 51041—State of Incorporation—Iowa

2. Wholly-owned subsidiaries which will participate in the operations and State(s) of incorporation:

	State of incorporation
Master Products Company	Iowa.
Quad States Industries, Inc.	Iowa.
Diamond Vogel Paint Company	Iowa.
Diamond Products Company	Illinois.
Vogel Paint Mfg. Co., Inc.	Nebraska.
Van Sickle Paint Mfg. Co.	Nebraska.
Tretiak's Inc.	Nebraska.
Marwin Paint, Inc.	Minnesota.
Mile Hi Paints & Equipment Co.	Colorado.
Komac Paint, Inc.	Colorado.
Diamond Vogel of Wisconsin, Inc.	Wisconsin.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-26743 Filed 9-29-83; 8:45 am]
BILLING CODE 7035-01

[Finance Docket No. 30260]

Railroads; Boston and Maine Corporation; Abandonment Exemption in Middlesex and Suffolk Counties, MA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior review and approval under 49 U.S.C. 10903 *et seq.* abandonment by the Boston and Maine Corporation of approximately 0.47 miles of railroad (Hoosac Dock Branch) between milepost 0.0 in the City of Cambridge and milepost 0.47 in the City of Boston, subject to standard labor protective conditions.

DATES: This exemption shall be effective on October 31, 1983. Petitions to stay the effectiveness of this decision must be filed by October 10, 1983. Petitions for reconsideration must be filed by October 20, 1983.

ADDRESSES: Send pleadings referring to Finance Docket No. to:

(1) Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Sidney Weinberg, Boston and Maine Corporation, 150 Causeway Street, Boston, MA 02114

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC 20423, or call 289–4357 (DC Metropolitan area or toll free (800) 242–5403.

Dated: September 22, 1983.

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

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-26744 Filed 9-29-83; 8:45 am]
BILLING CODE 7035-01-M

[Ex Parte No. 448]

Railroads; Consolidated Rail Corp.; One Year Extension of Surcharge Authority Under 49 U.S.C. 10705a(a)

AGENCY: Interstate Commerce Commission.

ACTION: One-year extension of the surcharge provisions of 49 U.S.C. 10705a(a).

SUMMARY: The Commission has extended for one-year the surcharge provision of 49 U.S.C. 10705a(a) from September 30, 1983, to September 30, 1984

DATE: This action will be effective on September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2227, Interstate Commerce Commission, Washington, DC, 20423 or call 289–4357 (D.C. Metropolitan area) or toll free (800) 424–5403.

This action will not significantly affect either the quality of the human environment or energy consumption.

Statutory authority:
49 U.S.C. 10321 and 10705a; 5 U.S.C. 553.

Decided: September 26, 1983.

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

Agatha L. Mergenovich,
Secretary.

[FR Doc. 83-26745 Filed 9-29-83; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Forms Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new forms, revisions, extensions (burden change), extensions (no change), or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.
The title of the form.
The Agency form number, if applicable.
How often the form must be filled out.
Who will be required to or asked to report.
Whether small business or organizations are affected.
The standard industrial classification (SIC) codes, referring to specific respondent groups that are affected.
An estimate of the number of responses.
An estimate of the total number of hours needed to fill out the form.
The number of forms in the request for approval.
An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202–523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202–395–6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

New

Bureau of Labor Statistics
CES (BLS 790) Subscribers Survey
BLS 790–SUB
One Time Survey
Individuals or households; small business or organization
5,177 responses; 2,585 hours; one form

Questionnaire mailed to all subscribers of Employment and Earnings asking them what Establishment data they use and what they use it for. By asking subscribers to complete the questionnaire, we will gain knowledge not available elsewhere about uses of CES survey data.

Revision

Employment Standards Administration
Student Statement/School Certification
CM–981
Annually
State or local governments; non-profit institutions
1,000 responses; 250 hours; 1 form

The CM–981 is sent to a dependent who has completed high school to determine whether he/she is attending an institution of higher learning on a full-time basis and therefore entitled to benefits as a dependent student. This information is certified by a school official.

Employment and Training Administration
Mass Layoff and Plant Closing Report (formerly Report of Significant Layoff)
ETA 235
Whenever a layoff of 50 more occurs
State and local governments
SIC: 944
5,400 responses; 2,700 hours; 1 form

Section 462(e) of the Job Training Partnership Act mandates that the Secretary of Labor shall develop and maintain data on permanent layoffs and plant closings and shall publish a report on such data on an annual basis.

Extension

Employment Standards Administration
Carrier's or Self-Insurer's Report on Rehabilitation to the Deputy Commissioner
LS–222
On occasion
Businesses or Other For-Profit
1,500 responses; 1,250 hours; one from

Notifies OWCP of injured workers who may need vocational rehabilitation services. Acts as an early referral mechanism to insure injured workers receive rehabilitation services before their disabilities become fixed they develop unwholesome attitudes that are difficult to change. Submitted by insurance carriers and self-insurers.

Employment Standards Administration
FECA Medical Report Forms
CA–16, CA–17, CA–20, CA–20a, CA–28, CA–1090, CA–1300, CA–1304, CA–1305, CA–1306, CA–1308, CA–1314, CA–1316, CA–1087, OWCP–5, CA–1020, CA–1303
Other—As needed
Small Businesses or Organizations
430,350 responses; 216,700 hours; 17 forms

The information obtained through the use of these forms is necessary to determine whether or not a federal employee who has filed a claim under Federal Employees' Compensation Act (FECA) (5 USC 8101 et seq.) is entitled to compensation.

Employment Standards Administration
Claim for Survivor's Benefits Under the Black Lung Benefits Act
Other—On death of miner
Individual or households
1,320 responses; 440 hours

A claim for benefits under the Black Lung Benefits Act, as amended, must be filed by any survivor of a coal mine in conjunction with other information to determine eligibility for benefits.

Employment Standards Administration
Employment Information Form
WH–3
On occasion
Individuals or Households
40,000 responses; 13,333 hours

This form is used to obtain information from individuals about alleged violations under the laws enforced by Wage-Hour. In addition to obtaining information about compliance with labor standards, this form is also used as a screening device to determine whether the Division has jurisdiction in handling an alleged violation.

Employment Standards Administration
Work Experience and Career Exploration Program
29 CFR 570
Biennially
State of local governments
Recordkeeping/reporting (no form); 4,586 hours

Wage and Hour requirement that State educational agencies file an application for approval of programs under Work Experience and Career Exploration Program exception to Child Labor Regulation 3.

Employment and Training Administration
WIN Employability Plan and Certification Record
ETA 596
On occasion
State or local governments
SIC: 944
32,300 hours; 1 form

WIN staff use this form to summarize appraisal and employability plan information, and obtain registrants' signatures, indicating agreement with the employability plan. It is used by the SAU to assure that registrants are certified for social services.

Employment and Training Administration
WIN Status Change Notice
ETA 597
On occasion
State or local governments
SIC: 944
871,720 responses; 43,586 hours; 1 form

The form is used to record registrant status and activity in the WIN program from entry into employment to deregistration and follow-through. It is used to enter WIN client activity into the automated system, and to transmit information for the use of the Welfare agency.

Employment and Training Administration
ET Handbook No. 384, Unemployment Compensation for Ex-Service Members (UCX)
ETA 8–41 and ETA 8–43
On Occasion
Individuals, State or local governments, Federal Agencies
SIC: 944
287,000 responses; 6,458 hours

Federal Law [5 U.S.C. 8521 et seq.] provides unemployment insurance protection to former members of the Armed Force's referred to in abbreviated form as "UCX". The forms in the *UCX Handbook* are used to implement the provisons of this Act.

Reinstatement

Employment Standards Administration
Operator Response (CM–970a); Operator Controversion Form (CM–970)
CM–970a; CM–970
On occasion
Businesses or organizations
15,000 responses; 3,000 hours; 2 forms

The forms CM–970 and 970a are used by mine operators to controvert an initial finding of liability for payment of black lung benefits under the Black Lung Benefits Reform Act, 30 U.S.C. 901 et seq.

Employment and Training Administration
Annual State WIN Plans
Annually
State and local governments
SIC: 944
35 responses; 2,695 hours

The State WIN Plan is the basic planning and management tool utilized by the national and regional offices to ensure State compliance with legislation, regulations and national office goals. It is the vehicle for providing allocation levels to State agencies. Respondents are State staff.

Signed at Washington, D.C. this 27th day of September 1983.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 83–26837 Filed 9–29–83; 8:45 am]

BILLING CODE 4510–27; 4510–30

Workers' Compensation Office

Disability Compensation; Computer Match of Names and Social Security Numbers by State of Ohio

Summary: The Department of Labor, Employment Standards Administration, Office of Workers' Compensation Programs (OWCP), announces a computer match to be performed by the State of Ohio of the names and Social Security Numbers of beneficiaries under the Federal Employees' Compensation Act, who receive compensation for total disability on the periodic roll and have mailing addresses in or near that state, and the benefit history maintained by the State Employment Security Agency.

a. *Authority:* The Federal Employees' Compensation Act (FECA) 5 U.S.C. 8101, et seq.

b. *Description of Match:* Among the responsibilities of the OWCP in the administration of the FECA is to assure that benefit payments are proper and to prevent fraud or abuse. The computer matching program is an efficient and non-intrusive method of determining the propriety of program beneficiaries receiving compensation for total disability.

The matching effort will compare the name and Social Security number of the beneficiary receiving compensation for total disability having a mailing address in or near the state taking part in this pilot program, with the benefit history file of the State Employment Security Agency.

The intent of the match will be to identify those beneficiaries who, while receiving compensation for total disability on the periodic roll, had earnings which were not reported to the OWCP. The organizations in the match are the State Employment Security Agency of Ohio and the Office of Workers' Compensation Programs of the Department of Labor. The OWCP will provide to the state agency, on computer tape, the name and the Social Security Number of the selected beneficiaries. The state will match its benefit history information against these files. The period covered by the match will be the six most recent quarters.

The "raw hits" resulting from the cross match will be submitted to the OWCP (along with the source material) for validation and editing against case files in the OWCP system of records. After editing, OWCP will determine which cases shall be further processed or investigated to ascertain whether the individual actually had earnings which should have been reported to the OWCP. Action will be taken to assure that benefits are not being paid in those cases in which there is no entitlement. Certain findings may be submitted to the Department of Justice through the USDOL/OIG for prosecution. The state agency will not use the material from the match for any purpose. The sole beneficiary of the match will be the OWCP. Although scheduled as a pilot study, recommendations for periodic and/or ongoing matches and additions to the number of participating states are anticipated as a result of analysis of this study. Consideration will be given to the costs and benefits as part of the future recommendations.

c. *Description of Federal Records to be Matched:* DOL/ESA–13 Office of Workers' Compensation Programs, Federal Employees' Compensation Act file (47 FR 134, pg. 30382, July 1, 1982; as amended in 48 FR 27, pg. 5826, February 8, 1983) will be the source of the information being furnished to the state agency.

d. *Period of the Match:* The match should take place between October 1, 1983 and October 31, 1983. Follow-up procedures may extend through the calendar year and into early 1984.

e. *Security:* The personal privacy of individuals identified is protected by strict compliance with the Privacy Act (Pub. L. 93–579) and OMB Circular A–108. Information from the match will be used only for official purposes and "raw hit" information will not be released to the public.

No source materials or information contained therein or any hit information will be duplicated or disseminated within or without the matching agency of the state; and personnel of the matching agency will have access to the material or password only for the purpose of furthering the matching program. The source information and the information contained therin will not be used for any purpose other than the match described above. The source and hit information will be protected while in the possession of the state whether by being put into locked files or cabinets or protected by computer password, if in the computer. The matching file (source information) supplied by the OWCP and any hits resulting from the match will be returned directly by the state to the OWCP. It is understood that the source material remains the property of the OWCP.

f. *Disposition of the Records:* As indicated above, all records sent to the states as well as records of hits will be returned to the OWCP. The hits will be edited, using information contained in OWCP's file. Where there is a question of the entitlement of the claimant to receive compensation or compensation at a particular level, the case will be set up for investigation. There will be no payment discontinued solely because the name appears as a "hit". The original source material will be destroyed or expunged and the "raw hit listing" will not be kept after editing. However, "hits" which are further processed or investigated along with the results of the investigation will be made part of the case file of the beneficiary.

8. *Other Comments:* The match is being performed solely for the purpose of the OWCP by the states without any use of the information by them. The actual amount of compensation being received will not be in the source material furnished to the states.

Signed at Washington, D.C. this 26th day of September, 1983.

Lawrence Rogers,

Acting Director, Office of Workers' Compensation Programs.

[FR Doc. 83-26836 Filed 9-30-83; 8:45 am]

BILLING CODE 4510-27-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

Correction

In FR Doc. 83-25751 beginning on page 43516, in the issue of Friday, September 23, 1983, make the following correction:

On page 43516, third column, under "Supersedeas Decisions to General Wage Determination Decisions"— Wisconsin— "WI82-2074 (WI83-2075)" should read "WI82-2004 (WI83-2074)."

BILLING CODE 1505-01-M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; American Enka Co., et al.

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in wiritng with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 11, 1983.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 11, 1983.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 26th day of September 1983.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition number	Articles produced
American Enka Co., Polyester Filament Plant (workers)	Central, SC	9/20/83	9/14/83	TA-W-15,008	Polyester filament yarn.
AMP Delmed Dialysis Group (company)	Freehold, NJ	9/20/83	8/26/83	TA-W-15,009	Kidney dialysis machines and related products.
(The) Budd Co., Detroit Plant (UAW)	Detroit, Mich	9/19/83	9/14/83	TA-W-15,010	Rims and wheels for trucks.
Cuyuna Engine Co. (company)	Crosby, Minn	9/20/83	9/15/83	TA-W-15,011	Cylinder, engines—air cooled, two cycle.
Great Lakes Carbon Corp. (ILWU)	Rosamond, CA	9/19/83	9/15/83	TA-W-15,012	Graphite electrodes and nipples.
Harbison-Walker Refractories, Clearfield Works (USWA)	Clearfield, PA	9/19/83	9/15/83	TA-W-15,013	Refractory products.
McGraw Edison Co., Power Systems Group, (USWA)	Canonsburg, PA	9/19/83	9/14/83	TA-W-15,014	Power transformer and power breakers.
METCOA (USWA)	Pulaski, PA	9/19/83	9/14/83	TA-W-15,015	Metals and alloys.
Milwaukee Solvay Coke Co. (workers)	Milwaukee, Wis	9/20/83	9/15/83	TA-W-15,016	Metalurgical coke.
Wells Lamont Corp. (company)	Brownsville, Tenn	9/20/83	9/13/83	TA-W-15,017	Gloves.
Bethlehem Steel Corp. (USWA)	Steelton, PA	9/19/83	9/15/83	TA-W-15,018	Steel, rail, rebar, frogs, switches, tie plates and pipe.
C. F. Nitrogen, Inc. (workers)	Ahoskie, NC	9/15/83	9/12/83	TA-W-15,019	Ammonia, urea and ammonia nitrate (fertilizer).
Cooper Industries, Inc. (workers)	Grand Haven, Mich	9/15/83	8/30/83	TA-W-15,020	Industrial power tools.
Harris Calorific Co. (UAW)	Cleveland, Ohio	9/19/83	9/12/83	TA-W-15,021	Gas cutting torches and regulator parts.
Mr. Jon of Miami, Inc. (workers)	Miami Beach, Fla	9/15/83	8/28/83	TA-W-15,022	Ladies sportswear.
Steelton & Highspine Railroad Co. (USWA)	Steelton, PA	9/19/83	9/15/83	TA-W-15,023	Transports steel rail, rebar, frogs, switches, tie plates and pipe—within plant and outside.
(The) Timkin Co. (USWA)	Wooster, Ohio	9/19/83	9/13/83	TA-W-15,024	Steel products.

[FR Doc. 83-26838 Filed 9-29-83; 8:45 am]

BILLING CODE 4510-30-M

Pension and Welfare Benefit Programs

Grant of Individual Exemptions; Bell System Trust et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Grant of individual exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1954 (the Code).

Notices were published in the **Federal Register** of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, D.C. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of pendency were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in ERISA Procedure 75–1 (40 FR 18471, April 28, 1975), and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

The Bell System Trust Located in New York, New York

[Prohibited Transaction Exemption 83–157; Exemption Application Nos. D–3373, D–3374 and D–3375]

Exemption

The restrictions of section 406(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (D) of the Code, shall not apply, effective August 9, 1982, to (1) the leasing of space in certain buildings (the Buildings) located in an office park (the Office Park) by Tamptel I, Inc., Tamptel II, Inc., Tamptel III, Inc. and Tamptel IV, Inc. (collectively, the Tamptel Corporations) on behalf of the Bell System Pension Plan and/or the Bell System Management Pension Plan (collectively, the Plans), to Equitable Life Assurance Society of the United States (Equitable), the Landmark Group Services Corporation of Florida (Landmarks), the Landmark Group General Corporation (the Management Corporation) and to any other persons or entities that may be parties in interest with respect to the Plans, following the acquisition of the Office Park ground lease by the Tamptel Corporations on behalf of the Plans, provided that the terms and conditions of any such leases are at least as favorable to the Plans as those which are customary for similar leases with respect to similarly situated buildings in the Tampa, Florida area, and provided further that any such leases are approved on behalf of the Plans by a trustee or investment manager which is not affiliated with or otherwise releated to such tenants in any manner which would affect the exercise of its judgment as a fiduciary; (2) the acquisition by or for the benefit of the Plans of certain real property (the Contiguous Property) from the Landmarks Groups Properties Corporation, Blaine Kelly, Jr. and/or Donald Brooks (collectively, the Owners) or any affiliate of any of the Owners that may be a party in interest with respect to the Plans, provided that the terms and conditions of any such acquisition are at least as favorable to the Plans as those obtainable in an arm's length transaction with an unrelated party, and that any such acquisition is approved on behalf of the Plans by a trustee or investment manager which is not affiliated or otherwise related to the sellers of such property in any manner which would affect the exercise of its judgement as a fiduciary; and (3) the leasing of space in any buildings situated on the Contiguous Property, if acquired by or for the benefit of the Plans, to any persons or entities that may be parties in interest with respect to the Plans, provided that the terms and conditions of any such lease are at least as favorable to the Plans as those which are customary for similar leases with respect to similarly situated buildings in the Tampa, Florida area and provided further that any such leases are approved on behalf of the Plans by a trustee or investment manager which is not affiliated with or otherwise related to such tenants in any manner which would affect the exercise of its judgement as a fiduciary.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on October 26, 1982 at 47 FR 47486.

Written Comments: One comment was received by the Department with regard to the proposed exemption. However, the comment did not relate to the merits of the transactions. Therefore, based on the record taken as a whole, the Department has determined to grant the exemption as proposed.

For Further Information Contact: Mr. David M. Cohen of the Department, telephone (202) 523–8671. (This is not a toll-free number.)

R.J. Abramo Associates, Inc. Profit Sharing Plan (the Plan) Located In Holliston, Massachusetts

[Prohibited Transaction Exemption 83–158; Exemption Application No. D–3698]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply for a period of five years to: (1) The proposed loans (the Loans) of money by the Plan to R.J. Abramo Associates, Inc. (the Employer); and (2) the guarantee of repayment of the Loans by the Employer and Mr. Ralph J. Abramo, Sr., provided that the terms and conditions of such Loans are at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party at the time of consummation of each transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1983 at 48 FR 33563.

Temporary Nature of Exemption

This exemption is temporary and will expire five years after the date of grant with respect to the making of any loan. This exemption would also extend to the holding by the Plan of any Loans beyond the initial 5 year period provided such Loans originated during the initial 5 year period.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523–8971. (This is not a toll-free number.)

The Foodcraft, Inc. Defined Benefit Pension Plan (the Plan) Located in Los Angeles, California

[Prohibited Transaction Exemption 83–159; Exemption Application No. D–4179]

Exemption

The restrictions of section 406(a), 406(b) (1) and (2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to: (1) The proposed purchase of certain real property (the Property) by the Plan from Ernest and Caryl Lieblach (the Lieblichs) for a cash price of $165,000 provided that this price is no more than the fair market value of the Property at the time of sale; (2) the subsequent ground lease (the Lease) of the Property by the Plan to the Lieblichs provided that the terms and conditions of the Lease are and will remain at least as favorable to the Plan as those which the Plan could receive from an unrelated party in a similar transaction; and (3) any resale of the Property by the Plan to the Lieblichs provided that the sales price is not less than the then current fair market value.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 5, 1983 at 48 FR 35740.

For Further Information Contact: Paul R. Antsen of the Department, telephone (202) 523-6915. (This is not a toll-free number.)

Modern Finance Corporation Pension Plan (the Plan), Located in Detroit, Michigan

[Prohibited Transaction Exemption 83-160; Exemption Application No. D-4235]

Exemption

The restrictions of section 406(a) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply, for a period of five years, to the proposed loans by the Plan of up to 25% of its assets to Modern Finance Corporation and to the guarantee of repayment on the loans by Mr. Stuart Hirshberg, provided that the terms of the transactions are not less favorable to the Plan than those obtainable in an arm's length transaction with an unrelated party at the time of consummation of each transaction.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 5, 1983 at 48 FR 35742.

Temporary Nature of Exemption

The exemption is temporary and will expire five years after the date of grant with respect to the making of any loan. Subsequent to the expiration of the exemption, the Plan may hold loans originated during this five year period for an additional five years. Should the applicant wish to continue entering into loan transactions beyond the five year period, the applicant may submit another application for exemption.

For Further Information Contact: Alan H. Levitas of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Radiology Associates, P.A. Profit Sharing Plan (the Plan), Located in Little Rock, Arkansas

[Prohibited Transaction Exemption 83-161; Exemption Application No. D-4342]

Exemption

The restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of funds by the Plan to Medical Equipment Leasing Company, a party in interest with respect to the Plan, provided that the terms and conditions of the loan are not less favorable to the Plan than those obtainable in a similar transaction with an unrelated party.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on August 5, 1983 at 48 FR 35743.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 27th day of September, 1983.

Alan D. Lebowitz,

Assistant Administrator for Fiduciary Standards, Pension and Welfare Benefit Programs, Labor-Management Services Administration, Department of Labor.

[FR Doc. 83-26823 Filed 9-29-83; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

September 27, 1983.

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), as amended, notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a meeting on Monday, Tuesday, and Wednesday, October 17-19, 1983. The panel meeting on Monday, October 17 will be held in Room 6802 at the Herbert C. Hoover Building (Main Commerce), 14th and Constitution Avenue, NW., Washington, DC. The meeting on Tuesday and Wednesday, October 18-19 will be held in Rooms 416 and B-100 at Page Building #1, 2001 Wisconsin Avenue, NW., Washington, DC. The committee, consisting of 18 non-Federal members appointed by the President from academia, business and industry, public interest organizations, and State and local government, was established by Congress by Pub. L. 95-63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to carrying out of the programs administered by the National Oceanic and Atmospheric Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the nation's marine and atmospheric activities, and submit other reports as may from time to time be requested by the President or Congress.

The Tentative Agenda is as follows:

Monday, October 17, 1983

Note.—The Exclusive Economic Zone Panel meeting on Monday, October 17, 1983 will be held at the Department of Commerce. Please see below for exact location. The meetings on Tuesday and Wednesday, October 18 and 19, 1983 will be held at Page Building #1, Rooms 416 and B-100.

Herbert C. Hoover Building (Main Commerce), 14th Street and Constitution Ave. NW., Room 6802, Washington, DC.

Panel Meeting

9:00 a.m.–5:00 p.m.:
- Exclusive Economic Zone
  Chairman: Don Walsh
  Room 6802

Lunch

12:00 Noon–1:00 p.m.

Recess

5:00 p.m.

Tuesday, October 18, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 and B–100, Washington, DC

Plenary

9:00 a.m.–12:30 p.m.
9:00 a.m.–9:30 a.m.
- Announcements
  Room 416

9:30 a.m.–12:30 p.m.:
- Weather Services
  Room 416

Information Briefings:
Topic: Prototype Regional Observing and Forecasting System (PROFS)
Speaker: A. E. MacDonald, Director, PROFS Program
Topic: Weather Alert Radar Network, Inc. (WARN)
Speaker: Robert Mandal, President, WARN, Inc.

Lunch

12:30 p.m.–1:30 p.m.

Panel Meeting

1:30 p.m.–5:00 p.m.:
- Exclusive Economic Zone
  Chairman: Don Walsh
  Room 416

Topic: Panel Work Session
Speakers: None

Recess

5:00 p.m.

Wednesday, October 19, 1983

2001 Wisconsin Avenue, NW., Page Building #1, Rooms 416 and B–100, Washington, DC

Panel Meetings

8:30 a.m.–12:00 Noon
8:30 a.m.–10:30 a.m.:
- Shipbuilding Chairman: Don Walsh
  Room 416
  Topic: Panel Work Session
  Speakers: None

8:30 a.m.–10:30 a.m.:
- Weather Services
  Chairman: Warren Washington
  Room B–100
  Topic: Panel Work Session
  Speakers: None

10:30 a.m.–12:00 Noon:
- Global Positioning System
  Chairman: Burt Keenan
  Room 416
  Topic: Panel Work Session
  Speakers: Ernst G. Frankel, Ports, Shipping, and Aviation Consultant, World Bank, TBA

Lunch

12:00 Noon–1:00 p.m.

Plenary

1:00 p.m.–3:30 p.m.:
- Radioactive Waste Review: Status Report
- Review and Approval of Position Statement on Underwater Technology
- Action Items
- Panel Reports

Adjourn

3:30 p.m.

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to place limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Steven N. Anastasion, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street NW., Washington, DC 20235.

Dated: September 27, 1983.

James A. Almazan,

Staff Physical Scientist.

[FR Doc. 83-26628 Filed 9-29-83; 8:45 am]
BILLING CODE 3510-12-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 83-78]

Government-owned Inventions; Availability for Licensing

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of availability of inventions for licensing.

SUMMARY: The inventions listed below are owned by the U.S. Government and are available for domestic and, possibly foreign licensing.

Copies of patent applications cited are available from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for $6.00 each ($10.00 outside North American Continent). Requests for copies of patent applications must include the patent application serial number. Claims are deleted from the patent application copies sold to avoid premature disclosure.

DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: National Aeronautics and Space Administration, John G. Mannix, director of Patent Licensing, Code GP–4, Washington, D.C. 20546, telephone (202) 755–3954.

Patent application 196,877: Apparatus and Method for Destructive Removal of Particles Contained in a Flowing Fluid; filed October 14, 1980.

Patent application 235,472: Digital Interface; filed February 18, 1981.

Patent application 238,257: Air Modulation Apparatus; filed February 25, 1981.

Patent application 342,828: Method for Making a Bonded Single Mode Fiber-Optic Waveguide Coupler; filed January 26, 1982.

Patent application 376,306: Photoelectrochemical Electrodes; filed May, 10, 1982.

Patent application 384,547: Digital Control of Diode Laser for Atmospheric Spectroscopy; filed June 3, 1982.

Patent application 387,622: Method for Terminal Position Determination in Earth Terminal-to-Satellite Burst Acquisition and Synchronization; filed June 11, 1982.

Patent application 402,205: Split-Cross-Bridge Resistor for Testing for Proper Fabrication of Integrated Circuits; filed July 26, 1982.

Patent application 423,016: Portable Remote Laser Sensing for Methane Leak Detection; filed September 24, 1982.

Patent application 461,788: Elastomer Toughened Polyimide Adhesives; filed January 28, 1983.

Patent application 463,440: Polyvinyl Alcohol Battery Separator Containing Inert Fillers; filed February 3, 1983.

Patent application 465,370: Non-Invasive Method and Apparatus for Measuring Pressure Within a Pliable Vessel; filed February 10, 1983.

Patent application 469,867: Piezoelectric Deicing Device; filed February 25, 1983.

Patent application 473,498: Ring-Cusp Ion Thruster With Shell Anode; filed March 9, 1983.

Patent application 476,244: Three Phase Power Factor Controller; filed March 14, 1983.

Patent application 478,129: A Spillage Detector for Liquid Chromatography Systems; filed March 23, 1983.

Patent application: 481,020 Geodetic Distance Measuring Apparatus; filed March 7, 1983.

Patent application 481,106: Model Mount System for Testing Flutter; filed March 31, 1983.

Patent application 486,470: Solar Energy Converter Using Surface Plasma Waves; filed April 19, 1983.
Patent application 486,471: Inelastic Tunnel Diodes; filed April 19, 1983.
Patent application 489,675: Rotor Blade With Passive Tuned Tab; filed April 28, 1983.
Patent application 489,902: Damping Seal for Turbomachinery; filed April 28, 1983.
Patent application 49,113: Portable 90 Proof Loading Device; filed May 3, 1983.
Patent application 491,125: Carboranylmethylene-Substituted Phosphazenes Polymeres Thereof and Process for the Production Thereof; filed May 3, 1983.
Patent application 492,282: A Solvent Resistant, Thermoplastic Aromatic Poly (Imidesulfone) and Process for Making Same; filed May 6, 1983.
Patent application 492,522: A Linearized Traveling Wave Amplifier with Hard Limiter Characteristics; filed May 9, 1983.
Patent application 492,963: Process for Producing Tris (N–Methylamino Methylsilane), filed May 9, 1983.
Patent application 493,179: Production of Butanol by Fermentation in the Presence of Cocultures of Clostridium; filed May 10, 1983.
Patent application 493,864: 1-[(Dialkoxyphosphonyl) methyl] -2,4 - and - 2,6-Dinitro- and Diamino Benzenes and Their Derivatives; filed May 12, 1983.
Patent application 493,865: Toughening Reinforced Epoxy Composites with Brominated Polymeric Additives; filed May 12, 1983.
Patent application 493,866: Sonic Levitation Apparatus; filed May 12, 1983.
Patent application 495,380: Daze Fasteners; filed May 17, 1983.
Patent application 495,381: Diamondlike Flake Composites; filed May 17, 1983.
Patent application 500,044: Carbon Granule Probe Microphone for Leak Detection; filed June 1, 1983.
Patent application 500,045: Fully Plasma-Sprayed Compliant Backed Ceramic Turbine Seal; filed June 1, 1983.
Patent application 500,046: Elevated Waterproof Access Floor System and Method of Making the Same; filed June 1, 1983.
Patent application 501,060: Memory-Based Parallel Data Output Controller; filed May 18, 1983.
Patent application 504,345: Power Control for AC Motor; filed June 14, 1983.
Patent application 506,477: High Voltage Isolation Transformer; filed June 30, 1983.
Patent application 507,623: Induction Heating Gun; filed June 24, 1983.
Patent application 507,624: Method for Growing Low Defect, High Purity Crystalline Layers; filed June 24, 1983.
Patent application 507,625: GaAs Schottky Barrier Photo-Responsive Device and Method of Fabrication; filed June 24, 1983.
Patent application 507,626: High Thermal Power Density Heat Transfer Apparatus Providing Electrical Isolation at High Temperature Using Heat Pipes; filed June 24, 1983.
Patent application 508,371: Extended Moment Arm Anti-Spin Device; filed June 27, 1983.
Patent application 508,372: Flow Resistivity Instrument; filed June 27, 1983.
Patent application 508,390: Securable Bearing Stress-Strain Indicator; filed June 27, 1983.
Patent application 510,137: Variable Length Strut with Longitudinal Compliance and Locking Capability; filed July 1, 1983.
Patent application 516,087: Hot Melt Adhesive Attachment Pad; filed July 22, 1983.
Patent application 516,217: Chemical Approach for Controlling Nadimide Cure Temperature and Rate; filed July 22, 1983.
Patent application 523,560: Auto Covariance Computer; filed August 16, 1983.
Patent application 527,918: Continuous Laminar Smoke Generator; filed August 30, 1983.

John E. O'Brien,

Deputy General Counsel.

[FR Doc. 83-26684 Filed 9-29-83; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL CREDIT UNION ADMINISTRATION

Agency Forms Submitted to the Office of Management and Budget for Clearance

The following are those packages submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Subject: Operating Fee Statement. Extension/No Change.

Respondents: Federal Credit Unions.

Copies of the above information collection clearance packages can be obtained by calling the National Credit Union Administration, Special Projects Officer, on 202–357–1080.

Written comments and recommendations for the listed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: Judith McIntosh.

Dated: September 15, 1983.

Rosemary Brady,

Secretary of the National Credit Union Administration Board.

[FR Doc. 83-26733 Filed 9-29-83; 8:45 am]

BILLING CODE 7535-01-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Design Arts Advisory Panel Communication Section; Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the design Arts Advisory Panel (Communication Section) to the National Council on the Arts will be held on October 17–18, 1983, from 9:00 a.m.–6:00 p.m. in Room 730 of the Nancy Hanks Center, 1100 Pennsylvania Avenue NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 682–5433.

Dated: September 23, 1983.

John H. Clark,

Director, Office of Council and Panel Operations National Endowment for the Arts.

[FR Doc. 83-26793 Filed 9-29-83; 8:45 am]

BILLING CODE 7537-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-199]

Manhattan College; Consideration of Application for Renewal of Facility License

The United States Nuclear Regulatory Commission (the Commission or NRC) is considering renewal of Facility License No. R-94, issued to Manhattan College (the licensee), for operation of the research reactor located on the campus in New York, New York.

The renewal would extend the expiration date of Facility License No. R-94 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated August 26, 1983.

Prior to a decision to renew the license, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations.

By October 31, 1983, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene will be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (petitioner's name and telephone number); (date petition was mailed); (Manhattan College); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Broderick, Galway & Vaccaro, 80 Fifth Avenue, New York, New York 10011, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714 (a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for renewal dated August 26, 1983, as supplemented, which is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 23rd day of September 1983.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization & Special Projects Branch, Division of Licensing.

[FR Doc. 83-26988 Filed 9-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-416]

Mississippi Power & Light Co., et al.; Issuance of Amendment of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 9 to Facility Operating License No. NPF-13, issued to Mississippi Power and Light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for Grand Gulf Nuclear Station, Unit No. 1 (the facility) located in Claiborne County, Mississippi. This amendment grants changes to the Technical Specifications which are administrative in nature and are necessary to correct editorial and nomenclature errors and to achieve consistency with the as-built condition of the plant. None of the changes involve a significant relaxation of the criteria used to estblish safety limits or the bases for limiting safety system settings or limiting conditions for operation.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR

Chapter I, which are set forth in the license amendment. The changes to the Technical Specifications approved in this amendment are to correct deficiencies and inadvertent errors in the Technical Specifications which were identified during the low power testing period at Grand Gulf Unit 1. The corrective measures result as part of the review for the full power operating license and are encompassed by the prior public notice of the overall action involving the proposed issuance of an operating license published in the **Federal Register** on July 28, 1978 (43 FR 32903).

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact other than those evaluated in the Final Environmental Statement since the activity authorized by this amendment is encompassed by the overall action evaluated in the Final Environmental Statement dated September 1981.

For further details with respect to this action, see (1) the applications for the amendment dated June 9, 1983, June 14, 1983, June 23, 1983, June 29, 1983, July 19, 1983 August 1, 1983, August 9, 1983, August 15, 1983, and August 29, 1983; (2) Amendment No. 9 to License NPF-13 dated September 15, 1983; (3) the Commission's evaluation dated September 15, 1983; (4) Final Safety Analysis Report (FSAR) and amendments thereto; (5) Final Environmental Statement dated September 1981; (6) the Commission's Safety Evaluation Report dated September 1981 (NUREG-0831) and supplements thereto; and (7) the Commission's Confirmation of Action letter dated October 20, 1982. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. 20555, and at the Hinds Jr. College, George M. McLendon Library, Raymond, Mississippi 39154. A copy of items (1), (2), (3) and (7) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of items (5) and (6) may be purchased at current rates from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161, and through the NRC GPO sales program by writing to the U.S. Nuclear Regulatory Commission, Attention: Sales Manager, Washington, D.C. 20555. GPO deposit account holders may call 301-492-9530.

Dated at Bethesda, Maryland, this 15th day of September 1983.

For the Nuclear Regulatory Commission.

A. Schwencer, Chief,

Licensing Branch No. 2 Division of Licensing.

[FR Doc. 83-26689 Filed 9-29-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; Consideration of Issuance of Amendment to Facility Operating Licenses and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF-10, and NPF-15, issued to Southern California Edison Company, San Diego Gas & Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees), for operation of the San Onofre Nuclear Generating Station, Units 2 and 3 located in San Diego County, California.

(1) In accordance with the licensees' requests of Janaury 6, July 14, and September 23, 1983, the amendments would make the following changes:

(1) Note 5 in Table 2.2-1 of Technical Specifications 2.2.1 is changed by the deletion of a description of the specific methodology used to calculate the minimum Departure from Nucleate Boiling Ratio (DNBR) trip setpoint from the safety system settings.

(2) Section B 2.2.1 of the Technical Specifications is modified by the addition of a description of the specific methodology used to calculate the minimum DNBR trip setpoint from the safety system settings. The methodology differs from that deleted from Note 5 of table 2.2-1 in that it includes methodology for incorporation of rod bow penalty factors into the Core Operating Limit Supervisory System (COLSS) and Core Protection Calculator (CPC) calculations of DNBR.

(3) The ACTION statement of Technical Specification 3/4.2.4 is changed by requiring the plant operators to "restore" the DNBR to within acceptable limits if it goes outside such limits. The present wording requires the operators to "reduce" the DNBR to within acceptable limits if it goes outside such limits.

(4) Technical Specifications 4.2.4.4 and B 3/4.2.4 are changed to incorporate revised, burnup-dependent DNBR rod bow penalty factors. The revised factors are based on Combustion Engineering Topical Report CENPD-225.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility or a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the application of these standards by providing certain examples (48 FR 14870) of amendments that are considered not likely to involve significant hazards considerations. One of the examples relates to a change which either may result in some increase to the probability or consequences of a previously analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan. Although the proposed action may slightly reduce the margin of safety by reducing the margin to DNBR under some operating conditions, the safety margin nevertheless remains within accepted criteria, as described in Combustion Engineering Topical Report CENPD-225, "Fuel and Poison Rod Bowing." This report was approved by the NRC staff in its letter of February 15, 1983, C. O. Thomas (NRC) to A. E. Scherer (CE). Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, attn: Docketing and Service Branch.

By October 31, 1983, the licensees may file a request for a hearing with respect to issuance of the amendments to the

subject facility operating licenses and any persons whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitiations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves not significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to George W. Knighton-Petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Charles R. Kocher, Esq., Southern California Edison Company, 2244 Walnut Grove Avenue, P.O. Box 800, Rosemead, California 91770 and Orrick, Herrington & Sutcliffe, Attn: David R. Pigott, Esq., 600 Montgomery Street, San Francisco, California, 94111, attorneys for the licensees.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determiation by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 6, 1983 and the supporting SCE letters dated July 14 and September 23, 1983, which are available for public inspection at the Commission's Public Document Room, 1727 H Street, N.W., Washington, D.C., and at the San Clemente Library, 242 Avenida Del Mar, San Clemente, California.

Dated at Bethesda, Maryland, this 27th day of September, 1983.

For the Nuclear Regulatory Commission.

George W. Knighton,

Chief, Licensing Branch No. 3, Division of Licensing.

[FR Doc. 83-26798 Filed 9-29-83; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Advisory Committee for Trade Negotiations; Meeting and Determination of Closing

The meeting of the Advisory Committee for Trade Negotiations (the Advisory Committee) to be held Tuesday, October 25, 1983, from 1:00 p.m. to 4:00 p.m. at the Federal Home Loan Bank Board, Amphitheater, will involve a review and discussion of the current issues involving the trade policy 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 Advisory Committee for Trade Negotiations 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. 83-26721 Filed 9-29-83; 8:45 am]

BILLING CODE 3190-01-M

Services Policy Advisory Committee; Meeting and Determination of Closing

The meeting of the Services Policy Advisory Committee (SPAC) (the Advisory Committee) to be held Wednesday, October 19, 1983, from 3:00 p.m. to 5:30 p.m. at the Federal Home Loan Bank Board, Board Room, will involve a review and discussion of the current issues involving the trade policy 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 Services 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. 83-26720 Filed 9-29-83; 8:45 am]

BILLING CODE 3190-01-M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of a proposed change to a system of records.

SUMMARY: The purpose of this document is to give notice of the intent of the Railroad Retirement Board to disclose certain debtor information to consumer reporting agencies pursuant to section (b)(12) of the Privacy Act.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611. Telephone 312–751–4548.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 amends the Privacy Act of 1974 to provide a new general disclosure authority: section (b)(12). This section permits agencies to disclose from certain of their systems of records information about persons who are in default. Disclosures can be made only to credit bureaus.

Before any disclosures can be made, agencies must go through a series of due process steps intended to validate the nature of the claim and to give the individual the opportunity to resolve the claim. One of those due process steps requires agencies to publish a notice in the **Federal Register** for each system from which they intend to disclose debtor information.

The Railroad Retirement Board reviewed its benefit program systems of records to determine applicability of the new disclosure authority. It concluded that it could disclose debtor information to credit bureaus from only one of these benefit program systems: The Regional Rail Reorganization Act Title VII Benefit System. Disclosure of debtor information from other benefit program systems of records would be prohibited by anti-disclosure provisions contained in the Railroad Unemployment Insurance Act (Section 12d, 45 U.S.C. 362(d)) and the Railroad Retirement Act (Section 7(b)(3), 45 U.S.C. 231f(b)(3)).

Dated: September 23, 1983.

By Authority of the Board.

Beatrice Ezerski,

Secretary.

RRB–40

SYSTEM NAME:

Regional Rail Reorganization Act Title VII Benefit System—RRB.

SYSTEM LOCATION:

Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Persons eligible for separation allowances, reimbursement for moving expenses, reimbursement for new career training expenses, health and welfare insurance coverage and daily subsistence allowances under Title VII of the Regional Rail Reorganization Act of 1973.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying information such as name, address, social security number, date of birth, occupational code and employer code; information pertaining to the payment or denial of a claim under Title VII of the Regional Rail Reorganization Act including protection under Title V of the Regional Rail Reorganization Act, last rate of pay, reason not working, application and claims filed, information as to the amount of separation allowance, subsistence allowance, health-welfare premiums, moving expenses, new career training assistance and dates paid, erroneous payment investigations and benefit recovery information; for new career training assistance, information as to schools attended, courses taken and proof of payment of expenses; for moving expenses, if applicable, market value of residence and sale price of residence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Public Law 97–92, Joint Resolution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. Identifying information such as full name, social security number, employee identification number, occupation, location and date last worked and reason not working may be released to ConRail or the last employer to verify entitlement for benefits under Title VII of the Regional Rail Reorganization Act of 1973.

b. Information may be released to the General Accounting Office for auditing purposes and for collection of debts arising from overpayments under Title VII of the Regional Rail Reorganization Act (45 USC 701).

c. Name, social security number, address, coverage election, premium payments and paid-through date may be released to the health-welfare insurer to correlate insurance coverage.

d. Name and address may be released to real estate agencies for the purpose of determining fair market value of homestead property.

e. Records may be disclosed in a court proceeding relating to any claims for benefits by the beneficiary under Title VII of the Regional Rail Reorganization Act of 1973 and may be disclosed during the course of an administrative appeal hearing in which such records are relevant to the issue.

f. If a request for information pertaining to an imployee is made by an official of a labor organization of which the employee is a member and the request is made on behalf of the employee, information may be released to the extent needed to respond to the inquiry.

g. Disclosure may be made to a congressional office from the employee's record in response to an inquiry from the congressional office made at the request of the employee.

h. Information in this system of records pertaining to an employee may be released to the attorney representing such employee, with respect to his claim, upon receipt of a written letter or declaration stating the fact of representation, subject to the same procedures and regulatory prohibition as the subject employee.

i. Information may be released to private contractors to the extent needed to fulfill contract requirements.

j. The last addresses and employer information may be released to the department of Health and Human services in conjunction with the Parent Locator Service.

k. Beneficiary identifying information, address, check rate, date and number may be released to the Treasury department to control for reclamation and return of outstanding benefit checks, to issue benefit checks, respond to reports of non-delivery and to insure delivery of checks to the correct address of the beneficiary or representative payee.

l. In the event that this system of records, maintained by the Railroad Retirement Board to carry out its function, indicates a violation, or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

m. Beneficiary identifying information, address, check rate, date and number, plus other necessary supporting evidence may be released to the U.S. Postal Service for investigation of alleged forgery or theft of Title VII benefit checks.

n. A record from this system of records may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of and employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, the issuance of a license, grant, or other benefit by the requesting agnecy, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

o. Information may be released to the Department of Justice and to courts of competent Jurisdiction in response to properly issued subpoenas.

p. Benefit rate, entitlement and periods paid may be disclosed to the Social Security Administration, Bureau of Supplemental Security Income, to federal, state and local welfare or public aid agencies to assist them in processing applications for benefits under their respective programs.

q. In the event the Board has determined to designate a person to be the representative payee of an incompetent beneficiary, disclosure of information concerning the benefit amount and other similar information may be made to the representative payee from the record of the individual.

DISCLOSURES TO CONSUMER REPORTING AGENCIES:

Disclosures pursuant to 5 U.S.C. 552a(b) (12): Disclosures may be made from this system to "consumer reporting agencies" as defined in the Fair credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a) (3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper, magnetic tape, magnetic disk and microforms.

RETRIEVABILITY:

Social security number.

SAFEGUARDS:

Paper and microforms: maintained in areas not accessible to the public; offices are locked during non-business hours. Magnetic tape and magnetic disk: computer and computer storage rooms are restricted to authorized personnel; on-line query safeguards include a lock/unlock password system, a terminal oriented transaction matrix and an adult trail. For computerized records electronically transmitted between headquarters and field office locations, systems securities are established in accordance with National Bureau of Standards guidelines. In addition to the on-line query safeguards, they include encryption of all data transmitted and exclusive use of leased telephone lines.

RETENTION AND DISPOSAL:

All records will be retained for 5 years following the year in which the case was closed.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Unemployment and Sickness Insurance, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

NOTIFICATION PROCEDURE:

Requests for information regarding an individual's record should be addressed to the System Manager identified above and should include the name and social security number of the individual involved. Before information about any record will be released, the System Manager may require the individual to prvide proof of identity or require the requester to furnish an authorization from the individual to permit release of information.

RECORD ACCESS PROCEDURES:

See Notification section above.

CONTESTING RECORD PROCEDURES:

See Notification section above.

RECORD SOURCE CATEGORIES:

The information in this system of records is obtained from the railroad employee or his representative, employers, labor organizations, other Railroad Retirement Board files, real estate agencies (for payment of moving expenses), and educational institutions (for payment of new career training expenses).

[FR Doc. 83-26884 filed 9-29-83; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 13533; 812-5558]

Allied Capital Corp.; Application

September 26, 1983.

Notice is hereby given that Allied Capital Corporation, ("Applicant") 1625 I Street, NW., Washington, D.C., 20006, a venture capital company registered under the Investment Company Act of 1940 ("Act") as a closed-end, non-diversified management investment company, filed an application on May 26, 1983, with amendments thereto on July 27, 1983, and August 18, 1983, pursuant to Section 6(c) of the Act requesting exemption from Sections 18(d), 21(b), 23(a) and 23(b) of the Act, pursuant to Section 17(b) of the Act requesting exemption from Section 17(a)(3) of the Act, and pursuant to Rule 17d-1 promulgated unders Section 17(d) of the Act approving certain proposed transactions, all to permit Applicant to adopt an executive compensation plan providing for the issuance of stock options to certain offices of Allied Investment Corporation, ("Allied Investment"), a wholly-owned subsidiary of Applicant which is registered under the Act as a closed-end non-diversified management investment company and licensed by the Small Business Administration ("SBA") as a small business investment company ("SBIC"), and to lend money to such officers for the purpose of facilitating their purchase of such stock upon exercise of the options. 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 complete test of provisions pertinent to the application.

According to the application, Applicant had on a consolidated basis for its fiscal year ended March 31, 1983, total assets of approximately $49.9 million, net investment income before net realized gain of approximately $1.61 million and net realized income of appoximately $3.17 million. Allied Investment constituted the bulk of these amounts, with approximately $27.3 million in assests, $.66 million in net investment income before net realized gain and $2.31 million in net realized income. Allied Lending Corporation ("Allied Lending"), another wholly-owned subsidiary of Applicant registered unde the Act as a closed-end non-diversified management investment company, is the next major component of Applicant's operations and is recognized by the SBA as a participating lender under the small business lending company program, being primarily engaged in making loans to qualified small business concerns, which loans are guaranteed as to principal up to 90 percent by the SBA. Applicant also has three small wholly-owned subsidiaries. Allied Financial Corporation ("Allied Finanical"), which is registered under the Act as a closed-end non-diversified management investment company and has filed an application to be licensed by the SBA as an SBIC engaged primarily in the business of making loans to qualified small business enterprises owned by disadvantaged persons; Allied Development Corporation, registered under the Act as a closed-end non-diversified management investment company, which is primarily engaged in making loans quaranteed in whole or part by the United States government or any instrumentaility thereof other than the SBA, and which currently has only one such loan outstanding; and Allied Advisory, Inc., which has total assets of approximately $27 million.

Applicant states that the purpose of the proposed stock option plan is to provide additional incentive to officers of Applicant and Allied Investment to exert their best efforts on behalf of those companies, to increase their proprietary interest in the success of Applicant, to reward outstanding performance and to provide a means to attract and retain persons of outstanding ability to the employ of Applicant and its SBIC subsidiaries. Indeed, Applicant submits that it has the same needs in this regard as business development companies ("BDC's), as those entities are defined in Section 2(a)(48) of the Act, since its officers who are also officers of Allied Investment, which are the only officers entitled to participate in the plan, perform functions for a company which, for the reasons described below, Applicant believes operates in all respects like a business development company. By an order of the Commission dated November 24, 1976 (Investment Company Act Release No. 9540), all officers of Applicant must be officers of Allied Investment. Applicant asserts that although the officers of Allied Investment are also officers of Applicant and it other subsidiaries, a substantial portion of their services will necessarily relate to Allied Investment's business in view of the significant portion of Applicant's business conducted through Allied Investment.

Applicant asserts that Allied Investment is within the definition of "business development company" as set forth in Section 2(a)(48) of the Act except that it has not elected BDC treatment under the Act, which would make it subject to Sections 55-through 65 of the Act. Applicant states that Allied Investment, which is organized under the laws of, and has its principal place of business in, the District of Columbia, is operated, and so long as the proposed plan is in effect it will continue to be operated, for the purpose of making various forms of investments in small business concerns. Applicant submits that since most of the investments made by Allied Investment at the time they are made will qualify as securities described in Section 55(a)(1) of the Act, it can be viewed as being operated "for the purpose of making investments in securities described in Sections 55(a)(1) through (3)" of the Act. Finally, Applicant submits that Allied Investment, as an SBIC, makes available significant managerial assistance to the issuers of such securities. Applicant states that at least 70 percent in value of each investment presently held by Allied Investment in a portfolio company at the time it was made consisted of a loan in some form to the portfolio company, and that so long as the proposed plan is in effect, at least 70 percent in value of the total investments made by Allied Investment in each calendar year will be in the form of loans to small business concerns which are eligible portfolio companies.

Applicant further asserts that although Allied Lending might be viewed as not within the definition of business development company, its operations are similar to those of a business development company. Applicant states that, as noted above, Allied Lending is primarily engaged in making loans to qualified small business concerns in accordance with the SBA's small buiness lending company program. Applicant states that the concerns which qualify under SBA regulations for a loan from Allied Lending also qualify for a loan or investment from Allied Investment and that, like Allied

Investment, most of the investments made by Allied Lending at the time they are made qualify as securities described in Section 55(a)(1) and, accordingly, Applicant submits that it can be viewed as being operated "for the purpose of making investments in securities described in Sections 55(a)(1) through (3)" of the Act. However, Applicant states that loans made by Allied Lending may be guaranteed by the SBA up to 90 percent of the principal of and interest on such loans, while loans made by Allied Investment are not eligible for such guaranties. Applicant also states that Allied Lending may, and frequently does, sell the guaranteed portion of such loans, which sale may be accompanied with an agreement by Allied Lending to repurchase the guaranteed portion. Finally, Applicant states that Allied Lending makes available and from time to time provides guidance and counsel to the small business concerns to which it makes loans concerning the management, operations or policies of such concerns, and that it is contemplated that Allied Development's lending practices will be similar to those of Allied Lending in that Allied Development will make available to the entities to which it makes loans similar guidance and counsel.

In further support of its request for exemptive relief, Applicant believes it parallels BDC's with respect to its need to establish a stock option paln for certain of its officers. Applicant argues that the addition of Allied Financial as a functioning subsidiary of Allied Capital should serve to increased its activities in areas where Congress concluded that special executive compensation arrangements should be permitted, since Allied Financial, liked Allied Investment, will operate as a business development company except that it will not elect to be treated as such. As stated earlier, Allied Financial is also intended to operate as an SBIC.

Applicant states that its board of directors, a majority of which are persons who are not interested persons, as defined in Section 2(a)(19) of the Act, of Applicant, has approved filing of the instant Application to permit it to adopt the proposed stock option plan, which is attached as an exhibit to the application. Applicant states that the plan will be administered by its board of directors; subject to limitations contained in the plan, the board will determine the officers to whom options will be granted, the number of shares covered by each option, the term of the option and limitations on the exercise thereof. Moreover, Applicant states that in approving the compensation payable to a plan participant, its board will take into consideration the then present value of any options previously granted to such officer.

Applicant states that, in its opinion, the proposed plan will meet all of the requirements of Section 61(a)(3)(B) of the Act. Applicant states that the plan will not become effective until it has been adopted by Applicant's board of directors and has been approved by shareholders. In addition, while Applicant states that the plan is subject to amendment by Applicant's board of directors, it further states that no amendment of any material provision of the plan may be made without shareholder approval except for such amendments which are necessary in order to ensure the plan's compliance with Section 422A of the Internal Revenue Code ("Code") or any successor provision thereof, applicable provisions of the Act or any exemptive order therefrom issued to Applicant in connection with the plan, or other applicable law, and that any amendment will comply with all applicable provisions of the Act or such exemptive order and with Section 422A or any successor provision thereof. Further, Applicant states that the specific issuance or grant of each option will be approved by the board of directors, including both a majority of the directors who will have no financial interest in the plan and a majority who are not interested persons of Applicant, on the basis that such issuance or grant is in the best interests of Allied Capital and its shareholders. In arriving at such determination, the board of directors will consider, *inter alia*, the magnitude of the potential dilution of the *pro rata* interests of existing shareholders. Applicant represents that if all of the shares to be reserved for issuance under the plan are issued, such shares will constitute less than 20 percent of Allied Capital's total outstanding shares prior to such issuance, and the plan provides that no option may be issued if exercise of all warrants, options and rights outstanding immediately after issuance of such option would result in the issuance of voting securities in excess of 20 percent of Applicant's outstanding voting securities. Although Applicant has a profit-sharing plan, it submits that, as a retirement plan meeting the requirements of Section 401 of the Code, it is not the type of plan Congress intended to exclude by Section 61(a)(3)(B)(iv).

With respect to the terms of the proposed plan and options issued thereunder, Applicant states that in addition to meeting the requirements of Section 61 of the Act, Section 422A of the Code will be met, thus affording additional protection to investors. Applicant states that the plan provides that all options issued pursuant to the plan will have a term not to exceed ten years from the date the option is granted (five years in the case of options awarded to a holder of ten percent or more of Allied Capital's stock), will have an option price equal to the current fair market value of Allied Capital's common stock at the time the option is granted (not less than 110 percent of such current fair market value in the case of options granted to a holder of ten percent or more of Allied Capital's stock), will be non-transferable by the optionee otherwise than by will or the laws of decent and distribution, and will be exercisable during the optionee's lifetime only by such optionee. The plan provides that, until such time as Allied Capital's shares are traded on a major exchange, at which time "fair market value" will mean the closing price of Applicant's stock on the day before the award of option, "fair market value" shall be the mean between the highest bid and lowest asked prices of the shares as quoted on the Automated Quotations System of the National Association of Securities Dealers, Inc. for the date in question. Applicant states that all options issued pursuant to the plan must be granted within ten years from the earlier of the date the plan is adopted by Allied Capital's board of directors or the date it is approved by Allied Capital's shareholders. Applicant further states that the plan limits the aggregate fair market value of the stock for which a person may be granted options in any calendar year to $.1 million plus any unused limit carryover to such year, and that an option under the plan may not be exercised by an optionee while there is outstanding any stock option previously granted to such optionee under the plan.

Applicant states that under the plan, all rights to exercise options shall terminate sixty days after an optionee ceases to be an officer of Allied Capital and Allied Investment for any cause other than death, disability or retirement. If an optionee should retire or become disabled without having fully exercised an option held by him, he may exercise such option during the balance of its term within such period as may have been provided at the time of the grant. In the event of the death of an optionee prior to the time he has fully exercised an option, the option granted to him shall be exercisable by the executors, administrators, legatees or distributees of his estate during the

balance of its term but in no event more than one year after the optionee's death.

Finally, Applicant states that the purchase price of shares upon exercise of an option shall be paid in cash. However, to assist an optionee in the purchase of option shares, Applicant desires to make loans to such optionee, provided that such loans meet the requirements of Section 57(j)(2) of the Act. Applicant states that such loans will be consistent with its policy on lending money, which permits it to make loans in addition to loans to its subsidiaries, provided such loans would not be made on a regular basis and would not constitute more than 20 percent of its assets.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than October 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.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26808 Filed 9-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23071; 70-6821]

Central Power and Light Co.; Issuance and Sale

September 26, 1983.

Central Power and Light Company ("CP&L"), 120 North Chaparral Street, Corpus Christi, Texas 78401, an electric utility subsidiary of Central and South West Corporation, a registered holding company, has filed a post-effective amendment to a declaration previously filed with this Commission under Sections 6 and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42 and 50(a)(5) under the Act.

By prior order in this proceeding (HCAR No. 22996, July 1, 1983), the Commission authorized CP&L to issue and sell at competitive bidding up to 500,000 shares of preferred stock ($100 per value), with either a fixed or an adjustable dividend rate, from time to time during the period ending December 31, 1983. As an alternative to a competitive sale, CP&L now seeks authorization to sell so-called "leveraged" preferred stock through a negotiated, private placement.

The leveraged preferred would be sold to a special-purpose trust to be established and financed by, and for the benefit of, a group of corporate investors. The trust would purchase the preferred stock with funds raised by equity contributions from the corporate investors and loans from institutional lenders (in a ratio of approximately 25% equity to 75% debt). The loans would be without recourse to the investors and secured by the preferred stock. The corporate investors, as beneficiaries, would receive all preferred stock dividends, less amounts required to service the trust's debt. The trust will not be a separate entity for federal tax purposes. Therefore, under provisions of the Internal Revenue Code, each corporate investor would be able to exclude from taxable income 85% of its proportional share of the trust's income and to deduct its proportional share of the interest expense on the trust's debt.

It is represented that this method of issuing preferred stock should produce an economical dividend rate. Corporate investors may accept a rate from 75 to 125 basis points lower than a traditional issue, in part because the trust structure allows them to omit the preferred stock and debt from their consolidated balance sheets. Additionally, positive financial leverage results from dividend and sinking-fund payments which exceed the trust's debt service payments.

The terms of the leveraged preferred stock would be essentially the same as the traditional issue previously authorized, with two important exceptions. First, CP&L would be required to indemnify the corporate investors in the event that (1) the leveraged preferred is deemed to constitute debt for tax purposes, thus eliminating the dividend exclusion; (2) the dividends are considered to be a return of capital; (3) the Internal Revenue Service denies the dividend exclusion or the interest deduction to the corporate investors; or (4) a change in federal law reduces or eliminates the dividend exclusion or the interest deduction. CP&L asserts that it is unlikely that any of these events would trigger an indemnification liability. It will, however, retain a special right to redeem the leverage preferred at par value, subject to certain limitations, to avoid material, prospective liability.

The leveraged preferred would also differ from a traditional issue in that it will not be callable, except when certain tax indemnification events occur, for a period of 10 years. It is represented that the no-call feature is typical of institutional, private placements and is necessary to provide investors with some assurance that the anticipated return will in fact be realized. Such assurance is required to obtain necessary participation from the limited number of potential participants.

CP&L asserts that the total costs of issuing the leveraged preferred will not be substantially greater than typical costs in a competitive issue. It is also stated that potential equity participants in a leveraged preferred transaction consist only of a limited number of large institutional investors. Their motivation to participate in such a transaction is the availability of interest deductions and the tax advantage of the 85% dividend exclusion. Citing the complexity of the transaction and the impracticality of competitive bidding, CP&L requests an exception from the competitive bidding requirements of Rule 50. In light of the foregoing, CP&L proposes to initiate preliminary discussions directly with Dean Witter Reynolds, Inc., as placement agent, for the issuance and sale of the leveraged preferred. The company is hereby granted permission to do so.

The declaration as now amended, and any further amendments thereto, are available for public inspection through the Commission's Office of Public Reference. Any interested persons wishing to comment or request a hearing should submit their views in writing by October 20, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing and will receive a copy of any notice or order issued. After said date, the declaration, as then amended, may be permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26606 Filed 9-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 23070; 70-6902]

Eastern Utilities Associates, et al.; Proposal to Issue and Sell Common Stock and to Make Capital Contributions to Subsidiaries

September 23, 1983.

In the matter of Eastern Utilities Associates and Montaup Electric Company, P.O. Box 2333, Boston, Massachusetts, 02107; Eastern Edison Company, 110 Mulberry Street, Brockton, Massachusetts, 02430; and Blackstone Valley Electric Company, Washington Highway, P.O. Box 1111, Lincoln, Rhode Island, 02865.

Eastern Utilities Associates ("EUA"), a registered holding company, its subsidiaries, Eastern Edison Company ("Eastern Edison") and Blackstone Valley Company ("Blackstone"), and Eastern Edison's subsidiary, Montaup Electric Company ("Montaup"), have filed an application-declaration with this Commission pursuant to Sections 6(a), 7, and 12 of the Public Utility Holding Company Act of 1935 ("Act") and Rules 42, 45, and 50 thereunder.

EUA proposes to issue and sell, on or before December 31, 1983, in an underwritten public offering, up to 1.2 million of its common shares, par value $5 ("Additional Shares"). The timing and the exact number of shares to be sold in the proposed offering will be fixed in the light of market conditions and other relevant factors. EUA will employ alternative competitive bidding procedures in accordance with the statement of policy pursuant to Rule 50(a)(5) under the Act (HCAR No. 35-22623, September 2, 1982).

The net proceeds of the sale of the Additional Shares will be utilized to make, first, a capital contribution of up to $3 million to Blackstone and, second, a capital contribution of the remainder of the net proceeds to Eastern Edison. Blackstone will use the funds to repay short term borrowings or for other corporate purposes. Eastern Edison will use the funds to repay short-term borrowings and the remainder to make a capital contribution to Montaup. Montaup will use the funds received from Eastern Edison to repay or reduce short-term borrowings.

In the event that market conditions or other factors at the time of the sale of the Additional Shares make it advisable to endeavor to arrange a sale through a negotiated public offering, EUA may amend this application-declaration to request an exception from Rule 50 which would permit it to negotiate the terms of the sale.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by October 17, 1983, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26607 Filed 9-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 13531; 812-5404]

Pantepec International, Inc.; Application

September 26, 1983.

Notice is hereby given that Pantepec International, Inc. ("Pantepec"), 37 Lewis Street, Suite 500, Hartford, Connecticut, 06103, registered under the Investment Company Act of 1940 (the "Act") as a closed-end, non-diversified management investment company, and John W. Buckley ("Buckley") who is President and a director of Pantepec, have filed a joint Application and amendments thereto, pursuant to Section 9(c) of the Act, for orders of the Securities and Exchange Commission (the "Commission") exempting Buckley, Buckley's agents, and Pantepec's agents from Section 9(a) of the Act. All interested parties are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

On or about October 8, 1982, Pantepec filed a notice of application to register under the Act. Prior to registering as an investment company, Pantepec was engaged in the business of exploring for and developing oil and gas resources.

Although it has registered under the Act, Pantepec represents that it does not desire to conduct, as its principal operation, the business of investing in securities. Rather, Pantepec desires, while registered as an investment company, to continue its prior business of exploring for and developing oil and gas resources, and to eventually de-register as an investment company. In the present Application, Pantepec's agents, Buckley, and Buckley's agents seek exemptions from Section 9(a) of the Act because they may be ineligible to serve in their respective capacities by reason of consent judgments entered against Pantepec and Buckley.

Buckley, who is President and a director of Pantepec, is subject to the provisions of a Final Judgment of Permanent Injunction, dated November 2, 1981 (the "Consent Judgment") entered in the matter of the *Securities and Exchange Commission* v. *The Catawba Corporation, et al.*, Civil Action No. 81-2640 (D.D.C. Nov. 2, 1981). As a result of Pantepec's registering under the Act, and the existence of the Consent Judgment, Buckley may have become ineligible under Section 9(a) of the Act to continue as the President and a director of Pantepec. In addition, the Consent Judgment applies to Buckley's agents, servants, employees and attorneys-in-fact, and any person in active concert or participation with them, and each of them (collectively referred to herein as "Buckley's Agents"). The Application also seeks an exemption pursuant to Section 9(c) for these parties. Finally, Pantepec is subject to a Final Judgment of Permanent Injunction, dated November 2, 1981, entered in the above action and this judgment applies to Pantepec's officers, agents, servants, employees, successors, assigns and attorneys-in-fact, and any person in active concert or participation with them, and each of them (collectively referred to as "Pantepec's Agents"). An exemption for these parties is also sought in the Application.

The above-captioned action was brought by the Commission against Pantepec and also against Buckley, the Catawba Corporation ("Catawba"), two stockholders of Catawba, of which Buckley was also a stockholder, and three companies with which Buckley and the two-named Catawba stockholders had been affiliated.

The Commission alleged that Catawba, a privately-held company, provided management services to the

corporate defendants from early in the 1950's until May, 1978, during which time Buckley and the other two Catawba stockholders were the principal operating directors of Catawba and beneficial owners of minority interests of Catawba. The Complaint further alleged that certain filings made by the corporate defendants under the Securities Act of 1933 (the "Securities Act") and the Securities Exchange Act of 1934 (the "Exchange Act") were materially inadequate and incomplete concerning transactions which accrued to the benefit of Catawba and its stockholders.

On the same date on which the Complaint was filed, Buckley and Pantepec each executed a Consent to the entry of a Final Judgment of Permanent Injunction and Other Equitable Relief in connection with the Commission's Complaint, without admitting or denying any of the allegations contained therein. The Consent Judgment entered against Buckley prohibits him and Buckley's Agents, from, directly or indirectly, violating the antifraud, filing and proxy provisions of the Securities Act and the Exchange Act. In his consent, Buckley agreed, *inter alia*, that he would become an officer or director of Actawba, and that he would relinquish any claims he may have had for reimbursement or indemnification of counsel fees against any of the public companies in connection with the Commission's investigation and civil action.

The final judgment entered against Pantepec prohibits Pantepec and Pantepec's Agents, from, directly or indirectly, violating the filing and proxy provisions of the Exchange Act. Pursuant to its consent, Pantepec established a Special Committee to conduct an investigation of the matters alleged in the Complaint and to take such action as it deemed appropriate following its investigation. The Special Committee also agreed to investigate a payment made in 1980 by Pantepec to Catawba. In addition, Pantepec established a Transaction Review Committee to review future transactions between Pantepec and any entity in which an officer or director has a direct or indirect material interest.

By virtue of these judgments, Buckley, Buckley's Agents, and Pantepec's Agents, may be prohibited, under Section 9(a) of the Act, from serving Pantepec in their respective capacities. Section 9(a) of the Act, *inter alia*, makes it unlawful for any person, or any company with which such person is affiliated, to act in the capacity of employee, officer, or director of any registered investment company, if such person is by reason of any misconduct enjoined by a court of competent jurisdiction form engaging in or continuing any practice in connection with the purchase or sale of any security.

Section 9(c) of the Act, however, provides that upon application, the Commission shall grant an exemption from the provisions of Section 9(a), either unconditionally or on an appropriate temporary or other conditional basis, if it is established that the prohibitions of Section 9(a), as applied to the Applicants, are unduly or disproportionately severe or that the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application. For the following reasons, the Application requests the Commission to grant exemptions, pursuant to Section 9(c) of the Act, to Buckley, Buckley's agents and Pantepec's agents.

Pantepec and Buckley represent that the conduct of an oil and gas business requires continued evaluation of prospective oil and gas drilling ventures and the application of technical expertise, practical experience and judgment, and knowledge of many of the individuals who carry on business within this industry. Pantepec claims that Buckley possesses these skills. He has been engaged in the oil and gas exploration business since 1946 and has been President and a director of the Applicant since 1967. Pantepec represents that Buckley is knowledgeable in evaluating potential oil and gas investments and acquainted with many persons working in this industry. In Pantepec's opinion, Buckley's past association with Pantepec has been of great value and Pantepec believes that the continuation of this association is desirable.

In the Application, Pantepec and Buckley state that they agree to comply with the following provisions:

(1) Pantepec, at least until December 5, 1986, will continue to maintain a Transaction Review Committee, whose members will consist of outside directors;

(2) So long as Buckley is a director, officer or employee of Pantepec, he will not participate in the consideration by the officers, directors, and employees of Pantepec of any transaction between Pantepec and Catawba, including, without limitation, consideration of the purchase and/or sale of properties in respect of which any royalties might become payable to Catawba or any assignee of Catawba; and

(3) So long as Buckley is a director, officer or employee of Pantepec, Pantepec will not knowingly engage in any transaction with Catawba, or with any director, officer, employee or agent of Catawba, except that the foregoing shall not apply to the performance by Pantepec of any obligations incurred by Pantepec prior to November 2, 1981.

The Application represents that neither the public interest nor the protection of investors requires that Buckley end his affiliation with Pantepec. The Application further represents that Buckley has never been the subject of any other enforcement proceedings brought by the Commission and has never been required on any other occasion to seek an exemption from the provisions of Section 9(a). In addition, the Application states that the Consent Judgment entered against Buckley does not contain any admission on his part or findings in support of the allegations of the Commission and the Application states that under the circumstances Buckley may not be deemed to have engaged in any "misconduct" within the meaning of Section 9(a).

Pantepec and Buckley represent that they understand that the granting of the request for exemption would not preclude the Commission from commencing a proceeding under Section 9(b) of the Act on the basis of conduct other than that giving rise to this Application, nor would it preclude the Commission, in any such proceeding, from taking such conduct into consideration.

Notice is further given that any interested person may, not later than October 21, 1983, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the Application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication shall be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail (airmail if the person being served is located more than 500 miles from the point of mailing) upon Pantepec International, Inc., at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application

will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26809 Filed 9-29-83; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 20228; SR-CBOE-80-16]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Extending Partial Approval of Proposed Rule Change

September 23, 1983.

I. *Introduction*

On June 9, 1980, the Chicago Board Options Exchange, Incorporated ("CBOE"), LaSalle at Jackson, Chicago, IL 60604, filed with the Commission, pursuant to the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change to modify its operations and procedures relating to options market makers. Among other things, the proposed rule change created a single class of market makers by eliminating supplemental appointments, increased the number of options classes in which market makers were permitted to have appointments, and established a new Exchange committee responsible for evaluating the performance of and taking disciplinary action against market makers. The proposed rule change also prescribed minimum requirements concerning the extent to which a market maker's trading activity must be conducted in person.[1] The rule change was approved by the Commission on February 12, 1981,[2] but the 1981 approval order was vacated on April 5, 1982, by the United States Court of Appeals for the Seventh Circuit in *Clement* v. *Securities and Exchange Commission*, an action challenging the minimum requirement for in-person market maker transactions, and the matter was remanded to the Commission.[3]

On May 11, 1982, with extensions thereafter effective until September 26, 1983, the Commission reviewed the rule filing and summarily and temporarily approved those portions of the proposed rule change not addressed in *Clement*.[4] During this interval, the Commission awaited certain amendments to the proposal from CBOE[5] and solicited and evaluated public comment upon it.[6]

The Commission is presently awaiting information from the CBOE concerning the impact of CBOE's previous in-person requirement prior to that requirement's elimination by *Clement* v. *Securities and Exchange Commission*. For this reason, and while the Commission considers a final order addressing the whole of the proposed rule change, it will be necessary for the Commission to extend for an additional 45 days its summary and temporary approval of those portions of the proposed rule change not at issue in *Clement*.[7]

Copies of the original submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room. Copies of the filing and of any subsequent amendments also will be available for inspection and copying at the principal office of the CBOE.

It is therefore ordered, that the proposed rule change referenced above, and to the extent indicated above, be, and it hereby is, approved until November 10, 1983.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 83-26810 Filed 9-29-83; 8:45 am]

BILLING CODE 8010-01-M

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[1] Notice of the proposed rule change was published in Securities Exchange Act Release No. 16919 (June 24, 1980), 45 FR 43914 (1980). Subsequently, on July 9, 1980, the CBOE filed an amendment to the proposed rule change excluding certain closing transactions from the calculations of transactions required to be executed in person by market makers and requiring the recording of additional information on market maker orders. Notice of the amendment to the proposed rule change was published in Securities Exchange Act Release No. 17012 (July 25, 1980), 45 FR 51325 (1980).

[2] Securities Exchange Act Release No. 17535 (February 12, 1981), 46 FR 13055 (1981) ("1981 Approval Order").

[3] *Clement* v. *Securities and Exchange Commission*, 674 F. 2d 641 (7th Cir. 1982).

[4] *See* Securities Exchange Act Release Nos. 18727 (May 11, 1982), 47 FR 21169 (1982); 18963 (August 16, 1982), 47 FR 37020 (1982); 19203 (November 1, 1982), 47 FR 50790 (1982); 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 19923 (June 28, 1983), 48 FR 31133 (1983); and 20082 (August 12, 1983), 48 FR 37755 (1983).

[5] CBOE filed a substantive amendment to the proposed rule change on October 19, 1982. *See* Securities Exchange Act Release No. 19203 (November 1, 1982), 47 FR 50790 (1982). The Commission also received a letter from CBOE requesting approval of its proposed "in-person" rule on a pilot basis. *See* letter of May 10, 1983, from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Division of Market Regulation, Securities and Exchange Commission. File No. SR-CBOE-80-16.

[6] The public comments received since the beginning of last November are discussed in Securities Exchange Act Release Nos. 19386 (December 30, 1982), 48 FR 915 (1983); 19641 (March 29, 1983), 48 FR 14795 (1983); and 20082 (August 12, 1983), 48 FR 37755 (1983), and are available for public inspection in File No. SR-CBOE-80-16. A further letter from CBOE, noted in the preceding footnote, is discussed in Securities Exchange Act Release No. 19923 (June 28, 1983), 48 FR 31133 (1983).

[7] CBOE concurs in this extension. *See* letter of August 9, 1983, from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Richard Chase, Division of Market Regulation, Securities and Exchange Commission. File No. SR-CBOE-80-16.

SMALL BUSINESSS ADMINISTRATION

[License No. 02/02-5462]

Columbia Capital Corp.; Notice of Issuance of License to Operate as a Small Business Investment Company

On June 27, 1983 a notice was published in the **Federal Reister** (48 FR 29646) stating that Columbia Capital Corporation, 35 Middagh Street, Brooklyn, New York 11201 had filed an application with the Small Business Administration, pursuant to Section 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1983)), for a license to operate as a Section 301(d) small business investment company.

Interested parties were given until the close of business on July 15, 1983, to submit written comments on the Application to the SBA.

Notice is hereby given that no written comments were received, and having considered the Application and all other pertinent information, the SBA approved the issuance of License No. 02/02-5462 on September 9, 1983, to Columbia Capital Corporation, pursuant to Section 301(d) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: September 22, 1983.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 83-26796 Filed 9-29-83; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/668]

National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the National Committee of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 26, 1983 from 9:30 a.m. until 12:00 Noon in Room 1912, Department of State, 2201 C Street, N.W., Washington, D.C.

The National Committee assists in the resolution of administrative/procedural problems pertaining to U.S. CCITT activities; provides advice on matters of policy and positions in the preparation for CCITT Plenary Assemblies and meetings of the International Study Groups; provides advice and recommendations in regard to the work of the U.S. CCITT Study Groups; and recommends the disposition of proposed U.S. contributions to the international CCITT which are submitted to the Committee for consideration.

The National Committee will begin its examination of issues relating to the upcoming CCITT Plenary Assembly scheduled for October 1–12, 1984. These issues will include study questions for the next Plenary period (1985–1988); candidates for Director of the CCITT; candidates for chairmanships and vice chairmanships of the various Study Groups; etc. It is requested that all current U.S. and international CCITT Chairmen and Vice Chairmen be in attendance.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore suggested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Dated: September 15, 1983

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 83-26697 Filed 9-29-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/671]

Shipping Coordinating Committee; Meeting

The Shipping Coordinating Committee (SHC) will conduct an open meeting on October 26, 1983 at 9:30 a.m. in room 3201 of the U.S. Coast Guard Headquarters Building, 2100 Second Street, S.W., Washington, D.C. 20593.

The purpose of the meeting is to finalize preparations for the 13th Session of the Assembly of the International Maritime Organization (IMO) which is scheduled for November 7 to 18, 1983 in London. The SHC will also discuss U.S. positions for the 12th Extraordinary (November 4) and 51st Regular Session (November 18) of the IMO Council. In particular, the SHC will discuss the development of U.S. positions dealing with, among others, the following topics:

—Reports fo the Major committees
—The World Maritime University
—Implementation of Conventions
—Work Program and Budget of the Organization

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. G. P. Yoest, U.S. Coast Guard Headquarters (G-CPI), 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: (202) 426-2280.

Dated: September 19, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 83-26700 Filed 9-29-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/670]

Shipping Coordinating Committee's Subcommittee on Safety of Life at Sea, Working Group on Radio Communications; Meeting

The Working Group on Radio Communications of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on October 20, 1983 at 9:30 A.M. in Room 833-8336 of the Department of Transportation, 400 Seventh Street, S.W., Washington, D.C. 20590.

The purpose of the meeting is to prepare position documents for the Twenty-seventh Session of the Subcommittee on Radio Communications of the International Maritime Organization to be held in London during March 1984. In particular the Working group will discuss the following topics:

—Maritime distress System
—Digital Selective Calling
—Satellite Emergency Position Indicating Radio Beacons (EPIRBs)
—Preparations for the International Telecommunication Union (ITU) World Administrative Radio Conference (WARC) for Mobile Telecommunications
—Preparations for International Radio Consultative Committee (CCIR) Study Group 8

Members of the public may attend up to the seating capacity of the room.

For further information contact Mr. Richard Swanson, U.S. Coast Guard Headquarters (G-TPP-3/83), 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: (202) 426-1231.

Dated: September 19, 1983.

Gordon S. Brown,

Chairman, Shipping Coordinating Committee.

[FR Doc. 83-26699 Filed 9-29-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/669]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on October 25, 1983 from 1:00 to 4:00 p.m. in Room 6320, Department of State, 2201 C Street, N.W., Washington, D.C.

Study Group A deals with U.S. Government aspects of international telegram and telephone operations and tariffs. The Study Group will discuss international telecommunications questions relating to telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at international CCITT Study Group meetings, with particular interest in the upcoming December meeting of CCITT Study Group I.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if

arrangements are made in advance of the meeting. It is therefore suggested that prior to the meeting, persons who plan to attend, so advise Mr. Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632–3405. All attendees must use the C Street entrance to the building.

Dated: September 15, 1983.

Earl S. Barbely

Director, Office of International Communications Policy.

[FR Doc. 83-26698 Filed 9-29-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/667]

Integrated Services Digital Network (ISDN) Joint Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (OCITT); Meeting

The Department of State announces that the ISDN Joint Working Party of the U.S. Organization for the International Telegraph and Telephone Consultative Committee will meet at 9:30 a.m. on October 27 in the Theater, Communications Satellite Corporation, 950 L'Enfant Plaza SW., Washington, D.C. This Joint Working Party deals with the evolution of ISDN as it is being considered by CCITT Study Group XVIII.

The agenda for the meeting is as follows:

1. Report on the meeting of the Working Party XI/6 drafting group, Tokyo, September, 1983.

2. Report on the informal meeting on stimulus signalling, Tokyo, September, 1983.

3. Report of the Technical Working Group.

4. Consideration of contributions to the meeting of working teams of the ISDN Group of Experts, Geneva, November, 1983.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. It is suggested that prior to October 27, all persons planning to attend the meeting should contact Mr. T. de Haas, Department of Commerce, Boulder, Colorado 80303; telephone 303–497–3728.

Dated: September 15, 1983.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 83-26696 Filed 9-29-83; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/666]

Integrated Services Digital Network (ISDN) Technical Working Group of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that the ISDN Technical Working Group of the U.S. Organization for the International Telegraph and Telephone Consultative Committee will meet October 17–21 in Room 1107, Radio Building, Department of Commerce, 325 Broadway, Boulder, Colorado. Meetings will begin at 9:00 a.m. each day.

The purpose of the meeting is to review activities regarding various CCITT recommendations pertaining to ISDN.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. It is requested that prior to October 17, all persons planning to attend the meeting should contact Dr. William Utlaut, Department of Commerce, Boulder, Colorado 80303, telephone (303) 497–5216.

Dated: September 16, 1983.

Earl S. Barbely,

Director, Office of International Communications Policy.

[FR Doc. 83-26695 Filed 9-29-83; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms, and Recordkeeping Requirements; Submittals to OMB August 24–September 16, 1983

AGENCY: Office of the Secretary, DOT

ACTION: Notice.

SUMMARY: This notice lists those forms, reports, and recordkeeping requirements, transmitted by the Department of Transportation, during the period Aug. 24–Sept. 16, 1983, to the Office of Management and Budget (OMB) for its approval. This notice is published in accordance with the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

FOR FURTHER INFORMATION CONTACT: John Windsor, John Chandler, or Annette Wilson, Information Requirements Division, M–34, Office of the Secretary of Transportation, 400 7th Street SW., Washington, D.C. 20590, (202) 426–1887 or Gary Waxman or Wayne Leiss, Office of Management and Budget, New Executive Office Building, Room 3001, Washington, D.C. 20503 (202) 395–7313.

SUPPLEMENTARY INFORMATION:

Background

Section 3507 of Title 44 of the United States Code, as adopted by the Paperwork Reduction Act of 1980, requires that agencies prepare a notice for publication in the **Federal Register**, listing those information collection requests submitted to the Office of Management and Budget (OMB) for approval under that Act. OMB reviews and approves agency submittals in accordance with criteria set forth in that Act. In carrying out its responsibilities, OMB also considers public comments on the proposed forms, reporting and recordkeeping requirements.

On Mondays, and Thursdays, as needed, the Department of Transportation will publish in the **Federal Register** a list of those forms, reporting and recordkeeping requirements that it has submitted to OMB for review and approval under the Paperwork Reduction Act. The list will include new items imposing paperwork burdens on the public as well as revisions, renewals and reinstatements of already existing requirements. OMB approval of an information collection requirement must be renewed at least once every three years. The published list also will include the following information for each item submitted to OMB:

(1) A DOT control number.

(2) An OMB approval number if the submittal involves the renewal, reinstatement or revision of a previously approved item.

(3) The name of the DOT Operating Administration or Secretarial Office involved.

(4) The title of the information collection request.

(5) The form numbers used, if any.

(6) The frequency of required responses.

(7) The persons required to respond.

(8) A brief statement of the need for, and uses to be made of, the information collection.

Information Availability and Comments

Copies of the DOT information collection requests submitted to OMB may be obtained from the DOT officials listed in the "For Further Information Contact" paragraph set forth above.

Comments on the requests should be forwarded, as quickly as possible, directly to the OMB officials listed in the "For Further Information Contact" paragraph set forth above. If you anticipate submitting substantive comments, but find that more than 5 days from the date of publication is needed to prepare them, please notify the OMB officials of your intent immediately.

Items Submitted for Review by OMB

The following information collection requests were submitted to OMB from Aug. 24–Sept. 16, 1983:

- DOT No: 2207
- OMB No: None (new)
- By: Federal Highway Administration
- Title: Traffic Operation Traffic Surveillance and Control
- Forms: None
- Frequency: Nonrecurring
- Rspondents: State and local agencies
- Need/Use: To assure FHWA that an operations plan required from the States and local agencies will serve the purposes intended and that adequate resources will be available to operate the system.
- DOT No: 2208
- OMB No: 2120–0075
- By: Federal Aviation Administration
- Title: Airport Security—FAR 107
- Forms: 1. FAA Form 1650–7, Screening Activities Report; 2. FAA Form 1650–8, Screening Activities Arrest Report
- Frequency: 1. Semiannually; 2. Each incident. Complete law enforcement agency report may be submitted as substitute.
- Respondents: Operators of airports regularly serving the scheduled passenger operations of certificate holders and foreign air carriers who are required to have a security program.
- Need/Use: Airport civil aviation security programs and screening activities and arrest reports are needed to ensure effective protection of persons and property in air transportation against acts of criminal violence and aircraft piracy as well as to ensure that passenger screening procedures are effective and that information is available to comply with Congressional reporting requirements.
- DOT No: 2209
- OMB No: 2127–0006
- By: National Highway Traffic Safety Administration
- Title: Fatal Accident Reporting System (FARS)
- Forms: HS–214, 214A, and 214B
- Frequency: On Occasion
- Respondents: State and local governments
- Need/Use: The Fatal Accident Reporting System (FARS) is a census of all fatal motor vehicle accidents in the U.S. Data is extracted from existing State records and automated for the agency's use in highway and motor vehicle safety problem identification, trend analysis, and program evaluation.
- DOT No: 2210
- OMB No: New
- By: Office of the Secretary
- Title: Procurement Operations, Department of Transportation
- Forms: GSA, SF–33 Information to Offerors
- Frequency: On Occasion
- Respondents: Individuals, businesses who propose to sell goods or services to the U.S. Government/DOT.
- Need/Use: The statute 96–511, as interpreted by OMB, requires that preparation of responses to procurement activities by the Department be considered as a burden on the public because such activity requires preparation time. The voluntary aspect of the response does not eliminate the burdens in the view of OMB.
- DOT No: 2211
- OMB No: New
- By: Federal Aviation Administration
- Title: Learning Through Aviation—Writing Contest
- Forms: None
- Frequency: One Time
- Respondents: Students in grades 4–12 throughout the United States
- Need/Use: This is a writing contest, the purpose of which is to provide awareness and understanding among students of the impact which 200 years of human flight has produced.
- DOT No: 2212
- OMB No: To be assigned
- By: Urban Mass Transportation Administration
- Title: Nondiscrimination on the Basis of Handicap in Program Receiving Financial Assistance from the Department of Transportation.
- Forms: None
- Frequency: Annual/On Occasion
- Respondents: State and local government, business or other For-Profit organizations
- Need/Use: To ensure that UMTA recipients are complying with the statutory provisions concerning transportation services for elderly and handicapped persons.
- DOT No: 2213
- OMB No: 2130–0035; 2130–0036; 2130–0037 and 2130–0038 combined
- By: Federal Railroad Administration
- Title: Railroad Operating Rules
- Forms: None
- Frequency: On Occasion
- Respondents: Railroads

Need/Use: FRA uses this information to determine the condition of operating rules and practices with respect to trains and the instructions that railroads provide to their employees.

- DOT No: 2214

OMB No: 2215–0096
By: United States Coast Guard
Title: Oil Pollution Prevention Records
Forms: None
Frequency: On Occasion
Respondents: Bulk oil facilities and vessel operators
Need/Use: This recordkeeping requirement is required by 33 USC 1321 (j)(1)(c). The requirement is necessary for Coast Guard inspectors to determine whether the vessel or facility operator is complying with the regulatory requirements for testings, inspections, designations and other requirements. Having the records available minimizes the inconvenience to all involved.

- DOT No: 2215

OMB No: 2215–0083
By: United States Coast Guard
Title: Amendment to Operations Manual
Forms: None
Frequency: On Occasion
Respondents: Operators of marine bulk oil transfer facilities who transfer to or from vessels with a capacity of over 10,500 gallons of oil.
Need/Use: This information collection is needed to keep the Operations Manual (which is submitted as a separate collection item) accurate and responsive to current regulations. The Captain of the Port uses this information collection to maintain the usefulness of the Operations Manual as a tool to prevent oil spills and to control them when they occur.

- DOT No: 2216

OMB No: 2215–0097
By: United States Coast Guard
Title: Oil Pollution Prevention Alternatives
Forms: None
Frequency: On Occasion
Respondents: Bulk oil facilities and vessels
Need/Use: This information collection is needed to allow vessel or terminal operators flexibility in complying with the Pollution Prevention Regulations.

33 CFR 154.107 and 156.107 established a procedure for the vessel or terminal operators to propose an alternative to provide an equal level of safety and protection to the environment at a lesser cost. The application for approval for this alternative is used by the Coast Guard to evaluate the proposed alternative.

● DOT No: 2217
OMB No: None
By: United States Coast Guard
Title: State Reports of Marine Sanitation Device Regulations
Forms: None
Frequency: Monthly
Respondents: State Governments
Need/Use: The states' enforcement agreement stipulates that they will forward information concerning violations on a monthly basis. Since the states have no authority to assess fines and penalties under the Clean Water Act, they forward the information to the Coast Guard for processing. The Coast Guard uses the information to process violations of the Federal marine sanitation device regulations which are contained in 40 CFR Part 140 and 33 CFR Part 159.

● DOT No: 2218
OMB No: 2115–0066
By: United States Coast Guard
Title: Shipping Articles
Forms: CG–705A
Frequency: On Occasion
Respondents: U.S. merchant seamen and their shipping companies
Need/Use: This information collection is needed by the Coast Guard to meet statutory obligations. The shipping articles are used to ensure that various navigational statutes are being complied with for its commercial vessel safety program. These navigational statutes are outlined in 46 U.S.C. 643(1).

● DOT No: 2219
OMB No: 2215–0069
By: United States Coast Guard
Title: Continuous Discharge Book
Forms: CG–179A
Frequency: On Occasion
Respondents: Personnel employed aboard U.S. merchant vessels
Need/Use: The information is used by shipping companies to establish the qualification of personnel employed aboard merchant vessels. Requirements of merchant marines to submit this information is needed to ensure they meet Federal marine safety laws regulations.

● DOT No: 2220
OMB No: 2115–0003
By: United States Coast Guard
Title: Casualty Reporting Requirement
Forms: CG–2692 and CG–2692A
Frequency: On Occasion
Respondents: Owners, agents or persons in charge of vessels and outer-continental shelf facilities.
Need/Use: The information is necessary so the Coast Guard will be aware of casualties and accidents in order to conduct investigations as required by 46 U.S.C. 239. The information is used to initiate suspension and revocation proceedings against licenses or documents held by merchant seamen due to negligence, inattention to duty, misconduct or violation of law or regulation connected with the casualty.

● DOT No.: 2221
OMB No.: New
By: Federal Railroad Administration
Title: Protests Against Granting of Application for Signal Changes
Forms: None
Frequency: On occasion
Respondents: Individuals or businesses
Need/Use: FRA uses this information to make a final decision on applications from railroads for signal changes. This permits the public to have an input.

● DOT No.: 2222
OMB No.: New
By: Federal Railroad Administration
Title: Stencilling Requirements—Pneumatic Apparatus
Forms: None
Frequency: On occasion
Respondents: Railroads
Need/Use: This stencilling requirement is evidence for the railroad's employees to determine when the last time the pneumatic apparatus was cleaned and when it must be cleaned again; a safety measure.

● DOT No.: 2223
OMB No.: New
By: Federal Railroad Administration
Title: Accidents Resulting from Signal Failure
Forms: None
Frequency: After Each Accident
Respondents: Railroads
Need/Use: This information is essential to determine the need for new rules and to determine if a potential safety hazard exists in signal systems.

● DOT No.: 2224
OMB No.: 2130–0043
By: Federal Railroad Administration
Title: Application for Relief from Requirements of Rules, Standards and Instructions for Repair and Maintenance of Signal Systems
Forms: None
Frequency: On occasion
Respondents: Railroads
Need/Use: This information is needed to investigate and decide upon a petition for relief from the Rules, Standards and Instructions for Repair and Maintenance of Signal Systems.

● DOT No.: 2225
OMB No.: 2130–0042
By: Federal Railroad Administration
Title: Filing of Application for Block Signal Systems
Forms: None
Frequency: On occasion
Respondents: Railroads
Need/Use: This information is essential for FRA to determine whether approval of a carrier's application to modify or discontinue a signaling system should be granted or denied.

● DOT No.: 2226
OMB No.: 2130–0007
By: Federal Railroad Administration
Title: False Proceed Signal Report
Forms: FRA–F–6180.14
Frequency: On occasion after each False Proceed
Respondents: Railroads
Need/Use: This information is essential to the Federal Railroad Administration to determine the need for signal inspections and for revision of the rules.

● DOT No.: 2227
OMB No.: 2130–0006
By: Federal Railroad Administration
Title: Signal Systems Annual Report
Forms: FRA–F–6180.47
Frequency: Annually
Respondents: Railroads
Need/Use: This information is essential to the Federal Railroad Administration to determine where an unauthorized discontinuance or a modification to signal systems has been made.

● DOT No.: 2228
OMB No.: New
By: Federal Railroad Administration
Title: Departure Test—Signal
Forms: None
Frequency: On occasion
Respondents: Railroads
Need/Use: This information is used by FRA to meet its obligation under the Signal Inspection Act to determine that signal systems are in proper working order.

● DOT No.: 2229
OMB No.: 2130–0039
By: Federal Railroad Administration
Title: Records of Results of Tests of Railroad Signal Systems
Forms: None
Frequency: On occasion
Respondents: Railroads
Need/Use: These records show where the railroads are maintaining signal systems in accordance with the Signal Inspection Act.

● DOT No.: 2186
OMB No.: New

By: Federal Highway Administration
Title: Safety and Operational Impact of Resurfacing, Restoration and Rehabilitation
Forms: RRR Type Projects
Frequency: Annually
Respondents: States
Need/Use: Used to obtain before and after data to evaluate 3 R projects.

Jon Seymour,
Acting Deputy Assistant Secretary for Administration.

[FR Doc. 83-26760 Filed 9-29-83; 8:45 am]
BILLING CODE 4910-62-M

DEPARTMENT OF THE TREASURY

[General Counsel Order No. 21 (Rev. 3)]

Appointment of Members of the Legal Division to the Performance Review Board

Under the authority granted to me as General Counsel of the Department of the Treasury by 31 U.S.C. 1009 and 26 U.S.C. 7801, Treasury Department Order No. 101-5 (Revised), and pursuant to the Civil Service Reform Act, I hereby appoint the following persons to the Legal Division Performance Review Board:

(1) For the General Panel—

Chairperson, Margery Waxman
Arnold Intrater
Jordan Luke
Brian Smith
Richard Abbey
Marvin Dessler

(2) For the IRS Panel—

Chairperson, the Deputy Chief Counsel, Internal Revenue Service
Deputy General Counsel
An Associate Chief Counsel for the Internal Revenue Service
A rotating Regional Counsel
A rotating Division Director of the Internal Revenue Service and such other SES officials as designated by the Chief Counsel

I hereby delegate to the Chief Counsel for the Internal Revenue Service the authority to make the appointments specified in this Order to the IRS Panel and to make the publication required by section 4314(c)(4) of 5 United States Code of the members of the IRS Panel.

Effective Date: September 27, 1983.

Peter J. Wallison,
General Counsel.

[FR Doc. 83-26620 Filed 9-29-83; 8:45 am]
BILLING CODE 4810-25-M

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 488]

Winegrape Varietal Names Advisory Committee; Open Meeting

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Winegrape Varietal Names Advisory Committee will be held at 9 a.m. on November 18, 1983, in Room 5041, 1200 Pennsylvania Avenue N.W, Washington, DC.

SUPPLEMENTARY INFORMATION: The Committee will be discussing the several varieties which are referred to as "Rieslings," and will continue toward developing recommendations concerning: (a) The use of multiple names (synonyms) for a single variety; (b) the phase-out of presently used names which are not proper varietal names; and (c) guidelines or procedures for the future addition of names to the varietal list.

The meeting will be open to the public. Any person who wishes to furnish written information or to address the Committee should submit the information or the request to appear to the Committee Manager at the address shown below. Requests to appear before the Committee should specify the purpose of the presentation, the subject matter to be covered, and the amount of time desired.

FOR FURTHER INFORMATION CONTACT: Melvin T. Bruce, Manager, Winegrape Varietal Names Advisory Committee, Room 6213, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue, NW, Washington, DC 20226; (202-566-7568).

Dated: September 23, 1983.

Stephen E. Higgins,
Director.

[FR Doc. 83-26829 Filed 9-29-83; 8:45 am]
BILLING CODE 4810-31-M

Office of Revenue Sharing

Adjustment of Entitlement Payments to Local Governments in the State of Maine

AGENCY: Office of Revenue Sharing, Treasury.

ACTION: Notice of demand for adjustment of entitlement payments.

SUMMARY: Due to the overpayment or underpayment of units of local governments within the State of Maine for Entitlement Period 13 (October 1, 1981 through September 30, 1982), the Office of Revenue Sharing makes demand for adjustments and repayment. Adjustments will be made to future entitlement payments for Entitlement Period 15, beginning October 1, 1983 and ending September 30, 1984.

DATES: Adjustments will be made during Entitlement Period 15, October 1, 1983 through September 30, 1984.

FOR FURTHER INFORMATION CONTACT: Matthew Butler, Manager, Data & Demography Division, Office of Revenue Sharing, 2401 E St. NW., Washington, D.C. 20226, (202) 634-5166.

SUPPLEMENTARY INFORMATION: Certain governments in the State of Maine advised the Bureau of the Census of revisions in the fiscal year (FY) 1980 adjusted taxes used in calculating their Revenue Sharing allocations for Entitlement Period 13 (October 1, 1981-September 30, 1982). These revisions to their FY 1980 adjusted taxes were made using the procedure for determining adjusted taxes described in § 51.22(b)(2) of the Revenue Sharing regulations (31 CFR 51.22(b)(2)), commonly referred to as the RS 12-C procedure. This procedure provides a methodology for calculating adjusted taxes when tax revenues for purposes of education are not separately identifiable because education is financed by expenditure or transferring of moneys from a general fund to a school fund or funds.

In view of this new information, the Office of Revenue Sharing computed a final allocation, effective September 30, 1983, for Entitlement Period 13 with respect to the State of Maine. This allocation identified the overpayments and underpayments to units of local government within the State of Maine for Entitlement Period 13. Hence, the Office of Revenue Sharing hereby makes a demand to change the amount of entitlement funds received by those governments for Entitlement Period 13. Pursuant to section 6702(c) of the Revenue Sharing Act (31 U.S.C. 6702(c)), adjustments for an entitlement period must be demanded by the Director within one year after the end of the entitlement period. The one year period for Entitlement Period 13 ends on Friday, September 30, 1983.

The Office of Revenue Sharing has mailed a notice to each unit of local government within the State of Maine that advises the government whether the final allocation will result in an increase or decrease in its payment. A subsequent notice will advise these governments of the specific increase or decrease of entitlement funds resulting from the change to the Entitlement

Period 13 payments. In light of recent favorable Congressional action on reauthorization of the Revenue Sharing program, local governments likely will receive future Revenue Sharing payments. The Office of Revenue Sharing will make the adjustments for Entitlement Period 13 to payments for the Entitlement Period beginning October 1, 1983.

This notice is issued under the authority of 31 U.S.C. 6701 through 6724 and Treasury Department Order No. 224, dated January 26, 1973 (38 FR 3342) as amended by Treasury Department Order No. 103–1 dated March 18, 1982.

Dated: September 27, 1983.

Michael F. Hill,

Director, Office of Revenue Sharing.

[FR Doc. 83–26839 Filed 9–29–83; 8:45 am]

BILLING CODE 4810–28–M

UNITED STATES INFORMATION AGENCY

New Directions Advisory Committee; Closed Meeting

Based on the information provided to the United States Information Agency by the New Directions Advisory Committee, I hereby determine that an emergency meeting scheduled by the Committee for 2:30 p.m. on October 3, 1983, in Room 800 of 400 C Street, SW., may be closed to the public.

The meeting must be scheduled in the very near future in order to discuss and consider urgent public diplomacy implications of the recent Korean Air Lines Flight 007 incident.

Disclosure of the matters to be discussed is likely to divulge information that is: (A) Specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive Order (5 U.S.C. 552b(c)(1)). Also, premature disclosure of this information is likely to significantly frustrate implementation of proposed agency action (5 U.S.C. 552b(c)(9)(B)) because there will be a discussion of future Agency policy and programs.

Dated: September 28, 1983.

Charles Z. Wick,

Director.

[FR Doc. 83–26803 Filed 9–29–83; 8:45 am]

BILLING CODE 8230–01–M

Sunshine Act Meetings

Federal Register
Vol. 48, No. 191
Friday, September 30, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMODITY CREDIT CORPORATION.

FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 48 FR 41846, September 19, 1983.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2 p.m., September 26, 1983.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

1. Minutes of CCC Board meeting on August 1, 1983.
2. Memorandum re: Status Report on CCC Alcohol Demonstration Project.
3. Resolution re: Amendment of Bylaws of Commodity Credit Corporation.
4. Docket ECZ-244, Revision 1 re: Commodity Credit Corporation Policies with Respect to Debarment and Suspension of Individuals and Firms.
5. Memorandum re: Commodity Credit Corporation Dairy Inventories and Disposal Activities.
6. Memorandum re: Foreign Donation of Dairy Products Pursuant to Section 416 of the Agricultural Act of 1949, as Amended, During Fiscal Year 1984.
7. Resolution re: Ratification of the Sale of Diary Products to Egypt.

Closed Portion of Meeting:

8. Docket CZ-266, Resolution No. 21 re: Commodities Available for Public Law 480 During Fiscal Year 1984.
9. Memoradum re: Proposed Repurchase of CCC Credit Guarantees for Peru.
10. Memorandum re: Proposed Repurchase of CCC Credit Guarantees for Romania.

SUPPLEMENTARY INFORMATION: The General Counsel certified that a portion of this meeting may be closed. All members of the Board present as follows voted to close this meeting:

1. John R. Block, Secretary of Agriculture, Chairman.
2. Richard E. Lyng, Vice Chairman.
3. Daniel G. Amstutz, Member.
4. Frank W. Kaylor, Member.
5. C. W. McMillan, Member.
6. William G. Lesher, Member.
7. Everett G. Rank, Member.

CONTRACT PERSON FOR MORE INFORMATION: Ray F. Voelkel, Secretary, Commodity Credit Corporation, Post Office Box 2015 3090- South Building, U.S. Department of Agriculture, Washington, D.C. 20013; telephone (202) 447-3451.

[S-1380-83 Filed 9-28-83; 8:50 am]
BILLING CODE 3410-05-M

2

CONSUMER PRODUCT SAFETY COMMISSION

Commission Meeting

TIME AND DATE: 10 a.m., Wednesday, October 5, 1983.

LOCATION: Third Floor Hearing Room, 1111 18th Street NW., Washington, D.C.

STATUS: Open to the public.

MATTER TO BE CONSIDERED:

1. *Oral Contraceptives. PPPA Exemption*
   The staff will brief the Commission on a final order which would exempt certain cyclically administered oral contraceptives in mnemonic packages from child-resistant packaging regulations.
2. *Export Policy Discussion*
   The staff will brief the Commission on current Commission export policies under the Consumer Product Safety Act and the Federal Hazardous Substances Act and on options available to the Commission with respect to those export policies.

Closed to the Public:

3. *Enforcement Matter (OS* §4540.
   The Commission will consider Enforcement Matter OS §4540.

CONTRACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Deputy Secretary, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Md 20207; 301-492-5800.

[S-1387-83 Filed 9-28-83; 2:20 pm]
BILLING CODE 6355-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2 p.m. on Monday, September 26, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required, on less than seven days' notice to the public, the withdrawal from the agenda for consideration in open session and the addition to the agenda for consideration at the Board's closed meeting to be held at 2:30 p.m. the same day, of the following matter:

Application of Korea Commercial Bank of New York, a proposed new bank to be located at 1250 Broadway, New York (Manhattan), New York, for Federal deposit insurance.

In voting to move the matter from open session to closed session, the Board further determined, by the same majority vote, that the public interest did not require consideration of the matter in a meeting open to public observation and that the matter could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

By the same majority vote, the Board further determined that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: September 27, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1385 Filed 9-28-83; 11:46 am]
BILLING CODE 6714-01-M

4

FEDERAL DEPOSIT INSURANCE CORPORATION

Changes in Subject Matter of Agency Meeting

Pursuant to the provisions of subsections (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its closed meeting held at 2:30 p.m. on Monday, September 26, 1983, the Corporation's Board of Directors determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague

(Appointive), concurred in by Director C. T. Conover (Comptroller of the Currency), that Corporation business required the addition to the agenda for consideration at the meeting, on less than seven days' notice to the public, of the following matters:

Application of the Troy Savings Bank, Troy, New York, for consent to establish a branch in Hudson Valley Plaza, Vandenburg Avenue, Troy, New York.

Application of The Troy Savings Bank, Troy, New York, for consent to establish a branch at 1601 Broadway, Watervliet, New York.

Application of Onandaga Savings Bank, Syracuse, New York, an insured mutual savings bank, for consent to merge, under its charter and title, with The Oneida County Savings Bank, Rome, New York, an insured mutual savings bank, and to establish the three branches of The Oneida County Savings Bank as branches of the resultant bank.

Application of Iowa Bank & Trust Company, a proposed new bank to be located at 114 East Jefferson Street, Bloomfield, Iowa, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of these changes in the subject matter of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: September 27, 1983.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S-1366-83 Filed 9-28-83; 11:48 am]

BILLING CODE 6714-01-M

5

FEDERAL HOME LOAN BANK BOARD

TIME AND DATE: 6 p.m., Wednesday, September 28, 1983.

PLACE: Board Room, sixth floor, 1700 G Street NW., Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Gravlee (202-377-6970).

MATTERS TO BE CONSIDERED:

Industry Conflicts of Interest

[No. 57, September 27, 1983]

[S-1379-83 Filed 9-27-83; 4:44 pm]

BILLING CODE 6720-01-M

6

FEDERAL MARITIME COMMISSION

TIME AND DATE: 9 a.m., October 5, 1983.

PLACE: Hearing Room One, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of the meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portion open to the public:

1. Agreement No. 8900-21: Modification of the "8900" Lines Agreement to extend indefinitely inland authority in the Arabian Gulf.

Portions closed to the public:

1. Agreement No. T-4086: Terminal Lease between Atlantic Container Line, Ltd. and Barber Blue Sea Line/Barber West Africa Line.

2. Docket No. 83-26: Pacific Coast European Conference (Agreement No. 5200)—Consideration of the record.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523-5725.

[S-1384-83 Filed 9-28-83; 11:30 am]

BILLING CODE 6730-01-M

7

FEDERAL RESERVE SYSTEM

TIME AND DATE: 10 a.m., Wednesday, October 5, 1983.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Proposals regarding the 1984 Private Sector Adjustment Factor.

2. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board (202) 452-3204.

Dated: September 28, 1983.

William W. Wiles,

Secretary of the Board.

[S-1382-83 Filed 9-28-83; 11:18 am]

BILLING CODE 6210-01-M

8

FEDERAL RESERVE SYSTEM

TIME AND DATE: Approximately 11 a.m., Wednesday, October 5, 1983, following a recess at the conclusion of the open meeting.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals regarding contingency planning and purchase of computers within the Federal Reserve System. (This item was originally announced for a closed meeting on September 28, 1983.)

2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

3. 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 28, 1983.

William W. Wiles,

Secretary of the Board.

[S-1383-83 Filed 9-28-83; 11:24 am]

BILLING CODE 6210-01-M

9

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Tuesday, Octoer 4, 1983.

PLACE: Board Room, Seventh floor, 1776 G Street, NW., Washington, D.C. 20456.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.

2. Review of Central Liquidity Facility Lending Rate.

3. Central Liquidity Facility Fourth Quarter Dividend.

4. Membership Agreement, U.S. Central Credit Union.

5. Final Rule: Plain English version of Flood Insurance Regulation 12 CFR Part 760.

RECESS: 10:15 a.m.

TIME AND DATE: 10:30 a.m., Tuesday, October 4, 1983.

PLACE: Board Room, Seventh floor, 1776 G Street, NW., Washington, D.C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.

2. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, telephone (202) 357-1100.

[S-1378-83 Filed 9-27-83; 4:11 pm]

BILLING CODE 7535-01-M

10

NATIONAL TRANSPORTATION SAFETY BOARD

[NM-83-23]

TIME AND DATE: 9 a.m., Thursday, October 6, 1983.

PLACE: NTSB Board Room, Eighth floor, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: The first three items will be open to the public; the remaining items will be closed under Exemption 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED:

1. *Marine Accident Report:* Ramming of the Bayou Steel Company Pier Facility, 2 miles south of LaPlace, Louisiana, by the Dutch Bulk Carrier, M/V AMSTELVOORN, September 26, 1982.
2. *Safety Study:* Recreational Boating Safety and Alcohol.
3. *Proposed amendments* to Board Order 6100.3, Safety Studies Program to Provide for Sharing of Factual Information with Persons and Groups Outside the Board.
4. *Order:* Commandant v. Sabowski, Dkt. ME-98; disposition of Coast Guard's motion to dismiss.
5. *Order:* Commandant v. Blackwell, Dkt. ME-99; disposition of Coast Guard's motion to dismiss.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming (202) 382-6525.

September 27, 1983.

[S-1381-83 Filed 9-28-83; 9:55 am]

BILLING CODE 4910-58-M

federal register

Friday
September 30, 1983

Part II

Department of Labor

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's Orders 12–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

Modifications and Supersedeas Decisions to General Wage Determination Decisions

Modifications and supersedeas decisions to general wage determination decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the modifications and supersedeas decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24–70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of part 1 of subtitle A of title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates (37 FR 21138) and of Secretary of Labor's orders 13–71 and 15–71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in foregoing general wage determination decisions, as hereby modified, and/or superseded shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and supersedeas decisions are effective from their date of publication in the **Federal Register** without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Office of Government Contract Wage Standards, Division of Government Contract Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rulemaking procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Determination Decision.

Modifications to General Wage Determination Decisions

The numbers of the decisions being modified and their date of publication in the **Federal Register** are listed with each State.

Alaska: AK82–5125	Oct. 22, 1982.
Arkansas:	
AR83–4039	May 13, 1983.
AR83–4069	Sept. 16, 1983.
California:	
CA83–5112	July 1, 1983.
CA83–5118	Sept. 16, 1983.
District of Columbia: DC82–3031	Nov. 12, 1982.
Illinois:	
IL83–2053	Aug. 5, 1983.
IL82–2068	Dec. 17, 1982.
Kansas: KS83–4066	Sept. 9, 1983.
Kentucky:	
KY83–1061	Sept. 16, 1983.
KY83–1062	Sept. 16, 1983.
KY83–1063	Sept. 16, 1983.
New Jersey:	
NJ83–3015	June 17, 1983.
NJ83–3016	June 17, 1983.
NJ83–3026	July 29, 1983.
Ohio: OH83–2006	Feb. 11, 1983.
Puerto Rico: PR83–3037	Aug. 5, 1983.
Washington: WA83–5110	June 3, 1983.
Wisconsin: WI83–2068	Sept. 2, 1983.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of publication in the **Federal Register** are listed with each State. Supesedeas decison numbers are in parentheses following the numbers of their decisions being superseded.

Mississippi:	
MS81–1239 (MS83–1071)	June 5, 1981.
MS81–1237 (MS83–1072)	May 29, 1981.
MS81–1251 (MS83–1073)	June 26, 1981.
MS81–1136 (MS83–1074)	Jan. 6, 1981.
Utah: UT83–5108 (UT83–5120)	Mar. 15, 1983.
Virginia:	
VA79–3051 (VA83–3028)	Nov. 9, 1979.
VA81–3094 (VA83–3029)	Dec. 18, 1981.
VA79–3049 (VA83–3030)	Nov. 9, 1979.
VA80–3004 (VA83–3035)	Apr. 4, 1980.
VA82–3020 (VA83–3036)	Apr. 23, 1982.
VA81–3093 (VA83–3038)	Dec. 18, 1981.
VA81–3055 (VA83–3039)	Aug. 7, 1981.
Wisconsin: WI82–2008 (WI83–2075)	Mar. 5, 1982.

Signed in Washington, D.C., this 23d day of September 1983.

Dorothy P. Come,

Assistant Administrator.

BILLING CODE 4510-27-M

DECISION NO. AR82-5125 - Mod. #3 (47 FR 47150 - October 22, 1982) Statewide, Alaska	Basic Hourly Rates	Fringe Benefits
Change:		
Boilermakers	$25.13	$3.96
Bricklayers; Blocklayers; Stonemasons	22.39	7.62
Carpenters:		
Area 1:		
Carpenters	25.88	5.05
Power actuated tool Operator; Dewalt or similar type saw Operator; Marlite and Acoustical Applicator; Fire or Flood Repair Work; Floor Workers; Nailing Machine Operator; Saw Filer	26.41	5.05
Millwrights	26.61	5.05
Piledrivermen	23.08	6.10
Areas 2 and 3:		
Carpenter Acoustical Applicators; Radial Arm Saw Operators	23.95	4.75
	24.44	4.75
Fire and Flood work	24.33	4.75
Millwrights	24.65	4.75
Piledrivermen	23.08	6.10
Cement Masons:		
Area 1	22.05	6.45
Area 2	21.80	6.45
Culinary Workers:		
Working Camp Manager; Head Cook	21.36	5.17
Baker; Cook/Baker	20.89	5.17
Cook	20.17	5.17
Divers:		
Working Diver	55.36	6.10
Stand-by Diver	26.88	6.10
Tender	25.88	6.10
Elevator Constructors:		
Mechanics	25.63	2.69+ a
Ironworkers:		
Bender Operator; Bridge; Fence Erector; Machinery Mover; Ornamental; Reinforcing; Sheeter; Structural	24.25	5.75
Marble Setters:		
Terrazzo Workers	22.64	7.62
Plasterers:		
Area 1	23.43	6.45
Area 2	23.28	6.45
Plumbers; Steamfitters:		
Area 1	$24.45	$5.75
Area 2	21.90	6.85
Sheet Metal Workers:		
Areas 2 and 3	25.53	4.27
Soft Floor Layers:		
Areas 2 and 3	23.05	3.60
Tile Setters	21.66	7.62
Laborers:		
Building, Heavy, and Highway Construction:		
Group 1	20.34	6.30
Group 2	20.68	6.30
Group 3	21.08	6.30
Group 4	21.34	6.30
Group 5	21.60	6.30
Group 6	21.90	6.30
Power Equipment Operators:		
Group 1	24.72	6.25
Group 1A	26.26	6.25
Group 2	24.05	6.25
Group 3	23.42	6.25
Group 4	22.03	6.25
Truck Drivers:		
Building, Heavy, and Highway Construction:		
Group 1	24.66	6.84
Group 1-A	25.71	6.84
Group 2	23.61	6.84
Group 3	22.91	6.84
Group 4	22.47	6.84
Group 5	21.76	6.84

DECISION #AR83-4039-Mod.#3 48FR21774-May 13, 1983 Union & Ouachita Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
Bricklayers	$12.75	1.75

DECISION #AR83-4069-Mod.#2 48FR41695-September 16, 1983 Pulaski and Jefferson Counties, Arkansas	Basic Hourly Rates	Fringe Benefits
CHANGE:		
PAINTERS:		
Painters, paperhangers, steam cleaners, sheetrock finishers and wall cover hangers	11.25	.63
Spray gun operators and sandblasterers	11.85	.63
All skeleton steel and all work on stage, structural steel over 30 feet high	11.50	.63

DECISION NO. CA83-5112 - Mod. #3
(48 FR 30557 - July 1, 1983)

Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, and Yuba Counties, California

	Basic Hourly Rates	Fringe Benefits
Change:		
Bricklayers; Stonemasons:		
Area 1	$16.52	$6.10
Area 2	18.90	4.95
Area 3	17.35	3.30
Area 5	18.30	3.53
Carpenters:		
Area 1:		
Millwrights	19.28	7.455
Piledrivermen	19.38	8.105
Area 2:		
Piledrivemen	19.38	8.105
Area 4:		
Piledrivermen	19.38	8.105
Electricians:		
Area 8:		
Electricians	18.25	4.06+ 3%
Cable Splicers	20.08	4.06+ 3%
Elevator Constructors:		
Mechanics	28.35	3.00+ a
Helpers	19.845	3.00+ a
Probationary Helpers	14.175	
Glaziers:		
Area 7	20.06	6.11
Marble Setters	20.52	6.10
Parking Lot Striping Work and/or Highway Markers:		
Area 1:		
Traffic Delineating Device Applicator	14.48	1.65+ b
Wheel Stop Installer; Traffic Surface Sandblaster; Striper	13.95	1.65+ b
Slurry Seal Operation: Mixer Operator	13.95	1.65+ b
Squeegee Man; Applicator Operator; and Shuttleman	12.37	1.65+ b
Top Man	10.39	1.65+ b
Plasterers:		
Area 1	$19.88	$4.88
Area 6	16.55	6.94
Plasterers' Tenders:		
Area 2	16.85	5.01
Roofers:		
Area 1:		
Bitumastic; Enamelers; Pipewrappers; Coal Tar Build up	18.75	5.87
Area 4	15.30	3.35
Area 7	19.10	4.00
Area 10:		
Kettleman (1 kettle)	15.83	5.92
Kettleman (2 kettles)	16.83	5.92
Bitumastic; Enamelers; Coal Tar; Pitch and Mastic	17.83	5.92
Sheet Metal Workers:		
Area 2	16.93	4.67
Area 5	20.57	6.86
Area 11	21.76	6.52
Area 12	24.51	8.84
Sprinkler Fitters:		
Area 2	21.87	3.23
Terrazzo Workers and Tile Setters:		
Area 1	16.15	2.90
Area 2	20.23	3.69
Laborers:		
Area 2:		
Gunnite Laborers:		
Group 1	14.02	5.11
Group 2	13.43	5.11
Group 3	13.31	5.11
Tunnel & Shaft Laborers:		
Group 1	16.46	5.11
Group 2	16.03	5.11
Group 3	15.78	5.11
Group 4	15.62	5.11
Wrecking Work:		
Group 1	13.56	5.11
Group 2	13.41	5.11
Group 3	13.31	5.11
Housemoving Laborers:		
Group 1	13.56	5.11

DECISION NO. CA83-5112 (Cont'd)

	Basic Hourly Rates	Fringe Benefits
Truck Drivers:		
Group 1	$15.55	$6.19
Group 2	15.63	6.19
Group 3	15.65	6.19
Group 4	15.66	6.19
Group 5	15.67	6.19
Group 6	15.68	6.19
Group 7	15.70	6.19
Group 8	15.72	6.19
Group 9	15.73	6.19
Group 10	15.75	6.19
Group 11	15.76	6.19
Group 12	15.80	6.19
Group 13	15.81	6.19
Group 14	15.82	6.19
Group 15	15.85	6.19
Group 16	15.86	6.19
Group 17	15.87	6.19
Group 18	15.89	6.19
Group 19	15.90	6.19
Group 20	15.91	6.19
Group 21	15.96	6.19
Group 22	15.99	6.19
Group 23	16.00	6.19
Group 24	16.09	6.19
Group 25	16.10	6.19
Group 26	16.10	6.19
Group 27	16.13	6.19
Group 28	16.15	6.19
Group 29	16.19	6.19
Group 30	16.20	6.19
Group 31	16.23	6.19
Group 32	16.29	6.19
Group 33	16.22	6.19
Group 34	16.44	6.19
Group 35	16.54	6.19
Group 36	16.59	6.19
Group 37	16.74	6.19
Group 38	16.89	6.19

Basic Hourly Rates	Fringe Benefits

DECISION NO. CA83-5118 - Mod. #1 (48 FR 41695 September 16, 1983) Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara, and Ventura Counties, California	Basic Hourly Rates	Fringe Benefits
Change:		
Electricians:		
Area 9:		
Electricians	$23.11	$4.97+ 3%
Cable Splicers	25.42	4.97+ 3%
Line Construction:		
Area 1:		
Groundman	16.83	3.65+ 4%
Lineman	21.86	3.65+ 4%
Cable Splicers	22.16	3.65+ 4%
Area 8:		
Groundman	17.69	4.97+ 3%
Lineman; Equipment Operators	23.11	4.97+ 3%
Cable Splicers	25.42	4.97+ 3%
Painters:		
Parking Lot Striping Work and/or Highway Markers:		
Traffic Delineating Device Applicator	14.48	1.65+ b
Wheel Stop Installer, Traffic Surface Sandblaster; Striper	13.95	1.65+ b
Slurry Seal Operation:		
Mixer Operator	13.95	1.65+ b
Squeegee Man; Applicator Operator and Shuttleman	12.37	1.65+ b
Top Man	10.39	1.65+ b
Roofers:		
Area 3	17.65	4.55
Power Equipment Operators:		
Dredging:		
(Hydraulic Suction Dredges):		
Leverman	$18.10	$7.24
Watch Engineer: Welder: Deckmate	17.52	7.24
Winchman (Stern Winch or Dredge:	16.97	7.24
Bargeman: Deckhand: Fireman; Oiler: Leveehand	16.43	7.24
Dozer	17.63	7.24
(Clamshell Dredges):		
Leverman	18.10	7.24
Watch Engineer: Deckmate	17.52	7.24
Barge Mate	17.04	7.24
Bargeman: Deckhand; Fireman; Oiler	16.43	7.24
Power Equipment Operators:		
Group 1	16.25*	7.24
Group 2	16.53*	7.24
Group 3	16.82*	7.24
Group 4	16.96*	7.24
Group 5	17.18*	7.24
Group 6	17.29*	7.24
Group 7	17.41*	7.24
Group 8	17.58*	7.24
Group 9	17.71*	7.24
Add:		
Painters:		
Area 4:		
High Iron and Steel Construction, Bridges over 30 ft.:		
Brush, Steeplejack (brush)	20.23	3.61
Steel, Sandblaster, Waterblaster, Power Cleaning, Steam Cleaning	20.73	3.61
Steeplejack (Spray)	21.73	3.61

DECISION NO. DC82-3031-MOD. # 15 (47 FR 51304-November 12, 1982)	Basic Hourly Rates	Fringe Benefits
District of Columbia;Maryland Montgomery & Prince Georges Counties;DC Training School;Virigina-Independent City of Alexandria; Arlington & Fairfax Ctys.		
CHANGE:		
LABORERS (EXCLUDING HEAVY CONSTRUCTION)		
Mixer operator in conjunction with plasterering machine	12.91	1.73
LIGHT COMMERCIAL WORK:		
NEW BUILDINGS & ADDITIONS LIMITED TO 50,000 SQ. FT. IN FLOOR SPACE & NOT TO EXCEED FOUR STORIES IN HEIGHT ABOVE GROUND. WAREHOUSES,SHOPPING MALLS EXCLUDING ALL STORES OVER 50,000 SQ. FT. IN FLOOR SPACE. WASHINGTON D.C. & PRINCE GEORGES & MONTGOMERY, MD. ARLINGTON & FAIRFAX, VA.		
MASON TENDER	9.00	1.73
SCAFFORD BUILDER, MORTARMAN & SMALL EQUIPMENT OP.	9.50	1.73
COMMERCIAL WORK: WASHINGTON D.C. & PRINCE GEORGES & MONTGOMERY MD.		
MASON TENDER	10.42	1.73
SCAFFORD BUILDER,MORTARMAN & SMALL EQUIPMENT OPERATORS	11.00	1.73
ARLINGTON & FAIRFAX CTYS.		
MASON TENDER	9.50	1.73
SCAFFORD BUILDER, MORTARMAN & SMALL EQUIPMENT OP.	10.50	1.73
NEW CONSTRUCTION: WASHINGTON D.C. & PRINCE GEORGES MONTGOMERY MD.		
TRUCKCHECKER	8.50	1.73
GENERAL LABORERS-MATERIAL HANDLERS,CLEAN-UP (INCLUDING CONCRETE CLEANUP), SWEEPERS,WATER PERSON & STAKE JUMPER,LANDSCAPE LABORERS,MAINTENANCE CLEANUP,CARPET LAYER TENDER	9.25	1.73
CONSTRUCTION LABORERS-CARPENTER TENDER,CEMENT MASONS TENDER,WATER SPRAYING CONCRETE (CURING), TOOL ROOM CLERK & ALL LABORERS NOT OTHERWISE CLASSIFIED	10.42	1.73
SEMI-SKILLED LABORERS & SKILLED LABORER-POTMAN, POWER TOOL OPERATOR,SMALL MACHINE OP.CONCRETE LABOR, SIGNALMAN,LASER BEAM OP. WATERPROOFER,OPEN CAISSON, TEST PIT,UNDERPINNING, PIER HOLE & DITCHES,LAGGERS & OVERHEAD STRIPPERS, OPERATOR OF H & DERRICKS, VIBRATOR OP.,PIPELAYERS, OR TILE LAYERS,JACKHAMMERS PAVING BREAKERS,SPADERS OR ANY MACHINE THAT DOES THE SAME GENERAL TYPE OF WORK, SCAFFORD BUILDERS,OP. OF TOWMASTERS,SCOOTCRETES, BUGGYMOBILES & OTHER MACHINES OF SIMILAR CHARACTER OP. OF TAMPERS & RAMMERS, AND OTHER MACHINES THAT DO THE SAME GENERAL TYPE OF WORK, WHETHER POWERED BY AIR,ELECTRIC OR GASOLINE,BUILDERS OF TRESTLE SCAFFORDS OVER ONE TIER HIGH & SAND BLASTERS,POWER & CHAIN SAW OPERATORS USED IN CLEARING. INSTALLERS OF WELL POINTS,WAGON DRILL OP.,ACETYLENE BURNERS & LICENSED POWERMEN	11.53	1.73
ARLINGTON & ALEXANDRIA		
TRUCKCHECKER	7.80	1.73
GENERAL LABORERS-MATERIAL HANDLERS,CLEAN-UP(INCLUDING CONCRETE CLEANUP), SWEEPERS,WATER PERSON & STAKE JUMPER,LANDSCAPE LABORERS,MAINTENANCE CLEANUP,CARPET LAYER TENDER	8.50	1.73

MODIFICATIONS P. 6

DECISION NO. IL83-2053 - MOD. #2
(48 FR 35826 - August 5, 1983)
Alexander, Champaign, ...White & Williamson Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Add:		
Ironworkers:		
Area 5	$17.80	$1.45
Area Descriptions:		
Ironworkers:		
Area 5: Fayette (Exclu. St. Elmo & all area N. thereof), Jackson (Ava & Elkaville Twps.), Jefferson (Mt. Vernon & all area W. thereof), Marion, & Perry Counties		

DECISION NO. IL82-2068 - MOD. #1
(47 FR 56601 - December 17, 1982)
Madison & St. Clair Counties, Illinois

	Basic Hourly Rates	Fringe Benefits
Change:		
Plumbers & Steamfitters:		
St. Clair (Belleville & Vic.) Co.	$17.60	$2.60

DECISION #KS83-4066-Mod.#1
(48 FR 40838-September 9, 1983)

	Basic Hourly Rates	Fringe Benefits
Douglas, Jefferson, Leavenworth, Miami and Shawnee Counties, Kansas		
CHANGE:		
Carpenters: Zone 3	$15.14	$ 1.80
Truck Drivers: Zone 1 (Leavenworth & Miami Cos.)		
Group 1	12.76	3.75
Group 2	12.96	3.75
Group 3	13.27	3.75
Group 4	13.42	3.75
Group 5	12.54	3.75

Basic Hourly Rates	Fringe Benefits

MODIFICATIONS P. 7

DC83-2031 MOD. # 15 cont'd	Basic Hourly Rates	Fringe Benefits
CONSTRUCTION LABORERS-CARPENTER TENDER, CEMENT MASON'S TENDER, WATER SPRAYING CONCRETE (CURING), TOOL ROOM CLERK & ALL LABORERS NOT OTHERWISE CLASSIFIED	$ 9.50	1.73
SEMI-SKILLED LABORERS & SKILLED LABORER: POTMAN, POWER TOOL OP., SMALL MACHINE OP., CONCRETE LABOR, SIGNALMEN, LASER BEAM OP. WATERPROOFER, OPEN CAISSON, TEST PIT, UNDERPINNING, PIER HOLE & DITCHES, LAGGERS & OVERHEAD STRIPPERS, OPERATOR OF H & DERRICKS, VIBRATOR OP., PIPELAYERS, OR TILE LAYERS, JACKHAMMERS, PAVING BREAKERS, SPADERS OR ANY MACHINE THAT DOES THE SAME GENERAL TYPE OF WORK, SCAFFORD BUILDERS, OP. OF TOW-MASTERS, SCOOTCRETES, BUGGY-MOBILES & OTHER MACHINES OF SIMILAR CHARACTER, OP. OF TAMPERS & RAMMERS, & OTHER MACHINES THAT DO THE SAME GENERAL TYPE OF WORK, WHETHER POWERED BY AIR, ELECTRIC OR GASOLINE, BUILDERS OF TRESTLE SCAFFORDS OVER ONE TIER HIGH & SAND BLASTERS, POWER CHAIN SAW OP. USED IN CLEARING, INSTALLERS OF WELL POINTS, WAGON DRILL OP. ACETYLENE BURNERS & LICENSED POWDERMEN	10.50	1.73
SHEET METAL WORKERS		
FOOTNOTES:		
d-Employer contributes additional 12¢ outside of District of Columbia		
ROOFERS:		
MATERIAL HANDLERS (ONLY TO SUPPLY MATERIALS AND TO PREPARE DECKS FOR NEW ROOFS OR REPAIRS	9.92	1.69

Basic Hourly Rates	Fringe Benefits

DECISION #KY83-1061 - Mod. #1 MODIFICATIONS P. 4
(48 FR 41706 - September 16, 1983)
Allen...Webster Counties, Kentucky

CHANGE:
Laborers Classifications Definitions:
Omit from GROUP II operators & deckhand scow man and ADD surface grinderman, hand operated grouter and grinder machine operator and deck hand scow man.
Power Equipment Operators Classifications Definitions Heavy Construction:
CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), truck mounted concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, elevating grader & all types of loaders, hoe-type machine, hoisting engine, mechanic welder, locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile-driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, push dozer, high lift, all types of boom cats, core drills, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (2 or more drums), hyster, pumpcrete, side boom, all rotary drills, mucking machine, rock spreader attached to equipment, scoopmobile KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom, LeTourneau or carry-all scoop.
CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. & Over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair and road widening trencher, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill and caisson drill helper (truck mounted), skid mounted or trailer mounted concrete pumps, fork lift (regardless of lift height), Ross Carrier, dredge engineer, and elevator (regardless of ownership when used to hoist building material).
CLASS C - Bituminous distributor, cement gun, conveyor, grout pump, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap & curing machine, hydro seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill, and caisson drill helper (track or skid mounted).
CLASS D - Utility operator to be paid a differential of 50¢ per hour above CLASS A Rate; Operators on cranes with booms 150 feet and over (including jib) shall receive 50¢ above CLASS A Rate.
Power Equipment Operators Classifications Definitions Highway Construction:
CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), truck mounted concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, elevating grader and all types of loaders, hoe-type machine, hoisting engine (2 or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile-driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane push dozer, high lift, all types of boom cats, core drills, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (2 or more drums), hyster, pumpcrete, side-boom, all rotary drills, mucking machine, rock spreader attached to equipment, scoopmobile, KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, & tailboom.

DECISION #KY83-1061 - Mod. #1 (Cont'd.) MODIFICATIONS P. 5

Power Equipment Operators (Cont'd.):
CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, roller (rock), tractor (50 H.P. or over), bull float, finish machine, outboard motor boat, electric vibrator compector/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, throttle valve man, tugger, well points, flexplane, fireman and hoist (one drum), skid mounted or trailer mounted concrete pumps, fork lift (regardless of lift height), Ross Carrier, dredge engineer and elevator (regardless of ownership when used to hoist building material).
CLASS C - Greaser on grease facilities servicing heavy equipment.
CLASS D - Bituminous distributor, cement gun, conveyor, grout pump, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (Under 50 H.P.), vibrator, oiler, concrete saw, burlap & curing machine, hydro seeder, power form handling equipment, deckhand oiler, and hydraulic post driver.

DECISION #KY83-1062 - Mod. #1
(48 FR 41707 - September 16, 1983)
Anderson...Woodford Counties, Kentucky

CHANGE:

Power Equipment Operators Classifications Definitions Highway Construction:
CLASS A - Auto patrol, batcher plant, bituminous paver, cable way, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), truck mounted concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, elevating grader & all types of loaders, hoe-type machine, hoisting engine (2 drums or more drums), locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel truck crane, push dozer, high lift, all types of boom cats, core drills, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (2 or more drums), hyster, pumpcrete, side boom, all rotary drills, mucking machine, rock spreader attached to equipment, scoopmobile KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom.
CLASS B - All air compressors (over 900 cu. ft. per min.), bituminous mixer, concrete mixer (under 21 cu. ft.), elevator (one drum or buck hoist), welding machine, form grader, roller (rock), tractor (50 H.P. or over), bull float, finish machine, outboard motor boat, electric vibrator compactor/self-propelled compactor, boom type tamping machine, truck crane oiler, switchman or brakeman, mechanic helper, whirley oiler, tractair and road widening trencher, joint sealing machine, throttle valve man, tugger, well points, flexplane, fireman, hoist (one drum), skid mounted or trailer mounted concrete pumps, fork lift (regardless of lift height), Ross Carrier, dredge engineer and elevator (regardless of ownership when used to hoist building material).
CLASS C - Greaser on grease facilities when servicing heavy equipment.
CLASS D - Bituminous distributor, cement gun, conveyor, grout pump, mud jack, paving joint machine, pump, roller (earth), tamping machine, tractors (Under 50 H.P.), vibrator, oiler, concrete saw, burlap & Curing machine, hydro seeder, power form handling equipment, deckhand oiler, & hydraulic post driver.

DECISION #KY83-1062 - Mod. #1 (Cont'd.)

CHANGE:

Power Equipment Operators Classifications Definitions Heavy Construction:
CLASS A - Auto patrol, batcher plant, bituminous paver, cableway, central compressor plant operator, clamshell, concrete mixer (21 cu. ft. or over), truck mounted concrete pump, crane, crusher plant, derrick, derrick boat, ditching & trenching machine, dragline, elevating grader & all types of loaders, hoe-type machine, hoisting engine, mechanic welder, locomotive, motor scraper, bulldozer, mechanic, orangepeel bucket, pile driver, power blade, roller (bituminous), scarifier, shovel, tractor shovel, truck crane, push dozer, high lift, all types of boom cats, core drills, tow or push boat, A-Frame winch truck, concrete paver, grade-all, hoist (2 or more drums), hyster, pumpcrete, side boom, all rotary drills, mucking machine, rock spreader attached to equipment, scoopmobile KeCal loader, tower cranes (French, German and other types), hydrocrane, backfiller, gurries, subgrader, tailboom, LeTourneau or carry-all scoop.
CLASS B - All air compressors (over 900 cu. ft. per min. or greater capacity), bituminous mixer, concrete mixer (under 21 cu. ft.), welding machine, form grader, roller (rock), tugger, tractor (50 H.P. & over), bull float, finish machine, outboard motor boat, well points, flexplane, fireman, boom type tamping machine, truck crane oiler, greaser on grease facilities servicing heavy equipment, switchman or brakeman, joint sealing machine, mechanic helper, whirley oiler, tractair and road widening trencher, electric vibrator compactor/self-propelled compactor, throttle valve, elevator (one drum or buck hoist), power sweeper (riding type), core drill & caisson drill helper (truck mounted), skid mounted or trailer mounted concrete pumps, forklift (regardless of lift height), Ross carrier, dredge engineer, and elevator (regardless of ownership when used to hoist building material).
CLASS C - Bituminous distributor, cement gun, conveyor, grout pump, mud jack, pump, paving joint machine, roller (earth), tamping machine, tractors (under 50 H.P.), vibrator, oiler, concrete saw, burlap & curing machine, hydro seeder, power form handling equipment, deckhand, steerman, hydraulic post driver, core drill, and caisson drill helper (track or skid mounted).
CLASS D - Utility operator to be paid a differential of 50¢ per hour above CLASS A Rate: Operator on cranes with booms 150 feet and over (including jib) shall receive 50¢ above CLASS A Rate.

DECISION #KY83-1063 - Mod. #1
(48 FR 41709 - September 16, 1983)
Adair...Wolfe Counties, Kentucky

OMIT:

Laborers - concrete handlers at $10.80 Basic Hourly Rate plus $ 1.85 Fringe Benefits.

ADD:

Laborers - gunnite operators at $10.09 Basic Hourly Rate plus $1.85 Fringe Benefits.

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NJ83-3015 - MOD. #7 (48 FR 27991 - June 17, 1983) Bergen, Essex, Hudson, Hunterdon, Middlesex, Morris, Passaic, Somerset, Sussex, Union, and Warren Counties, New Jersey		
CHANGE:		
ASBESTOS WORKERS:		
ZONE 1	17.82	4.095
DECISION NO. NJ83-3016 - MOD. #7 (48 FR 28003 - June 17, 1983) Atlantic, Burlington, Camden, Cape May, Cumberland, Gloucester, Mercer, Monmouth, Ocean and Salem Counties, New Jersey		
CHANGE:		
LINE CONSTRUCTION:		
ZONE 5:		
Lineman, Cable Splicers & Line Equipment Operators	20.33	3.75% +2.00
Truck Drivers	14.64	3.75% +2.00
Groundman	13.65	3.75% +2.00

	Basic Hourly Rates	Fringe Benefits
DECISION NO. NJ83-3026 - MOD. #2 (48 FR 34624 - July 29, 1983) Bergen, Essex, Hudson and Passaic Counties, New Jersey		
CHANGE:		
CARPENTERS, INSULATORS & MILLWRIGHTS:		
ZONE 2:		
Carpenters & Insulators	16.70	20.5%
Millwrights	17.20	20.5%
DIVERS & DIVER TENDERS:		
Divers	20.87	6.68
Diver Tenders	16.27	6.68
DECISION NO. PR83-3037 - MOD. #1 (48 FR 35849 - August 5, 1983) Puerto Rico, Island Wide		
CHANGE:		
IRONWORKERS'S HELPERS	3.59	

DECISION NO. OH83-2006 - MOD. #8 (48 FR 6459 - February 11, 1983) Statewide, Ohio	Basic Hourly Rates	Fringe Benefits
Change:		
Laborers:		
(Excluding Railroad Maintenance, Renovation and Repair):		
Group 1:		
Zone 1	$14.48	2.70
Zone 2	13.25	2.70
Zone 3	12.82	2.70
Group 2:		
Zone 1	14.605	2.70
Zone 2	13.375	2.70
Zone 3	12.945	2.70
Group 3:		
Zone 1	14.68	2.70
Zone 2	13.45	2.70
Zone 3	13.02	2.70
Group 4:		
Zone 1	14.83	2.70
Zone 2	13.60	2.70
Zone 3	13.17	2.70
Group 5:		
Zone 1	15.13	2.70
Zone 2	13.90	2.70
Zone 3	13.47	2.70
(Railroad Maintenance, Renovation and Repair):		
Cuyahoga, Geauga, Lake, Lorain, Lucas, Portage & Summit Cos.	8.75	2.70
Remaining Counties	8.25	2.70
Omit:		
Power Equipment Operators: Zone 2 & Zone 3		
Add:		
Power Equipment Operators:		
Zone 2:		
Master Mechanic	17.38	3.32
Class A	17.13	3.32
Class B	17.03	3.32
Class C	15.99	3.32
Class D	15.52	3.32
Class E	11.83	3.32
Power Equipment Operators (Cont'd):		
Zone 3:		
Master Mechanic	$16.64	3.32
Class A	16.39	3.32
Class B	16.27	3.32
Class C	15.23	3.32
Class D	14.80	3.32
Class E	10.94	3.32

DECISION NO. OH83-2006 (Cont'd)

POWER EQUIPMENT OPERATORS (CONT'D)
Zone 2 - Ashtabula, Cuyahoga, Erie, Geauga, Lake, Lorain, Medina, Portage and Summit Counties
Zone 3 - Remaining Counties

CLASS A - Air compressor on Steel Erection; Boiler Operator on Compressor or Generator when mounted on a rig; Cableways; Combination Concrete Mixer & Tower; Concrete Plants (over 4 yd. capacity); Concrete Pumps; Cranes, including Boom Trucks, Cherry Pickers); Derricks Draglines; Dredge (dipper, Clam or suction); Elevating Grader or Euclid Loader; Floating Equipment; Helicopter Crew (operator-hoist or winch); Hoes; Hoisting Engines; Hoisting Engines on Shaft or Tunnel Work; Industrial-Type Tractor; Jet Engine Dryer (D8 or D9) Diesel Tractor; Locomotives (Standard Guage); Maintenance Operator Class A; Mixer, Paving (Single or Double Drum); Mucking Machines; Multiple Scraper; Piledriving Machines; Power Shovels; Quad 9 (double pusher); Refrigerating Machine (Freezer Operation); Rotary Drill on Caisson Work; Side-Boom Dozer; Slip-Form Paver; Tower Derricks; Tree Shredder; Trench Machines (over 24" wide); Truck Mounted Concrete Pumps; Tug Boat; Tunnel Machine and/or Mining Machine; Wheel Excavator; Trailer Concrete Pump (without boom)

CLASS B - Asphalt Paver, Automatic Subgrader Machine, Self-propelled (CMI type); Boring Machine Operator (more than 48"); Bulldozer; End-loader; Kolman Loader (production type-Dirt); Lead Grease Man; Maintenance Operators Class B; Power Grader; Power Scrapers; Push Cat; Trench Machine (24" wide & under)

CLASS C - A-Frames; Air Compressor on Tunnel Work (low pressure); Asphalt Plant Engineer; Locomotive (narrow guage); Mixers, concrete (more than one bag capacity); Mixers, one bag capacity (side loader); Power Boilers over 15 lb. pressure; Pump Op. installing & operating Well Points; Pumps (4" & over discharge Rollers - Asphalt; Utility Operator (small equipment); Welding Machine & Generators

CLASS D - Back Fillers; Bar, Joint & Mesh Installing Machines; Batch Plant; Boring Machine Operators (48" or less) Bull Floats; Burlap & Curing Machines; Compressor (portable, sewer, heavy, & Highway); Concrete Plant (capacity 4 yd. & under); Concrete Saw (multiple); Conveyors (highway); Crushers; Deckhand; Drill, highway (with integral power); Farm-Type Tractor with attachments (highway); Finishing Machines; Fireman, Floating Equipment; Fork Lift (highway); Form Trenchers; Hydro Hammer; Hydro Seeders; Pavement Breaker; Plant Mixers; Post Driver; Post Hole Digger (power auger); Power Brush Burner; Power Form Handling Equipment; Road Widening Trencher; Rollers (brick, grade, macadam); Self-propelled Power Spreaders; Self-propelled Power Subgraders; Steam Fireman; Tractor (pulling sheepfoot roller or grader); Vibratory Compactors (with integral power)

CLASS E - Drum Fireman (asphalt plant); Forklift (masonry); Inboard-Outboard Motor Boat - Launch; Power Scrubber; Power Sweeper; Oil Heaters (asphalt plants); Oilers; Power Driven Heaters; Pumps (under 4" discharge); Tenders

MODIFICATIONS P. 13

DECISION NO. WA83-5110 - Mod #6 (48 FR 25108 - June 3, 1983) Statewide Washington	Basic Hourly Rates	Fringe Benefits
CHANGE:		
BRICKLAYERS;MARBLE SETTERS:		
Area 2	$17.28	$1.87
IRONWORKERS	18.04	4.15
PLASTERERS' TENDERS	14.27	3.37
SHEET METAL WORKERS:		
Area 3	17.89	4.54
TERRAZZO WORKERS;TILE SETTERS:		
Area 2	16.61	1.67
OMIT:		
BRICKLAYERS;MARBLE SETTERS:		
Area 4:		
Area Description:		
Omit San Juan, Skagit, and Whatcom Counties		
LABORERS:		
Area 3:		
Group 5: Landscaping or Planting Laborers	8.66	3.55
Group 6: Fence Builder (including Guard Rail, Median Rail, Reference Post, Guide Post, Right-of-Way Marker)	10.87	3.55
ADD:		
BRICKLAYERS;MARBLE SETTERS:		
Area 6:		
San Juan, Skagit, and Whatcom Counties	18.36	3.28
LABORERS:		
Area 3:		
Group 1: Add the following: Guard Rail, Median Rail, Reference Post, Guide Post, Right-of-Way Marker		
Group 5: Fence Builder	10.87	3.55

DECISION NO. WI83-2068 MOD. #3 (48 FR 40096 - September 2, 1983) Milwaukee, Ozaukee, Waukesha & Washington Cos., Wisconsin	Basic Hourly Rates	Fringe Benefits
ADD:		
Lathers	$14.65	4.03

	Basic Hourly Rates	Fringe Benefits

SUPERSEDEAS DECISION

STATE: MISSISSIPPI
DECISION NUMBER: MS83-1071
Supersedes Decision No.: MS81-1239 dated June 5, 1981 in 46 FR 30265.
DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION consisting of single family homes and apartments up to and including four stories.

COUNTIES: *See Below
DATE: DATE OF PUBLICATION

*Counties: ATTALA, CHICKASAW, CHOCTAW, CLAY, LOWNDES, MONROE, NOXUBEE, OKTIBBEHA, WEBSTER, & WINSTON

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 6.28	
BRICKLAYERS	6.50	
CARPENTERS	6.67	
CEMENT MASONS	5.82	
DRYWALL FINISHERS	8.21	
DRYWALL HANGERS	7.13	
ELECTRICIANS	7.00	
IRONWORKERS	6.08	
INSULATORS	5.72	
LABORERS, GENERAL	4.04	
PAINTERS	6.37	
POWER EQUIPMENT OPERATORS:		
Asphalt Distributor	4.75	
Asphalt Spreader	5.00	
Backhoe	6.51	
Bulldozer	6.90	
Roller	6.59	
Tractor	6.38	
PLUMBERS & PIPEFITTERS	$ 7.60	
ROOFERS	5.64	
SHEET METAL WORKERS	5.64	
SOFT FLOOR LAYERS	7.16	
TILE SETTERS	7.63	
TRUCK DRIVERS	5.00	
WELDERS--Receive rate prescribed for craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of this classification may be added only after award as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: ALCORN, ITAWAMBA, LEE, PONTOTOC, PRENTISS, TIPPAH, TISHOMINGO, & UNION

DECISION NUMBER: MS83-1072 DATE: DATE OF PUBLICATION

Supersedes Decision No.: MS81-1237 dated May 29, 1981 in 46 FR 29174.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION consisting of single family homes and apartments up to and including four stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 5.80	
BRICKLAYERS	7.29	
CARPENTERS	6.49	
DRYWALL HANGERS	6.00	
DRYWALL FINISHERS	6.00	
CEMENT MASONS	6.04	
ELECTRICIANS	6.73	
INSULATORS	7.50	
LABORERS, GENERAL	4.38	
PAINTERS	6.43	
PLUMBERS & PIPEFITTERS	7.95	
POWER EQUIPMENT OPERATORS:		
Asphalt Spreader	5.50	
Backhoe	6.25	
Bulldozer	5.76	
Forklift	5.00	
Front End Loader	4.63	
Roller	6.00	
Scraper	5.50	
Trenching Machine	7.39	
ROOFERS	6.00	
SHEET METAL WORKERS	$ 6.25	
SOFT FLOOR LAYERS	6.00	
TILE SETTERS	6.88	
TRUCK DRIVERS	5.00	
WELDERS--Receive rate prescribed for craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of this classification may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI COUNTIES: *See Below

DECISION NUMBER: MS83-1073 DATE: DATE OF PUBLICATION

Supersedes Decision No: MS81-1251 dated June 26, 1981 in 46 FR 33193.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION consisting of single family homes and apartments up to and including four stories.

*COUNTIES: CALHOUN, CARROLL, GRENADA, HOLMES, LAFAYETTE, LEFLORE, MONTGOMERY, PANOLA, TALLAHATCHIE, & YALOBUSHA

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANIC	$ 7.76	
BRICKLAYERS	7.93	
CARPENTERS	6.42	
CEMENT MASONS	6.01	
ELECTRICIANS	7.40	
DRYWALL HANGERS	6.04	
DRYWALL FINISHERS	6.00	
IRONWORKERS	5.16	
INSULATORS	4.55	
LABORERS, GENERAL	4.13	
PAINTERS	6.19	
PLUMBERS & PIPEFITTERS	7.36	
POWER EQUIPMENT OPERATORS:		
Asphalt Spreader	4.26	
Backhoe	6.52	
Bulldozer	6.41	
Cement Pump	6.00	
Front End Loader	5.56	
Motor Grader	5.69	
Roller	4.61	
Tractor	7.15	
ROOFERS	$ 6.39	
SHEET METAL WORKERS	6.21	
SOFT FLOOR LAYERS	5.00	
TILE SETTERS	5.00	
TRUCK DRIVERS	5.00	
WELDERS-Receive rate prescribed for craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of this classification may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: MISSISSIPPI

COUNTIES: GEORGE, HANCOCK, HARRISON, JACKSON, PEARL RIVER, & STONE

DECISION NUMBER: MS83-1074

DATE: DATE OF PUBLICATION

Supersedes Decision No.: MS81-1136 dated January 6, 1981 in 46 FR 1524.

DESCRIPTION OF WORK: RESIDENTIAL CONSTRUCTION consisting of single family homes and apartments up to and including 4 stories.

	Basic Hourly Rates	Fringe Benefits
AIR CONDITIONING MECHANICS	$ 6.88	
BRICKLAYERS	9.71	
CARPENTERS	7.13	
CEMENT MASONS	8.26	
ELECTRICIANS	7.94	
DRYWALL HANGERS	10.00	
DRYWALL FINISHERS	7.98	
IRONWORKERS	8.00	
LABORERS, General	4.64	
LATHERS	9.63	
PAINTERS	6.65	
PLASTERERS	10.38	
PLUMBERS & PIPEFITTERS	8.08	
ROOFERS	7.32	
SHEET METAL WORKERS	6.54	
SOFT FLOOR LAYERS	7.83	
TILE SETTERS	$ 8.10	
TRUCK DRIVERS	4.64	
POWER EQUIPMENT OPERATORS:		
Asphalt Spreader	6.34	
Backhoe	7.41	
Bulldozer	7.00	
Crane	7.00	
Motor Grader	7.01	
Roller	5.40	
WELDERS--Receive rate prescribed for craft to which the welding is incidental.		

Unlisted classifications needed for work not included within the scope of this classification may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Utah

COUNTIES: Statewide

DECISION NUMBER: UT83-5120

DATE: Date of Publication

Supersedes Decision No. UT83-5108 dated March 15, 1983, in 48 FR 12651

DESCRIPTION OF WORK: Building Projects (does not include single family homes and apartments up to and including 4 stories), Heavy and Highway Projects

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$16.80	$3.35
BOILERMAKERS	15.91	3.96
BRICKLAYERS:		
Industrial (power plants, Refineries, Smelters and Industrial Refractory Projects)	13.25	1.57
All Other work	10.00	1.57
CARPENTERS:		
Building Construction:		
Carpenters	13.25	2.35
Saw Operators	12.90	1.95
Scaffold Builder	13.15	1.95
Millwrights	13.90	1.95
Piledrivermen	18.79	1.95
Heavy and Highway Construction:		
Zone 1:		
Carpenters	14.73	2.35
Saw Operators; Carpenters handling creosote materials	14.98	2.35
Piledrivermen	18.79	1.95
Zone 2:		
Carpenters	17.23	2.35
Saw Operators; Carpenters handling creosote materials	17.48	2.35
Piledrivermen	18.79	1.95
CEMENT MASONS:		
Building Construction:		
Cement Masons	12.14	2.02
Machine Operator; Mastic Floor Materials	12.54	2.02
Heavy and Highway Construction:		
Zone 1:		
Cement Masons	14.40	2.41
Machine Operator; Mastic Floor Materials	14.65	2.41
CEMENT MASONS: (Cont'd)		
Heavy and Highway Construction: (Cont'd)		
Zone 2:		
Cement Masons	$16.90	$2.41
Machine Operator; Mastic Floor Materials	17.15	2.41
DRYWALL INSTALLERS:		
Taping, finishing and texturing (hand or machine)	13.04	1.44
ELECTRICIANS:		
Area 1:		
Zone 1:		
Electricians; Technicians	14.25	2.00+ 3-8/10%
Cable Splicers	14.50	2.00+ 3-8/10%
Zone 2:		
Electricians; Technicians	16.80	2.00+ 3-8/10%
Cable Splicers	17.25	2.00+ 3-8/10%
Zone 3:		
Electricians; Technicians	17.55	2.00+ 3-8/10%
Cable Splicers	17.80	2.00+ 3-8/10%
Zone 3A:		
Electricians; Technicians	16.00	1.75+ 3-3/10%
Cable Splicers	16.25	1.75+ 3-8/10%

DECISION NO. UT83-5120 Cont'd

	Basic Hourly Rates	Fringe Benefits
ELECTRICIANS: (Cont'd)		
Area 1: (Cont'd)		
Zone 4:		
Electricians; Technicians	$20.05	$2.00+ 3-8/10%
Cable Splicers	18.50	2.00+ 3-8/10%
In Zones 2, 3, and 3A, on any job or project not exceeding $250,000.00 electrical, labor and material included, Zone 1 rate shall apply.		
Area 2:		
Zone 1 and 1A:		
Electricians; Technicians	18.35	2.50+ 3-8/10%
Cable Splicers	18.85	2.50+ 3-8/10%
Zone 1B:		
Electricians; Technicians	19.10	2.50+ 3-8/10%
Cable Splicers	19.60	2.50+ 3-8/10%
Zone 1C:		
Electricians; Technicians	19.85	2.50+ 3-8/10%
Cable Splicers	20.35	2.50+ 3-8/10%
Zone 2:		
Electricians; Technicians	22.35	2.50+ 3-8/10%
Cable Splicers	22.85	2.50+ 3-8/10%
ELEVATOR CONSTRUCTORS:		
Mechanics	15.78	3.00+a
Helpers	11.05	3.00+a
Probationary Helpers	7.89	
GLAZIERS:		
Area 1	19.23	1.23
Area 2	13.20	1.31
IRONWORKERS:		
Fence Erectors; Ornamental; Reinforcing; Structural	15.35	3.15

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	Basic Hourly Rates	Fringe Benefits
LINE CONSTRUCTION WORKERS:		
Groundman	$11.65	$1.15+ 3-1/4%
Line Equipment Serviceman	14.32	1.15+ 3-1/4%
Line Equipment Mechanic:		
Base Shop	14.32	1.15+ 3-1/4%
Right-of-Way	15.30	1.15+ 3-1/4%
Line Equipment Operators	14.56	1.15+ 3-1/4%
Linemen	16.17	1.15+ 3-1/4%
Cable Splicers	17.81	1.15+ 3-1/4%
MARBLE SETTERS	12.02	1.59
MASON TENDERS:		
Commercial	8.10	1.05
Industrial (Power Plants, Refineries, Smelters)	12.02	1.05
PAINTERS:		
Area 1:		
Brush; Roller	11.92	1.36
Spray; Sandblast; Steeplejack; Brush, steel and bridge; Brush (swing stage)	12.17	1.36
Spray (swing stage); Sandblaster (swing stage); Spray, steel and bridge	12.37	1.36
Area 2:		
Brush; Roller	12.90	1.23
Brush (swing Stage); Brush (steel and bridge); Spray, Sandblaster, Steeplejack	13.20	1.23
Spray (swing stage); Spray (steel and bridge); Sandblaster (swing stage)	13.45	1.23
Wallcovering Hanger	13.15	1.23
PLASTERERS' TENDERS	12.10	.85
PLASTERERS	13.44	1.30
PLUMBERS:		
Pipefitters	16.28	2.46
ROOFERS	14.03	1.02
SHEET METAL WORKERS	15.60	2.67
SPRINKLER FITTERS	15.92	2.83
TERRAZZO WORKERS and TILE LAYERS	12.02	1.59

DECISION NO. UT83-5120 Cont'd

	Basic Hourly Rates	Basic Hourly Rates
LABORERS:		
Building Construction:		
Group 1	$8.92	
Group 2	9.92	
FRINGE BENEFITS: $1.44		
Heavy and Highway Construction:	AREA 1	AREA 2
Group 1	$11.67	$14.67
Group 2	11.80	14.80
Group 3	11.92	14.92
Group 4	12.17	15.17
Group 5	12.67	15.67
Tunnel and Shaft Work:		
Group 1	11.82	14.82
Group 2	11.92	14.92
Group 3	12.12	15.12
Group 4	12.57	15.57
FRINGE BENEFITS: $2.19		
POWER EQUIPMENT OPERATORS:		
Building Construction:		
Group 1	10.78	12.78
Group 2	11.17	13.17
Group 3	11.37	13.37
Group 4	11.48	13.48
Group 5	11.99	13.99
Group 6	12.16	14.16
Group 7	12.28	14.28
Group 8	12.61	14.61
Group 9	12.68	14.68
Group 10	12.84	14.84
Group 11	13.02	15.02
Group 12	13.51	15.51
Group 13	14.47	16.47
Group 14	14.96	16.96
Group 15	15.24	17.24
FRINGE BENEFITS: $4.585		
Heavy and Highway Construction:		
Group 1	14.01	16.51
Group 2	14.36	16.86
Group 3	14.54	17.04

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POWER EQUIPMENT OPERATORS: (Cont'd)	AREA 1	AREA 2
Heavy and Highway Construction: (Cont'd):		
Group 4	$14.65	$17.15
Group 5	15.11	17.61
Group 6	15.26	17.76
Group 6-A	15.37	17.87
Group 7	15.67	18.17
Group 7-A	15.73	18.23
Group 8	15.79	18.29
Group 9	15.95	18.45
Group 10	16.39	18.89
Group 10-A	17.35	19.85
Group 10-B	17.80	20.30
Group 11	17.96	20.46
FRINGE BENEFITS: $5.87		
Steel Erection:		
Group 1	14.79	
Group 2	15.33	
Group 3	16.81	
Group 4	17.00	
Group 4-A	17.46	
Group 5	18.18	
Group 6	18.79	
Group 7	19.23	
Group 8	19.65	
Group 9	21.15	
Piledriving:		
Group 1	14.12	
Group 1-A	14.61	
Group 1-B	14.90	
Group 2-A	14.90	
Group 2-B	15.68	
Group 2-C	15.98	
Group 2-D	16.20	
Group 3	16.41	
Group 3-A	17.04	
Group 4	17.82	
Group 5	18.08	
Group 6	19.71	
FRINGE BENEFITS: $5.87		

DECISION NO. UT83-5120 Cont'd

	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2
TRUCK DRIVERS:		
Dump Trucks - water level Capacity (bottom, end, and side)(including Dumpster Truck, Turna-wagons, Turnarockers and Dumpcrete):		
Less than 8 cu. yds.	$14.90	$17.90
8 cu. yds. and less than 14 cu. yds.	15.05	18.05
14 cu. yds. and less than 35 cu. yds.	15.20	18.20
35 cu. yds. and less than 55 cu. yds.	15.40	18.40
55 cu. yds. and less than 75 cu. yds.	15.60	18.60
75 cu. yds. and less than 95 cu. yds.	15.80	18.80
95 cu. yds. and less than 105 cu. yds.	16.00	19.00
105 cu. yds. and less than 130 cu. yds.	16.12	19.12
All 130 cu. yds. and over to be paid ($0.005 per cu. yd. capacity per hour in addition to rate for 105 yds. and less than 130 yds.		
Flat Rack Trucks, Bulk Cement Trucks, Transport Trucks, Semi-trailer (carrying capacity):		
Pickup	14.725	17.725
Less than 10 tons	14.80	17.80
10 tons and less than 15 tons	14.95	17.95
15 tons and less than 20 tons	15.05	18.05
20 tons and over	15.20	18.20

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	Basic Hourly Rates AREA 1	Basic Hourly Rates AREA 2
TRUCK DRIVERS: (Cont'd)		
Transit Mix Trucks:		
Less than 8 cu. yds.	$15.125	$18.125
Over 8 to 14 cu. yds.	15.225	18.225
Concrete Pumping Trucks	15.125	18.125
Water, Fuel and Oil Trucks:		
less than 1200 gallons	14.775	17.775
1200 gallons to less than 2500 gallons	14.90	17.90
2500 gallons to less than 4000 gallons	15.05	18.05
4000 gallons to less than 6000 gallons	15.35	18.35
6000 gallons to less than 10,000 gallons	15.60	18.60
10,000 gallons to less than 15,000 gallons	15.85	18.85
15,000 gallons to less than 20,000 gallons	16.10	19.10
20,000 gallons to less than 25,000 gallons	16.35	19.35
25,000 gallons and over	16.60	19.60
Oiler Spreader Operator where Boot Man is not required)	15.60	18.60
Fork Lift, Straddle Truck	15.10	18.10

FRINGE BENEFITS:
$4.59

DECISION NO. UT83-5120 Cont'd Page 5

WELDERS: Receive rate prescribed for craft performing operation to which welding is incidental

FOOTNOTE:
a. Employer contributes 8% of basic hourly rate for 5 years' service and 6% of basic hourly rate for 6 months' to 5 years' service as Vacation Pay Credit. 7 Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; Friday after Thanksgiving Day; and Christmas Day

AREA and ZONE DESCRIPTIONS

ELECTRICIANS:
Area 1: North section of Utah - Box Elder and Cache Counties; Davis County (north of 41st Parallel); Morgan, Rich, and Weber Counties:
Zone 1: That area 10 miles on either side of Interstate Highway #15, commencing on the south at the 41st Parallel in Davis County, continuing north to Highway #91 - Interstate #15 junction south of Brigham City; at this point go east and north through Logan and continue north to the 42nd Parallel in Cache County on Highway #91
Zone 2: That area not included in Zone 1 that lies east of 112°20' longitude in Box Elder County and that area lying west of 111°35', north of the 41st Parallel in Cache, Morgan, Weber Counties
Zone 3: That area lying east of 111°35' longitude and north of the 41st Parallel in Cache, Morgan, Rich, Weber Counties; also the area in Box Elder County lying west of 112°20' longitude and north and east of Utah Highway #83
Zone 3A: That area from a point 2 miles north of Center Street in Smithfield to the Utah-Idaho State Line and 10 miles east and west from Highway #91
Zone 4: All other area west of Zones 3 and 3A in Box Elder County

Area 2: South section of Utah (Remaining Counties):
Zone 1: Davis County (south of 41st Parallel); Salt Lake County; Tooele County (northeast corner beginning at a point where the township line between Township 3 south and Township 4 south, Salt Lake Base Meridian, intersects the east boundary line of Tooele County and thence west along said township line to the southwest corner of Section 32, Township 3 south, Range 4 west, Salt Lake Base Meridian, thence north to the northwest corner of Section 17 of Township 3 south, Range 4 west, thence west to longitude 112.5°, thence north along the line of longitude 112.5° to the north line of Tooele County); Utah County (north of 40th Parallel):

AREA and ZONE DESCRIPTIONS (Cont'd)

ELECTRICIANS: (Cont'd)
Area 2: (Cont'd)
Zone 1A: Ten miles either direction (east or west) from Interstate Highway #15, bounded on the north by the 41st Parallel and on the south by the 40th Parallel
Zone 1B: The balance of Zone 1 that lies in Davis, Salt Lake, and Utah Counties
Zone 1C: That portion of the remainder of Zone 1 that lies in Tooele County
Zone 2: Remainder of Counties and all portions of Counties not included in Zone 1 of the south section of Utah

GLAZIERS:
Area 1: Iron and Washington Counties
Area 2: Remaining Counties

PAINTERS:
Area 1: Box Elder, Cache, and Rich Counties; and the following Counties north of an east-west line from the north boundary of Farmington: Davis, Morgan, Summit, Tooele, and Weber Counties
Area 2: Remainder of State

LABORERS

Building Construction

Group 1: Laborers

Group 2: Powdermen and Drillers

Heavy and Highway Construction

Group 1: General Laborers

Group 2: Asphalt Raker; Sandblast Pot Tender; Gunite Nozzleman; Concrete Pump Head Hoseman; Signalman and Dumpman on concrete construction

Group 3: Work of all types using cutting torch; Operators of gasoline, electric or pneumatic tools (e.g., Compressor, Compactor, Jackhammer, Vibrator, Concrete Saw, Chain Saw and Concrete Cutting Torch); Pipelayer; Laser Instrument Operator; Refinery Tank and Vessel Cleaner; Sandblaster

Group 4: Air Track and similar Drills

Group 5: Powderman

LABORERS (Cont'd)

Tunnel and Shaft Work

Group 1: Underground Laborers

Group 2: Brakeman; Chucktender; Dumpman; Powderman Tender; Puddler; Nipper; Tapman; Vibrator; Screedman

Group 3: Cutting Machine Operator; Drill Doctor; Finisher; Gunite Gunman; Miner; Powder Makeup Man; Spader and Tugger; Steelman; Gunite Groundman; Gunite Nozzleman; Gunite Rodman; Concrete Head Hoseman

Group 4: Shifter

POWER EQUIPMENT OPERATORS

Building Construction

Group 1: Assistant to Engineer; Elevator Operators; Hydraulic Monitor; Material Loader or Conveyor Operators

Group 2: Air Compressor Operator; Concrete Mixer Operator (skiptype); Concrete Pump or Pumpcrete Gun Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Truck Crane Oiler

Group 3: Front End Loader (up to and including 1 cu. yd. struck M.RC.); Hoist Operator - 1 drum; Slip Form Pumps

Group 4: Air Compressor Operator (2 or more compressors); Signalman; Small Rubber-tired Tractor; Small self-propelled Pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more); Concrete Conveyor, building site

Group 5: A-Frame Truck and Tugger Hoist; Fork Lift (construction job site); Kolman Loader and similar; Loader Operator (over 1 cu. yd. to and including 2 cu. yds. struck M.R.C.); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Ross Carrier or similar type; Small rubber-tired Tractor (with attachments, including Backhoe); Small rubber-tired Trenching Machine; Small Tractor with boom; Gradesetter

Group 6: Bridge Crane; Concrete Mixer Operator (paving or batch plant); Drilling Machine Operator (Well or Diamond); Dual Drum Mixers; Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Roller Operator or self-propelled Compactors; Tractor Operator (Sheep's Foot and compacting equipment); Trenching Machine; Concrete Conveyor or Concrete Pump, truck or equipment mounted (boom length to apply); Self-propelled Compactor with or without Dozer

Group 7: Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or boom attachment, up to and including D-7 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)

Building Construction (Cont'd)

Group 8: Chicago Boom (including Stiff Leg and Sheer Pole); Concrete Batch Plant (multiple units); Loader Operator (over 2 cu. yds. up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount) (10 ton capacity or less M.R.C.)

Group 9: Heavy Duty Repairman or Welder; Tractor Operator (Bulldozer or tractor-drawn Scraper or drag-type Shovel or Boom Attachment, larger than D-7 or similar)

Group 10: Motor Patrol

Group 11: Loader Operator (over 5 cu. yds. up to and including 12 cu. yds. struck M.R.C.); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.) (up to and including 5 cu. yds. struck M.R.C.); Self-propelled boom type Lifting Device (center mount); Tower Crane (Linden type or similar designs and capacity)

Group 12: Remote Controlled (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 13: Loader Operator (over 12 cu. yds. struck M.R.C. up to 18 cu. yds. M.R.C.)

Group 14: Operator of Helicopter (when used in erection work)

Group 15: Cranes over 125 tons

Heavy and Highway Construction

Group 1: Assistant to Engineer; Brakeman - Locomotive; Elevator Operator; Fireman; Asphalt Plant Fireman; Hydraulic Monitor; Material Loader or Conveyor Operator; Partsman - field; Repairman Tender - field

Group 2: Boxman, asphalt plant; Air Compressor Operator; Concrete Mixer Operator (skip type); Concrete Pump or Pumpcrete Gun Operator; Engineer, Dinky Operator; Generator Operator (100 KW or over); Mixer Box Operator or similar (concrete or asphalt plant continuous mix); Pump Operator; Screedman; Self-propelled, automatically applied concrete curing machine (on streets, highways, airports and canals); Truck Crane Oiler (Assistant to Engineer)

Group 3: Ballast Jack Tamper; Ballast Regulator; Ballast Tamper, multiple purpose; Front End Loader (up to and including 1 cu. yd. struck M.R.C.); Hoist Operator, 1 drum Line Master; Slip Form Pumps

POWER EQUIPMENT OPERATORS (Cont'd)

Heavy and Highway Construction (Cont'd)

Group 4: Batch Operator (asphalt plant); Air Compressor Operator (2 or more compressors); Concrete Conveyor, building site; Lube and Service Engineer (mobile and grease rack); Motorman; Pavement Breaker Operator (Emsco and similar type); Shuttlecar; Signalman; Slurry Seal Machine or similar; Small rubber-tired Tractor; Small self-propelled pneumatic Rollers; Towermobile Operator; Welding Machine (2 or more)

Group 5: A-Frame Truck and Tugger Hoist; Concrete Saws (self-propelled unit on streets, highways, airports and canals); Engineer - Locomotive; Forklift (construction jobsite); Gradesetter; Kolman Loader (and similar); McGinnis Internal Full Slab Vibrator (on airports, highways, canals and warehouses); Mixermobile Operator; Pipe Bending Machine Operator; Pipe Cleaning Machine; Pipe Wrapping Machine; Power Jumbo Operator (setting slip forms, etc., in tunnels); Road Mixing Machine Operator; Ross Carrier or similar type; Small rubber-tired Trenching Machine; Small rubber-tired tractor (with attachments, including Backhoe; Small Tractor with boom; Surface Heater (self-propelled); Loader Operator (over 1 cu. yd. up to and including 2 cu. yds. "struck M.R.C.)

Group 6: Bridge Crane; Chip Box Spreader (Flaherty type and similar); Concrete Conveyor or Concrete Pump, truck or equipment mounted, boom length to apply; Concrete Mixer Operator (paving or batch plant); Concrete Pipe Floater Operator; Deck Engineer (Marine); Drilling Machine Operator (Well or Diamond); Drilling and boring Machinery, horizontal and vertical (not to apply to waterliners, wagon drills, or jack hammers); Dual Drum Mixers; Elevating Grader Operator; Fuller Kenyon Pump and similar types; Heavy Duty Rotary Drill Rigs (such as Quarry Master, Joy Drills or equal); Hoist Operator - 2 drums; Lull High-lift (40 ft. or similar); Mechanical Burm, Curb and/or Curb and Gutter Machine, concrete or asphalt; Mechanical Finisher Operator (asphalt or concrete); Mine or Shaft Hoist; No-joint Pipe Laying Machine; Pavement Breaker; Pavement Breaker with Compressor combination; Pavement Breaker, truck mounted, Compressor combination; Refrigeration Plant; Roller Operator or self-propelled Compactor; Self-propelled Compactor (with multiple-propulsion power units); Self-propelled Pipeline Wrapping Machine Perault, CRC, or similar types); Self-propelled Compactor with or without Dozer; Slusher Operator; Tractor Operator (Sheep's Foot and Compacting Equipment); Tractor Compressor Drill Combination; Trenching Machine

Group 6-A: Side Boom Operator; Tractor Operator (Bulldozer or Tractor-drawn Scraper or Drag-type Shovel or Boom Attachment, up to and including D-7 or similar)

POWER EQUIPMENT OPERATORS (Cont'd)

Heavy and Highway Construction (Cont'd)

Group 7: Asphalt Plant Engineer; Chicago Boom (including Stiff Leg and Sheer Pole); Combination Backhoe and Loader (3/4 cu. yds. or over M.R.C.); Combination Slusher and Motor Operator; Concrete Batch Plant (multiple units); Do-more Loader and Adams Elegrader; Engineer, Crushing Plant; Euclid Loader and similar types; Loader Operator (over 2 cu. yds. up to and including 6 cu. yds. "struck" M.R.C.); Koehring Skooper (or similar)(up to 5 cu. yds. "struck" M.R.C.); Mechanical Trench Shield; Mucking Machine Operator Rubber-tired Scrapers (under 35 cu. yds. "Struck" M.R.C.); Saurman type Dragline (under 5 cu. yds. "struck" M.R.C.); Self-propelled Boom-type lifting device (center mount)(10-ton capacity or less M.R.C.); Self-propelled Elevating Grade Plane; Soil Stabilizer (P & H or equal); Tri Batch Paver; Tunnel Mole (or similar)

Group 7-A: Heavy Duty Repairman or Welder; Tractor Operator (Bull-dozer or Tractor-drawn Scraper or Drag-type Shovel or boom attach-ment, larger than D-7 or similar); Rubber-tired Dozer

Group 8: Combination Mixer and Compressor (gunite); Highline Cable-way Signalman; Motor Patrol; Tower Crane (Linden type or similar designs and capacity); D-10, Komatsu 455 and over

Group 9: DW-10, 20, etc. (Tandem Scrapers); Loader Operator (over 6 cu. yds. up to and including 12 cu. yds. "struck" M.R.C.); High-line Cableway Operator; Lift Slab Machine (Vagtborg and similar types); Locomotive (over 100 tons) (single or multiple units); Pre-stress Wire Wrapping Machine; Saurman-type dragline (5 cu. yds. and over "struck" M.R.C.); Self-propelled boom-type lifting device (cen-ter mount) (over 10 tons up to and including 25 tons); Tractor (Tan-dem Scrapers); Universal Equipment Operator (Shovel, Backhoe, Dragline, Derrick, Derrick Barge, Clamshell, Crane, Grade-all, etc.) (up to and including 5 cu. yds. "struck" M.R.C.); Hydraulic Backhoe, tractor mounted, rubber tired, ext., 3/4 yd. and over

Group 10: Automatic Concrete Slip Form Paver; Koehring Skooper (or similar)(5 cu. yds. and over "struck M.R.C.); Multiple-propulsion Power Unit Earthmovers (up to and including 75 cu. yds. "struck" M.R.C.); Power Equipment with shovel-type controls (over 5 cu.yds. up to and including 7 cu. yds. "struck" M.R.C.); Remote-controlled Cranes and Derricks; Rubber-tired Scrapers (35 cu. yds. and over "struck" M.R.C.); Self-propelled Boom-type lifting device (center mount)(over 25 tons M.R.C.); Slip Form Paver (concrete or asphalt); Sub-grader (automatic Sub-grader - Fine Grader, CMI or similar); Tandem Tractors; Tower Cranes Mobile

POWER EQUIPMENT OPERATORS (Cont'd)

Heavy and Highway Construction (Cont'd)

Group 10-A: Loader Operator (over 12 cu. yds. "struck" M.R.C. up to 18 cu. yds. M.R.C.); Multi-purpose Earthmoving Machines (2 or more scrapers)(over 75 cu. yds. "struck" M.R.C.); Power Shovels and Draglines (over 7 cu. yds. "struck" M.R.C.); Holland Loader (60" belt)

Group 10-B: Operator of Helicopter (when used in erection work); Loader (18 cu. yds. and over)

Group 11: Cranes over 125 tons

STEEL ERECTION

Group 1: Assistant to Engineer (Oiler)

Group 2: Compressor Operator; Generator, gasoline or diesel driven (100 KW or over)(structural steel or tank erection only); Assistant to Engineer (truck crane oiler)

Group 3: Compressors, Generators and/or Welding Machines or combination (2 to 6) (structural steel or tank erection only); Deck Engineer; Forklift; Signalman (using mechanical equipment)

Group 4: Heavy Duty Repairman; Tractor Operator

Group 4-A: Combination Heavy Duty Repairman - Welder

Group 5: Dual Purpose A-frame or Boom Truck; Boom Cat; Chicago Boom; Crawler Cranes and Trucks Cranes (15 tons M.R.C. or less); Single-drum Hoist; Self-propelled Boom-type lifting device (cen-ter mount)(10 ton capacity or less M.R.C.); Tugger Hoist; Over-head Cranes (15 tons M.R.C. or less)

Group 6: Crawler Cranes and Trucks Cranes (over 15 tons M.R.C.); Cary Lift, Campbell or similar; Derricks; Gantry Rider (or si-milar equipment); Highline Cableway; Two or more drum Hoist; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons); Tower Cranes Mobile (in-cluding rail mounted); Universal Liebher and Tower Cranes (and similar types); Overhead Cranes (over 15 tons M.R.C.)

Group 7: Self-propelled boom-type lifting device (center mount) (over 25 tons)

Group 8: Cranes (over 125 tons)

Group 9: Operator of Helicopter

POWER EQUIPMENT OPERATORS (Cont'd)

PILEDRIVING

Group 1: Deckhand; Fireman; Oiler

Group 1-A: Compressor Operator

Group 1-B: Truck Crane Oiler (Assistant to Engineer)

Group 2-A: Operator of Tugger Hoist (hoisting material only)

Group 2-B: Forklift Operator

Group 2-C: Compressor Operator (over 2); Generator; Pumps; Welding Machine (powered other than by electricity)

Group 2-D: A-Frames

Group 3: Deck Engineer; Self-propelled boom-type lifting device (center mount) (10 ton capacity or less M.R.C.)

Group 3-A: Heavy Duty Repairman and/or Welder

Group 4: Operator of Piledriving Rigs, skid or floating and Derrick Barges; Operator of diesel or gasoline powered Crane Pilederiver (without boiler) (up to and including 1 cu. yd. rating); Truck Crane Operator (up to and including 25 tons) (hoisting material only); Operating Engineer in lieu of Assistant to Engineer tending boiler or compressor attached to Crane Piledriver; Self-propelled boom-type lifting device (center mount) (over 10 tons up to and including 25 tons)

Group 5: Operator of diesel or gasoline powered Crane Pile-driver (without boiler)(over 1 cu. yd. rating); Operator of Crane (with steam, flash boiler, pump or compressor attached); Operator of steam powered Crawler or Universal type Driver (Raymond or similar type); Truck Crane Operator (over 25 tons) (hoisting material or performing piledriving work); Self-propelled boom-type lifting device (center mount) (over 25 tons)

Group 6: Cranes (over 125 tons)

UNDERGROUND and SHAFT WORK:
Underground Work: Employees working underground shall receive $0.30 per hour in addition to their straight-time hourly rate.

Shaft Work: Employees working within Shafts, Stopes and Raises shall receive $0.50 per hour in addition to their straight-time hourly rate

AREA DESCRIPTIONS

HEAVY and HIGHWAY CONSTRUCTION
Carpenters, Cement Masons, and Laborers

BUILDING, HEAVY and HIGHWAY CONSTRUCTION
Power Equipment Operators and Truck Drivers

AREA 1: All area included in the description defined below which is based upon township and range lines as referenced to the Salt Lake City Base and Meridian:

Commencing at the intersection of the Utah/Nevada border and the Southerly line of township 35 south;
Thence easterly to the S.E. corner of township 35 south, range 17 west;
Thence northerly to the S.E. corner of township 34 south, range 17 west;
Thence easterly to the S.E. corner of township 34 south, range 16 west;
Thence northerly to the S.E. corner of township 30 south, range 16 west;
Thence easterly to the S.E. corner of township 30 south, range 15 west;
Thence northerly to the S.E. corner of township 25 south, range 15 west;
Thence easterly to the S.E. corner of township 25 south, range 14 west;
Thence northerly to the S.E. corner of township 24 south, range 14 west;
Thence easterly to the S.E. corner of township 24 south, range 13 west;
Thence northerly to the S.E. corner of township 23 south, range 13 west;
Thence easterly to the S.E. corner of township 23 south, range 12 west;
Thence northerly to the S.E. corner of township 18 south, range 12 west;
Thence easterly to the S.E. corner of township 18 south, range 11 west;
Thence northerly to the S.E. corner of township 16 south, range 11 west;
Thence easterly to the S.E. corner of township 16 south, range 10 west;
Thence northerly to the S.E. corner of township 15 south, range 10 west;
Thence easterly to the S.E. corner of township 15 south, range 9 west;
Thence northerly to the S.E. corner of township 14 south, range 9 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence easterly to the S.E. corner of township 14 south, range 8 west;
Thence northerly along the easterly line of range 8 west, crossing the Salt Lake Base Line to the intersection of the easterly line of range 8 west and the northerly border of Utah;
Thence easterly along the northerly border of Utah crossing the Salt Lake Meridian to the Utah/Idaho/Wyoming border;
Thence southerly along the Utah/Wyoming border;
Thence easterly along the Utah/Wyoming border to the intersection of the Utah/Wyoming border and Longitude 111 degrees west;
Thence southerly along Longitude 111 degrees west crossing the Salt Lake Base Line to the intersection of Longitude 111 degrees west and the southerly line of township 4 south;
Thence easterly along the southerly line of township 4 south to the S.E. corner of township 4 south, range 17 east;
Thence northerly to the S.E. corner of township 1 south, range 17 east;
Thence easterly along the southerly line of township 1 south to the intersection of the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the intersection of the Utah/Colorado border and the southerly line of township 7 south;
Thence westerly along the southerly line of township 7 south to the S.W. corner of township 7 south, range 20 east;
Thence southerly to the S.E. corner of township 8 south, range 19 east
Thence westerly along the southerly line of township 8 south to the S.E. corner of township 8 south, range 12 east;
Thence southerly along the easterly line of range 12 east to the S.E. corner of township 20 south, range 12 east;
Thence westerly along the southerly line of township 20 south to the S.E. corner of township 20 south, range 3 east;
Thence southerly along the easterly line of range 3 east to the S.E. corner of township 27 south, range 3 east;
Thence westerly to the intersection of the southerly line of township 27 south and the Salt Lake Meridian, thence southerly along the Salt Lake Meridian to the intersection of the Salt Lake Meridian and the southerly line of township 39 south;
Thence westerly crossing the Salt Lake Meridian to the S.E. corner of township 39 south, range 2 west;

AREA DEFINITIONS (Cont'd)

AREA 1: (Cont'd)

Thence southerly to the S.E. corner of township 41 south, range 2 west;
Thence westerly to the S.E. corner of township 41 south, range 3 west;
Thence southerly along the easterly line of range 3 west to the Utah/Arizona border;
Thence westerly along the Utah/Arizona border to the Utah/Arizona/Nevada border;
Thence northerly along the Utah/Nevada border to the point of beginning. Commencing at the intersection of the Utah/Colorado border to the southerly line of township 34 south;
Thence westerly to the S.W. corner of township 34 south, range 21 east;
Thence northerly to the S.E. corner of township 29 south, range 21 east;
Thence westerly to the S.W. corner of township 29 south, range 19 east;
Thence northerly to the N.W. corner of township 23 south, range 19 east;
Thence easterly to the N.W. corner of township 23 south, range 22 east;
Thence northerly to the N.W. corner of township 21 south, range 22 east;
Thence easterly to the N.E. corner of township 21 south, range 24 east;
Thence southerly to the N.E. corner of township 31 south, range 24 east;
Thence easterly along the northerly line of township 31 south, to the Utah/Colorado border;
Thence southerly along the Utah/Colorado border to the point of beginning.

AREA 2: All areas not included in Area 1 as defined.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii))

SUPERSEDEAS DECISION

STATE: VIRGINIA
DECISION NO. VA83-3028
COUNTIES: SEE BELOW *
DATE: DATE OF PUBLICATION
Supersedes Decision No. 79-VA-3051 dated November 9, 1979 in 44 FR 65315
DESCRIPTION OF WORK: Highway Construction

*Caroline, Essex Gloucester, King George, King & Queen, King William, Lancaster, Mathews, Middlesex, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland and the Independent City of Fredericksburg.

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	$ 6.09	
CARPENTER, STRUCTURE	7.27	
CARPENTER HELPER, STRUCTURE	5.59	
CEMENT FINISHER	7.20	
CONCRETE FINISHER HELPER	5.50	
ELECTRICIAN	12.80	
IRONWORKER, REINFORCING	7.63	
LABORER, UNSKILLED	4.73	
MECHANIC	6.94	
PAINTER, BRIDGE	7.65	
PILEDRIVER-LEADSMAN	5.38	
PIPELAYER	5.25	
AIR COMPRESSOR OPERATOR	5.80	
ASPHALT DISTRIBUTOR OPERATOR	5.59	
ASPHALT PAVER OPERATOR	6.14	
BACKHOE OPERATOR	6.52	
BULLDOZER OPERATOR	6.50	
BULLDOZER OPERATOR (Utility)	6.50	
CRANE, DERRICK, DRAGLINE (1 yd. and under)	7.47	
CRANE, DERRICK, DRAGLINE (over 1 yard)	7.47	
LINE MARKER OPERATOR	6.00	
LOADER OPERATOR (2 yds. & under)	5.96	
LOADER OPERATOR (over 2 yds.)	6.89	
MOTOR GRADER OPERATOR FINE GRADE	7.29	
MOTOR GRADER OPERATOR-ROUGH GRADE	6.50	
OILER-GREASER	6.68	
ROLLER OPERATOR-ROUGH	5.13	
ROLLER OPERATOR-FINISH	6.28	
STONE SPREADER OPERATOR	5.20	
TRACTOR OPERATOR-UTILITY	6.64	
TRUCK DRIVER, HEAVY DUTY: 7 c.y. and under	$5.98	
SCRAPER-PAN OPERATOR	6.12	
TRUCK DRIVER, HEAVY DUTY: over 7 c.y.	5.98	
TRUCK DRIVER: Single Rear Axle	4.98	
Multi Rear Axle	4.98	
WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.		
Slip-From Paver Operator	5.70	
Stabilizer Operator	6.25	

SUPERSEDEAS DECISION

STATE: VIRGINIA
DECISION NO. VA83-3029
COUNTIES: SEE BELOW *
DATE: DATE OF PUBLICATION
Supersedes Decision No. VA81-3094 dated December 18, 1981 in 46 FR 61818
DESCRIPTION OF WORK: Highway Construction Projects

*Bedford, Botetourt, Carroll, Craig, Floyd, Franklin, Giles, Henry, Montgomery, Patrick, Pulaski & Roanoke. The cities of Bedford, Galax, Martinsville, Radford, Roanoke, & Salem

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	$4.62	
CARPENTER, STRUCTURE	7.73	
CONCRETE FINISHER	6.84	
CONCRETE FINISHER HELPER	4.75	
GUARDRAIL/FENCE ERECTOR	5.50	
IRON WORKER, REINF.	6.00	
LABORER, UNSKILLED	4.56	
ASPHALT PAVER OPERATOR	5.10	
BACKHOE OPERATOR	5.64	
BULLDOZER OPERATOR	5.96	
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	7.00	
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD.)	7.14	
DRILL OPERATOR	5.75	
LOADER OPERATOR (2 YDS. & UNDER)	5.49	
LOADER OPERATOR (OVER 2 YD)	6.01	
MOTOR GRADER OPERATOR (FINE GRADE)	5.75	
OILER GREASER	5.50	
ROLLER OPERATOR (FINISH)	4.70	
SCRAPER PAN OPERATOR	5.42	
SLURRY SEAL MACHINE Oper.	5.52	
STONE SPREADER OPERATOR	5.08	
TRUCK DRIVER, HEAVY DUTY: (7 C.Y. & UNDER)	4.67	
TRUCK DRIVER, HEAVY DUTY: (OVER 7 C.Y.)	6.19	
TRUCK DRIVER (MULTI-REAR AXLE)	5.07	
Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).		

SUPERSEDEAS DECISION

STATE: VIRGINIA
DECISION NO. 83-VA-3030
Supersedes Decision No. 79-VA-3049 dated November 9, 1979 in 44 FR 65313
DESCRIPTION OF WORK: Highway Construction

COUNTIES: SEE BELOW *
DATE: DATE OF PUBLICATION

*Accomack, Greensville, Isle of Wight, James City, Northampton, Southampton, Surry, Sussex, York, The Cities of Emporia, Franklin, Suffolk, and Williamsburg

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	$5.02	
CARPENTERS, STRUCTURE	6.46	
CARPENTER STRUCTURE HELPER	4.99	
CONCRETE FINISHER	6.60	
CONCRETE FINISHER HELPER	4.92	
FORM SETTER	5.47	
GUARD RAIL/FENCE ERECTOR	6.30	
IRONWORKER, REINFORCING	6.20	
LABORERS, UNSKILLED	4.29	
LANDSCAPE WORKER	4.29	
MECHANIC	6.54	
MECHANIC HELPER	5.50	
MASON STRUCTURE	5.00	
FIREMAN	4.29	
PIPELAYER	6.48	
SIGN ERECTOR	6.17	
POWER EQUIPMENT OPERATORS:		
Asphalt Distributor	4.98	
Asphalt Paver	5.21	
Backhoe	6.16	
Bulldozer	5.99	
Drill Operator	4.50	
SLURRY SEAL MACHINE OP.	5.28	
CRANE, DERRICK, DRAGLINE (1 yd. & under)	6.51	
CRANE, DERRICK, DRAGLINE (over 1 yd.)	7.00	
LOADER (2 yds. & under)	5.34	
LOADER (over 2 yds.)	5.59	
MOTOR GRADER (FINE GRADE)	6.67	
MOTOR GRADER (ROUGH GRADE)	6.45	
OILER-GREASER	5.75	
POWER TOOL	5.44	
ROLLER (Rough)	4.60	
ROLLER (Finish)	5.00	
SCRAPER-PAN	5.74	
STONE SPREADER	5.36	
SLURRY SEAL POWER TRUCK OPERATOR	4.85	
TRACTOR, UTILITY	4.30	
TRUCK DRIVERS:		
Heavy Duty (over 7 c.y.)	4.30	
MULTI REAR AXLE	$4.44	
SINGLE REAR AXLE	4.29	

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

"Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii))."

SUPERSEDEAS DECISION

STATE: VIRGINIA
DECISION NO.: VA-83-3035
Supersedes Decision No. VA-80-3004, dated April 4, 1980 in 45 FR 23281
DESCRIPTION OF WORK: Highway Construction

COUNTIES: SEE BELOW *
DATE: DATE OF PUBLICATION

*Albemarle, Culpeper, Fauquier, Fluvanna, Greene, Loudoun, Louisa, Madison, Orange, Prince William & Rappahannock.

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	$6.36	
CARPENTER, STRUCTURE	6.60	
CARPENTER HELPER, STRUCTURE	5.50	
CONCRETE FINISHER	7.50	
ELECTRICIAN	11.73	
FORM SETTER	5.63	
IRON WORKER, REINF.	7.94	
LABORER, UNSKILLED	5.04	
MECHANIC	7.25	
MECHANIC HELPER	6.75	
PAINTER, BRIDGE	7.81	
PIPE LAYER	5.60	
ASPHALT DISTRUBUTOR OPERATOR	5.75	
ASPHALT PAVER OPERATOR	7.13	
BACKHOE OPERATOR	7.15	
BULLDOZER OPERATOR	6.97	
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD & UNDER)	6.30	
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD)	7.75	
LOADER OPERATOR (2 YDS. & UNDER)	6.75	
LOADER OPERATOR (OVER 2 YDS)	8.62	
MOTOR GRADE OPERATOR (FINE GRADE)	8.69	
MOTOR GRADE OPERATOR (ROUGH GRADER)	8.00	
OILER GREASER	6.25	
PLANT OPERATOR	6.58	
POWER TOOL OPERATOR	5.71	
ROLLER OPERATOR (ROUGH)	5.49	
ROLLER OPERATOR (FINISH)	6.26	
SCRAPER PAN OPERATOR	6.50	
STONE SPREADER OPERATOR	$5.25	
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	7.22	
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	7.22	
TRUCK DRIVER (MULTI-REAR AXLE)	6.07	
TRUCK DRIVER (SINGLE-REAR AXLE)	5.75	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5 (a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTY: ALLEGHANY, AUGUSTA, BATH CLARKE, FREDERICK, HIGHLAN PAGE, ROCKBRIDGE, ROCKINGHAM SHENANDOAH, & WARREN

DECISION NO. VA83-3036

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA82-3020, dated April 23, 1982 in 47 FR 17722

DESCRIPTION OF WORK: HIGHWAY CONSTRUCTION

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	5.58	
CARPENTER, STRUCTURE	6.50	
CARPENTER HELPER, STRUCTURE	5.00	
CONCRETE FINISHER	6.49	
CONCRETE FINISHER HELPER	4.54	
GUARDRAIL/FENCE ERECTOR	4.86	
IRON WORKER, REINF.	6.00	
LABORER, UNSKILLED	4.19	
MECHANIC	6.18	
PIPE LAYER	5.08	
POWDERMAN BLASTER	5.50	
SIGN ERECTOR	4.75	
ASPHALT DISTRIBUTOR OPER.	5.25	
ASPHALT PAVER OPERATOR	5.04	
BACKHOE OPERATOR	6.53	
BULLDOZER OPERATOR	6.17	
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	6.18	
CRANE, DERICK, DRAGLINE OPERATOR (Over 1 YD.)	6.50	
DRILL OPERATOR	5.58	
LOADER OPERATOR (2 YDS. & UNDER)	5.68	
LOADER OPERATOR (OVER 2 YD)	5.68	
MOTOR GRADER OPERATOR (FINE GRADE)	6.25	
MOTOR GRADER OPERATOR (ROUGH GRADE)	6.10	
OILER GREASER	5.63	
POWER TOOL OPERATOR	6.91	
ROLLER OPERATOR (ROUGH)	4.25	
ROLLER OPERATOR (FINISH)	5.19	
SCRAPER PAN OPERATOR	5.73	
TRUCK DRIVER, HEAVY DUTY (7 C.Y. & UNDER)	4.59	
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.59	
TRUCK DRIVER (MULTI-REAR AXLE)	4.89	
TRUCK DRIVER (SINGLE-REAR AXLE)	4.89	
STONE SPREADER OPERATOR	4.25	

SUPERSEDEAS DECISION

STATE: VIRGINIA

COUNTIES: SEE BELOW *

DECISION NO. VA83-3038

DATE: DATE OF PUBLICATION

Supersedes Decision No. VA81-3093 dated December 18, 1981 in 46 FR 61817

DESCRIPTION OF WORK: Highway Construction (does not include bridges over navigable waters; tunnels; rest areas which include building structures; railroad construction; and paving associated with building construction).

*The Independent Cities of Chesapeake, Hampton, Newport News, Norfolk, Portsmouth & Virginia Beach.

	Basic Hourly Rates	Fringe Benefits
ASPHALT RAKER	$5.02	
CARPENTERS, STRUCTURE	7.26	
CARPENTER HELPER, STRUCTURE	5.50	
CONCRETE FINISHER	6.23	
CONCRETE FINISHER HELPER	4.87	
ELECTRICIAN	12.33	
FORM SETTER	6.15	
GUARDRAIL/FENCE ERECTOR	5.51	
SIGN ERECTOR	7.88	
IRON WORKER, STRUCTURAL	6.31	
LABORER, UNSKILLED	4.36	
LANDSCAPE WORKER	3.96	
MASON STRUCTURE	5.00	
MECHANIC	7.05	
PAINTER		
PAINTER, BRIDGE	8.31	
PILE DRIVER LEADSMAN	7.56	
PIPE LAYER	5.17	
ASPHALT DISTRIBUTOR OPER.	6.18	
ASPHALT PAVER OPERATOR	6.10	
BACKHOE OPERATOR	6.42	
BULLDOZER OPERATOR	6.23	
BULLDOZER OPERATOR (UTILITY	6.10	
CONCRETE FINISH MACHINE OP.	6.15	
CONCRETE PAVING MACHINE OP.	6.33	
CRANE, DERRICK, DRAGLINE OPERATOR (1 YD. & UNDER)	7.42	
CRANE, DERRICK, DRAGLINE OPERATOR (OVER 1 YD)	7.72	
LOADER OPERATOR (2 YDS. & UNDER)	5.61	
LOADER OPERATOR (OVER 2 YDS.)	5.93	
MOTOR GRADER OPERATOR (FINE GRADE)	7.23	
MOTOR GRADER OPERATOR (ROUGH GRADE)	6.64	
OILER GREASER	5.82	
POWER TOOL OPERATOR	$4.93	
ROLLER OPERATOR (ROUGH)	5.21	
ROLLER OPERATOR (FINISH)	5.65	
SCRAPER PAN OPERATOR	5.84	
SLIP-FORM PAVER OPERATOR	6.15	
STABILIZER OPERATOR	5.30	
TRACTOR OPERATOR (UTILITY	4.53	
TRENCHING MACHINE OPERATOR	6.00	
TRUCK DRIVER, HEAVY DUTY (& C.Y. & UNDER)	4.66	
TRUCK DRIVER, HEAVY DUTY (OVER 7 C.Y.)	4.66	
TRUCK DRIVER (MULTI-REAR AXLE)	4.55	
TRUCK DRIVER (SINGLE-REAR AXLE)	4.55	

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR, 5.5(a)(1)(ii)).

SUPERSEDEAS DECISION

STATE: Virginia

COUNTIES: Bland, Buchanan, Dickenson, Grayson, Lee Russell, Scott, Smyth, Tazewell, Washington, Wise & Wythe

DECISION NO.: VA83-3039

DATE: Date of Publication

Supersedes Decision No. VA81-3055, dated August 7, 1981 in 46 FR 40486

DESCRIPTION OF WORK: Highway Construction

	Basic Hourly Rates	Fringe Benefits
Asphalt Raker	4.46	
Carpenter, Structure	6.03	
Carpenter Helper, Structure	4.69	
Concrete Finisher	5.51	
Concrete Finisher Helper	4.74	
Electrician	6.50	
Guardrail/Fence Erector	4.97	
Laborer, Unskilled	4.48	
Mechanic	6.24	
Mechanic Helper	4.70	
Pipe Layer	6.55	
Asphalt Distributor Operator	4.59	
Asphalt Paver Operator	4.85	
Backhoe Operator	5.92	
Bulldozer Operator	5.81	
Bulldozer Operator (Utility)	6.55	
Crane, Derrick, Dragline Operator (1 yd. & under)	5.85	
Crane, Derrick, Dragline Operator (Over 1 yd.)	6.33	
Concrete Finish Machine Operator	5.00	
Concrete Paving Machine Operator	4.50	
Crusher Feeder Operator	5.75	
Drill Operator	5.82	
Loader Operator (2 yds. & under)	5.53	
Loader Operator (over 2 yd)	6.00	
Motor Grader Operator (Fine Grade)	6.17	
Motor Grader Operator (Rough Grade)	5.25	
Oiler Greaser	4.75	
Roller Operator (Rough)	4.25	
Roller Operator (Finish)	4.58	
Scraper Pan Operator	5.83	
Shovel Operator (Over 1 yd.)	6.30	
Stone Spreade Operator	5.10	
Tractor Operator (Utility)	4.68	
Truck Driver, Heavy Duty (7 cy. & under)	4.25	
Truck Driver, Heavy Duty (Over 7 c.y.)	5.15	
Truck Driver (Multi-Rear Axle)	4.50	
Truck Driver (Single-Rear Axle)	4.50	
Power Tool Operator	5.00	
Shovel Operator (1 yd & under)	6.10	

SUPERSEDEAS DECISION

STATE: Wisconsin

COUNTIES: Brown, Door, Kewaunee & Oconto

DECISION NUMBER: WI83-2076

DATE: Date of Publication

Supersedes Decision No. WI82-2008 dated, March 5, 1982 in 47 FR 9689

DESCRIPTION OF WORK: Building Construction (excluding single family homes and garden type apartments up to and including 4 stories)

	Basic Hourly Rates	Fringe Benefits
ASBESTOS WORKERS	$17.65	1.80
BOILERMAKERS	16.12	2.825
BRICKLAYERS, Marble Setters & Stonemasons	12.75	2.09
CARPENTERS & SOFT FLOOR LAYERS	13.66	2.11
CEMENT MASONS	12.25	2.09
ELECTRICIANS	15.85	.90+9½%
GLAZIERS	13.11	3.00
ELEVATOR CONSTRUCTORS:		
Mechanics	16.005	2.465
Helpers	11.20	2.465
Helpers (Prob.)	50%JR	
IRONWORKERS:		
Structural, Ornamental and Reinforcing	14.81	5.55
Millwrights & Pile-drivermen	14.06	2.11
PAINTERS:		
Brush	14.05	1.00
Structural Steel & Spray	14.43	1.00
PLASTERERS	12.75	2.15
PLUMBERS	16.82	2.76
ROOFERS	14.25	.75
SHEET METAL WORKERS	13.66	5.27
TERRAZZO WORKERS & TILE SETTERS	12.75	2.15
LABORERS:		
Building:		
Class I:		
General	11.03	1.43
Class II:		
Plaster & Mason Tender	11.13	1.43
Class III:		
Jackhammer Operator	11.28	1.43
POWER EQUIPMENT OPERATORS:		
Group I	15.22	2.90
Group II	14.92	2.90
Group III	14.56	2.90
Group IV	14.44	2.90
Group V	13.88	2.90
Group VI	13.41	2.90

DECISION NO. WI83-2076

GROUP I - Cranes, Shovels, Draglines, Backhoes, Clamshells, Derricks, Caisson Rigs, Pile Driver, Skid Rigs, Dredge Operator and Traveling Cranes (Bridge Type), Concrete Paver (over 27E), Concrete Spreader and Distributor

GROUP II - Material Hoists, Tractor or Truck Mounted Hydraulic Backhoe, Tractor or Truck Mounted Hydraulic Crane (5 tons or under), Manhoist, Tractor (over 40 H.P.), Bulldozer, Endloader (over 40 H.P.), Forklift (25' and over), Motor Patrol, Scraper Operator, Sideboom, Straddle Carrier, Mechanic and Welder, Bituminous Plant and Paver Operator, Roller (over 5 tons), Rotary Drill Operator and Blaster, Trencher (wheel type or chain type having over 8-inch bucket)

GROUP III - Concrete and Grout Pumps, Backfiller, Concrete Auto Breaker (large), Concrete finishing (Road Type), Roller (Rubber Tire), Concrete Batch Hopper, Concrete Conveyor Systems, Concrete Mixers (14S or over), Screw Type Pumps, and Gypsum Pumps, Tractor, Bulldozer, Endloader (under 40 H.P.), Pumps (well points), Trencher (chain type having bucket 8-inch and under), Industrial Locomotives, Roller (under 5 tons) and Firemen (pile drivers and derricks)

GROUP IV - Hoists (automatic), Forklift (12' to 25'); Tampers Compactors riding type), Assistant Engineer, "A" Frame and Winch Trucks, Concrete-Auto Breaker, Hydro-Hammer (small), Booms and Sweeper, Hoists (tuggers) Stump Chipper (large), Boats, Safety, Work, Barges and Launches)

GROUP V - Shouldering Machine Operator, Screed Operator, Farm or Industrial Tractor Mounted Equipment, Post Hole Diggers, Stone Crushers and Screening Plants, Firemen (Asphalt) Plants), Air Compressor (300 CFM or over)

GROUP VI - Generators over 150 KW, Pumps over 3", Augers (vertical and horizontal), Combination Small Equipment Operator; Air Electric Hydraulic Jacks (Slip Form), Compressor(under 300 CFM); Generators (under 150 KWO, Pumps (3" and under); Winches (small electric), Oiler and Greaser, Boiler Operators (Temporary Heat), Rotary Drill Helpers, Conveyors, Forklift (12' and under)

[FR Doc. 83-26498 Filed 9-29-83; 8:45 am]

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federal register

Friday
September 30,

Part III

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Simplified Application Demonstration Project; Final Rule

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 282

[Amdt. No. 219]

Food Stamp Program; Simplified Application Demonstration Project

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rulemaking establishes procedures for conducting a demonstration project involving the use of simplified food stamp application and benefit determination procedures for recipients of certain types of categorical aid. This demonstration is authorized by Subsection 17(d) of the Food Stamp Act of 1977, as amended.

DATE: September 30, 1983.

FOR FURTHER INFORMATION CONTACT: Claire Lipsman, Director; Program Planning, Development, and Support Division; Family Nutrition Programs; Food and Nutrition Service, USDA; Alexandria, Virginia 22302. Phone (703) 756–3414.

SUPPLEMENTARY INFORMATION:

Classification

Justification for establishing effective date

Robert E. Leard, Administrator of the Food and Nutrition Service, pursuant to 5 U.S.C. 553, has determined that good cause exists for making this rule effective upon publication. The effective date does not establish a mandatory implementation date; rather, it allows States flexibility in implementation. Sites may wish to implement the provisions of this rulemaking as of the effective date to coordinate project implementation with the implementation of other Food Stamp Program changes scheduled for October 1, 1983, i.e. monthly reporting, Thrifty Food Plan adjustments and new quality control review procedures.

Executive Order 12291

This final rule has been reviewed under Executive Order 12291 and Secretary's Memorandum No. 1512–1, and has been classified not major because the provisions 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, industries, Federal, State or local governments, or geographical regions; or 3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. These provisions will not significantly raise the Food Stamp Program's total benefit and administrative expenses. It is anticipated that the operation of these projects will demonstrate the feasibility of future administrative cost savings in the Food Stamp Program (FSP). The project's evaluation will determine the extent of the savings. The project will only be operated in a small number of sites, and because these provisions deal only with the administration of the FSP in these sites, they will not affect industry or trade in any substantive manner.

Regulatory Flexibility Act

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, September 19, 1980). The Administrator, Food and Nutrition Service (FNS), has certified that the action does not have a significant economic impact on a substantial number of small entities. The rule establishes procedures under which State and local agencies will operate the Simplified Application Demonstration Project. These projects are expected to demonstrate the feasibility of future administrative cost savings in the FSP. As participation is voluntary and some additional administrative funding will be forthcoming, there should be no significant adverse impact on the workload, staffing needs, or paperwork of participating State or county agencies.

Paperwork Reduction Act

This proposed regulation does not contain any reporting or recordkeeping requirements which come under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511).

Background

The Department published a proposed rule on August 3, 1982 (47 FR 33513) to establish procedures for the operation of a Simplified Application Demonstration Project. This project is authorized by Section 17(d) of the Food Stamp Act as amended by Pub. L. 97–98, 95 Stat. 1282, signed December 21, 1981. The Simplified Application Demonstration Project is designed to test a procedure which would simplify program application for households in which one or more members received aid to families with dependent children (AFDC) under part A of title IV of the Social Security Act, or supplemental security income (SSI) under title XVI of the Social Security Act, or medical assistance (Medicaid) under title XIX of the Social Security Act. Normally such households would complete a separate application for food stamps and have their eligibility determined using food stamp income and resource definitions and limits. In this Simplified Application Project, these households would have their food stamp eligibility determined using information contained in their AFDC, SSI, or Medicaid application. They would be considered to have satisfied the application requirements of Section 5(a) of the Act and the income and resource requirements of Section 5 (d) through (g), but would have to meet the applicable food stamp income eligibility standards of Section 5(c) and other non-financial eligibility criteria. To further simplify FSP administration, benefits provided to such households could be standardized amounts, by category of assistance and household size, rather than being individually determined. Subcategories will be developed to consider the presence or absence of earned income or an elderly or disabled household member. The legislation authorizes the Department to conduct the project in a maximum of 14 political subdivisions and two States. Each project will be operational for up to 15 months.

At this point it should be noted that the Omnibus Reconciliation Act of 1982 (Pub. L. 97–759, signed September 8, 1982) revised the income eligibility standards of Section 5(c) of the Act. A household which does not contain a qualified elderly or disabled member is required to pass two income tests. First, its gross income could not exceed 130 percent of the appropriate Federal poverty income guideline. Second, its net income could not exceed the appropriate Federal poverty guideline. No change was made in the income eligibility standards for households containing elderly or disabled members; they still are required to have a net income equal to or less than the appropriate poverty guidelines.

This change in the legislation will impact on the manner in which food stamp income eligibility is determined for a project eligible household which does not contain an elderly or disabled member. After gross income is determined (using the income definition of the appropriate categorical aid program and adding any categorical benefits received), this amount would be compared to 130 percent of the Federal poverty guideline for the size household. Net income would be determined by subtracting the standard deduction and

other average deductions appropriate to the household's size and category. For example, for a four-person AFDC household, with no earned income, income eligibility would be calculated as follows:

0	Gross income as calculated for AFDC.
+$400	AFDC grant.
$400	Gross food stamp income.
(1)	
$400	Gross food stamp income.
$85	Standard deduction.
−$90	Average excess shelter/child care deduction for a four-person AFDC household with no earnings.
$225	Net income.
(2)	

[1] $400 is less than $1009 (130 percent of the Federal poverty guideline).
[2] $225 is less than $775 (100 percent of the Federal poverty guideline).
Benefit amounts would then be calculated from the $225 net income figure.

The above serves as an example of how income eligibility and benefit levels could be calculated. In actual practice, the net income calculation could be implicit since $400 is less than 100 percent of the OMB poverty guideline. In addition, the project legislation gives States the option of using the State standard of need (maximum aid payment) in determining allotments. Thus, a project site could choose to calculate standard allotments using the State standard of need (maximum aid payment) as the basis for standardized allotments

The Department received a total of 13 comment letters from State and local agencies, FNS Regional Offices, and public interest groups. This preamble discusses comments received and provides the Department's rationale for either accepting or rejecting the comments. Most comments did not result in changes: they were either not legally possible, not feasible, or were minor clarifications. Therefore, the rules have not changed significantly from the proposed rulemaking. The rationale contained in the August 3 proposed rule should be regarded as the basis for the final rule where the rule is unchanged.

General Project Related Concerns

The reactions of the commenters to the project's concept were mixed. State and local agencies tended, generally speaking, to respond in terms of how the project might be modified to meet their particular needs. Other commenters expressed more general opinions for or against the project.

Those in favor of the project cited potential administrative savings resulting from the use of a common application form and similar program definitions. Alternatively, one commenter opposed the project's concept, feeling that it was ill-considered and contrary to the public interest. This comment was supported by the belief that a simplified application process does not address the fraud, waste and abuse issues facing the program, and unduly diminishes the barriers to program participation. As the project is a test, its evaluation will focus on the extent to which it results in administrative savings and changes program participation and error rates.

One commenter expressed strong opposition to the timing established for regulation promulgation and project operator selection. The commenter believed that the submission of project proposals concurrent with the promulgation of regulations indicated that the Department would not be responsive to public comments. However, as stated in the proposed regulations, sites selected as project sponsors will be required to modify their operational designs as needed to conform to the final regulations. Sites unwilling to make such modifications would have their contracts for project operations cancelled.

Areas of Operation

One commenter believed the areas of operation should be expanded beyond two Statewide projects and 14 political subdivisions. However, the legislation is specific in limiting project operations to this number of sites.

Effect on Normal Program Requirements

One commenter expressed concern that the right of a food stamp applicant to submit an application on the same day he or she contacts the food stamp office might not be extended during this project since a corresponding regulatory right does not exist in the AFDC, SSI or Medicaid Program. While the regulations have not been revised, the Department will ensure that this right (and all other provisions of program rules not specifically waived) will be maintained throughout the project, both by inclusion in instructional material and monitoring of site operations.

An additional requirement has been added to this section. As part of the operational design, one sponsor proposed giving all project eligible households a one-year certification period. (This certification period coincides with the certification period assigned under the various categorical aid programs of project eligible households.) For pure AFDC and SSI households, this would be in accord with the regulation found at § 273.10(f) regarding certification periods. However, included among project eligible households will be "mixed house holds," i.e., households some of whose members receive categorical aid. Some of these mixed households' circumstances would, under regular program rules, dictate certification periods of less then one year. The sponsor has proposed establishing a mini-review schedule for such households. On a periodic basis, which would conform to the certification period normally assigned such a household, the household would report to the office for an interview. Attendance at the interview would be a condition of continuing food stamp eligibility for the mixed household. At that time, the household would complete an abbreviated application form and the most recent household information (current categorical aid application, monthly status report, and other available information, as appropriate) would be reviewed. Information shall be verified in accordance with normal verification procedures used at food stamp recertifications. If the household refuses to attend the interview, or information gathered during the interview indicates a change in household benefits, the sponsor will take action in accordance with § 273.13, Notice of Adverse Action.

FNS believes that this proposal is in the spirit of the project's goals. A full application will not have to be completed at these mini-reviews, thus reducing both administrative and recipient burden. However, the face-to-face interview will provide the same program protection provided through less than one-year certification periods. The final rules reflect this waiver.

Project Eligible Households

Two commenters expressed concern regarding the categories of households which could be potentially included in the demonstration project universe. One commenter believed that the inclusion of "mixed" households (households some of whose members receive AFDC, SSI or Medicaid), and "multiple benefit" Households (those in which all members receive some combination of AFDC, SSI, and/or Medicaid benefits), would result in complicating the project. Another thought the inclusion of mixed households created a program loophole since such households would be categorically resource eligible, regardless of the resources held by members not participating in the AFDC, SSI or Medicaid Program. The Department, in writing the proposed regulations, allowed States the option of choosing those households which they wished to be project eligible. This was done in recognition of the fact that State agencies might not consider the use of

simplified application procedures appropriate for all categories of potentially eligible project households. Thus, participating agencies will be allowed to choose among the categories of project eligible households, including those which they believe would benefit form the use of simplified procedures. (It is expected that benefits will not only accrue to States, in the from of administrative cost savings, but also to participants in having only to respond to one set of requirements.) The legislation clearly establishes the categorical resource eligibility of mixed households if they are included in the project eligible universe. However, part of the evaluation will address the participation effect of such a policy on households which would otherwise not be eligible.

Household Notification

The proposed rules inadvertently omitted procedures to be followed in notifying currently certified project eligible households of the project's operation and revised benefit levels. (These procedures were detailed in the proposed rules for the Expanded Cash-Out Demonstration Project published in the Federal Register on July 16, 1982 (47 FR 31000).) Sites planning on converting such households to standardized allotments will provide each household a notice setting forth information on the value of the newly computed benefit and the formula used in calculating the budget. The notice must conform to the requirements of § 273.13(a)(2), which governs notices of adverse action. The Department suggests that the notice be sent out sufficiently in advance of the project's implementation date to allow for the adjudication of appeals if the action is contested. At project termination, households will be required to be recertified using normal program rules. Given the potential impact this will have on administration, particularly in Statewide projects, sponsors will be allowed to stagger these recertifications.

Application Processing Procedures

A total of three commenters addressed the application processing procedures established in the proposed regulations. One commenter stated that food stamp eligibility should be determined not only from information contained in the categorical aid application, but also from any other information subsequently received which has an impact on food stamp eligibility. The Department intended this to be done and thus agrees with this comment. The regulations have been revised to clarify that all pertinent, available information will be used. One commenter believed that a project eligible household's food stamp eligibility should be automatically determined, rather than having the household indiate a desire to receive food stamps. This comment has not been adopted. Since not all households wish to receive food stamps, such a procedure would result in unnecessary increases in program expenditures.

Two commenters questioned procedures to be used to ensure 30-day processing in those instances where households jointly apply for food stamps, and AFDC, SSI or Medicaid benefits. One commenter felt that simplified application procedures should be used to determine food stamp eligibility whether or not the AFDC, SSI or Medicaid determination had been made. Since, by legislation, simplified application procedures are available only to those households which include recipients of AFDC, SSI or Medicaid, this comment has not been adopted. The other commenter felt procedures should be established which would prevent a household from having to reapply (or submit additional information) if the categorical aid determination either cannot be made within 30 days or is denied. In reviewing States' proposals for project operation, considerable attention has been given to their procedures for ensuring that food stamp eligibility is determined and benefits issued within applicable processing standards. Most States have opted to take a full food stamp application when a household's eligibility for AFDC, SSI or Medicaid is not already established. The others have established a pending system to allow time to go back to the household for further information should it become necessary. The impact of these options, on both the State agency and participant, will be considered during the project's evaluation.

One commenter questioned the availability of both SSI information and information on members not included in a categorical grant. The methodology for obtaining such information is left to the discretion of the participating agencies. However, FNS will ensure, through monitoring and procedural review, that such information is obtained and verified, where appropriate, as part of the food stamp eligibility determination process.

Another commenter felt that food stamp processing standards should be revised to make them compatible with those for AFDC and SSI. The Department feels that it is important to ensure food stamp benefit availability within food stamp processing standards rather than the lengthier standards allowed under AFDC and SSI regulations. Thus, the regulations have not been amended in this regard.

Food Stamp Program Eligibility

One commenter found the proposed rules at § 282.19(g)(2)(ii) (now renumbered § 282.19(h)(2)(iii)) related to determining net income were confusing. This portion of the regulation has been revised to include the new net income test for households not containing elderly or disabled members. Wording has also been added to clarify those deductions to be considered in determining net income.

The proposed rule regarding gross income has also been slightly modified to adjust for an accounting problem caused by AFDC rules related to eligibility and grant determinations/procedures. In determining gross income eligibility for AFDC purposes at the time of application, all child support payments received by the household are included. Child support payments subsequently turned over to the State agency are excluded in determining the AFDC benefit amount. The proposed rules provided that food stamp gross income was to be calculated by adding the categorical assistance amount to gross income as determined by the categorical aid program. This procedure would result in potential ineligibility for such households since their gross income would be overstated by the amount subsequently turned over to the State agency. Consequently, the regulations have been revised to exclude child support payments transferred to the State agency in determining food stamp gross income eligibility.

Benefit Levels

Three commenters asked that basic criteria be developed which would be used in determining benefit levels. Basic criteria have in fact been developed: (1) Specific categories have been mandated; (2) Gross income has been defined; (3) Factors to be considered in determining net income have been identified; and (4) The caveat on standardized benefits being no less than the average allotment would have been has been included. While the regulations do provide State agencies some flexibility in determining the methodology to be used in determining standardized allotments and/or deductions, FNS retains approval rights regarding such methodology. In all cases, the resultant standardized allotments will be no less than the average allotment would have been, for each size and category of household, were the project not in operation.

In working with the selected sponsors on benefit methodologies, it has come to our attention that some categories contain such a small number of households that averages are meaningless. This is particularly true in the AFDC category with elderly; the majority of low-income elderly persons receive SSI benefits since payment levels are higher than what they would receive if included in an AFDC budget unit. To remedy this problem, new wording has been added at § 282.19(i)(4) to allow FNS discretion in approving a different methodology for computing benefits for such sizes and categories of households. The previous caveat on standardized allotments being no less than the average would have been, however, will still be applicable.

Optional Cash Benefits

One commenter was opposed to the use of cash benefits as part of the project design. Based on Congressional direction as contained in the conference report for the 1983 Approporiations Act (Pub. L. 97–370 signed December 18, 1982), the Department will not be testing the cash-out of benefits either alone or in combination with the Simplified Application Project. Thus, this section has been deleted. The withdrawal of the proposed regulation for the Expanded Cash-Out Demonstration Project will be announced in the **Federal Register**. State and local agencies expressing interest in operating such a project have been notified.

Quality Control

The proposed regulations provided for the exclusion of demonstration cases from the Cumulative Allotment Error Rate (CAER). A State's CAER would be based solely on the error rate attributable to households not included in the demonstration. Sanctions or enhanced funding would be determined based on the CAER of the non-included households. One commenter suggested that sanctions or enhanced funding resulting from quality control findings be applied to only that part of benefit issuance/administrative funding which was applicable to the cases included in determining the State agency's error rates. It was argued that: (1) The error rates for the project eligible households would, in all likelihood, be significantly different from the error rates associated with non-included households; and (2) since the findings related to project eligible households are excluded from the State agency's error rates, sanctions or enhanced funding should be based only on that portion of benefit issuance/administrative funding attributable to non-project eligible households.

In principal, the Department concurs with the expressed concern. Exclusion of demonstration cases from the State agency's error rates would potentially increase a participating State's error rates. (Project eligible households have, by and large, lower error rates than non-included households due to the stability of their circumstances.) To place participating State agencies in a position where they will neither be harmed nor benefit by their participation—the intent of the proposed regulations—this section of the regulations has been revised. The specific suggestion proposed by the commenter has not been accepted, since that would potentially enhance the position of participating agencies. The final regulations provide sponsoring State agencies with two options for imputing the error rate applicable to benefits issued to project eligible households. Under the first option, the existing (Fiscal Year) 83 error rates for project eligible households would be imputed to benefits issued to those cases during the period of project operations. The FY 83 error rate will be adjusted to delete errors attributed to underissuances since effective October 1, 1983 such errors will no longer be included in a State agency's payment error rate. The following example illustrates how such a procedure would work. Assume that the payment error rate (ineligibles, overissuances) for project eligible households for FY 83 was five percent. Further assume that total issuances to project eligible households in FY 84 was $1,000,000.

The dollars issued in error for FY 84 for the project eligible universe would be imputed to be $50,000. This amount would be added to the payment error rate dollars issued to the non-project included universe to determine the State agency's payment error rate. This same procedure would be used to determine the State agency's active case error, underissuance error, and negative case error rates.

Under the second option, the existing FY 83 payment error rate for project eligible households would be allowed to vary at the same rate and in the same direction as the payment error rate of non-project eligible households. This "varied" payment error rate would be applied to the total issuances to project eligible households during the course of the demonstration. To illustrate this option, assume the conditions stated in the first example. In addition, assume that the non-project eligible payment error rate is 10 percent in FY 83 and eight precent in FY 84 (a 20 percent decrease). The FY 84 payment error rate for project eligible households would be imputed to be four percent (the five percent error rate for FY 83 is decreased by 20 percent). The four percent payment error rate is applied to the $1,000,000 total issuances and $40,000 would be imputed to be the amount of benefits issued in error in FY 84 to project eligible households. As with the first option, the same procedure would be used to determine the State agency's active case error, underissuance error, and negative case error rates.

One commenter requested that States be allowed to stagger the recertification of households at the end of the project. As stated earlier, the Department will consider project sponsors' specific situations in establishing their timetables for recertification of households participating in the project.

List of Subjects in 7 CFR Part 282

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

Accordingly, Part 282 of the Code of Federal Regulations is amended as follows:

PART 282—DEMONSTRATION, RESEARCH, AND EVALUATION PROJECTS

In Part 282, a new § 282.19 is added to read as follows:

§ 282.19 Simplified Application Demonstration Project.

(a) *Purpose.* This section establishes procedures under which the Simplified Application Demonstration Project shall operate. This project is authorized by Subsection 17(d) of the Food Stamp Act of 1977, as amended. Under this project, households containing members receiving AFDC, SSI or Medicaid benefits which wish to receive food stamp benefits will have their eligibility for food stamps determined using a simplified application procedure. A separate food stamp application will not be required. Food stamp eligibility will be determined using information contained in the AFDE, SSI or Medicaid application, whichever is appropriate. For the purpose of this rulemaking, the term "application" means both the actual application for assistance and any information pertaining to household eligibility which is subsequently received. Such households will be considered to have satisfied the food stamp resource requirements on the basis of their eligibility for these other programs. They will, however, have to meet the appropriate food stamp income eligibility standards and non-financial

eligibility requirements. To further simplify program administration, benefits provided to such households could be standardized amounts by category of assistance and household size. The purpose of the Simplified Application Project is to test whether such procedures will improve the efficiency of program administration and benefit delivery. Each project will be operated for up to 15 months.

(b) *Effect of project on normal program requirements.* Subsection 17(d) established certain specific project requirements which, for the purposes of the project, override normal requirements contained in other sections of the Act. For the purpose of operating the Simplified Application Demonstration Project, the following provisions of the Act shall be deemed modified or inapplicable.

(1) Section 5(a) is modified to the extent that certain households, at the sponsoring agency's option, which contain members receiving AFDC, SSI or Medicaid benefits, will not have to make separate application for food stamp benefits. Once such households indicate a desire to receive food stamps, their eligibility will be determined using the information contained in their application for assistance for AFDC, SSI, or Medicaid benefits.

(2) The income and resource requirements prescribed under Section 5 (d) through (g) of the law will be inapplicable. Project eligible households which have met the resource requirements of other programs will be deemed to have satisfied the food stamp resource requirements. The definition of gross income prescribed by the appropriate categorical aid program will be used instead of the food stamp income definition. Net income will be determined by subtracting the appropriate deductions for each size and category of household. This would include the current standard deduction for all households; an average excess shelter/dependent care deduction for households not containing a qualified elderly or disabled member; an average uncapped excess shelter deduction, an average dependent care deduction and an average medical deduction for households containing a qualified elderly or disabled member; and an average or actual earned income deduction for households containing members with earnings. Average deduction amounts for each size and category of household will be determined by the sponsoring agency using recent historical data on deductions claimed by such households.

(3) Because subsection 17(d) allows the use of standardized allotments, subsection 8(a), related to the value of allotments, shall be inapplicable. Allotments provided to project eligible households may be standardized amounts, based on factors such as households size, income and deductions for the various categories and sizes of project eligible households.

(c) *Regulatory requirements.* (1) All current Food Stamp Program regulations, except where inconsistent with any rules governing this project, or expressly waived by this regulation, shall be in effect during the operation of this project.

(2) Certification Periods. At the option of the sponsoring agency, mixed households may be assigned certification periods of up to one year. Such households, if circumstances warrant, may be required to attend a face-to-face interview on a schedule which would conform to certification periods normally assigned such households as specified in s273.10(f). At the time of the interview, the household will be required to complete a modified application and provide additional information as requested. The State agency shall verify such information in accordance with normal verification procedures used at food stamp recertifications. If the household fails to comply with the interim review requirement or if information obtained indicates a revision in household eligibility or benefits, action will be taken in accordance with s273.13, Notice of Adverse Action.

(d) *Areas of operation.* The Simplified Application Demonstration Project shall be operated in a maximum of two States and 14 political subdivisions. Project operators shall be selected by FNS based on proposals submitted in response to the Request for Proposal (RFP).

(e) *Project eligible households.* Each sponsoring agency shall decide which of the following categories of households will be eligible to participate in the project.

(1) Households all of whose members receive AFDC benefits under part A of title IV of the Social Security Act.

(2) Households all of whose members receive SSI benefits under title XVI of the Social Security Act.

(3) Households all of whose members receive Medicaid benefits under title XIX of the Social Security Act.

(4) Households each of whose members receive one of the following: AFDC, SSI, or Medicaid benefits (multiple-benefit households).

(5) Households only some of whose members receive AFDC, SSI or Medicaid benefits (mixed households).

(f) *Household notification.* (1) All certified project eligible households residing in the selected project sites shall be provided with a notice, prior to project inauguration, informing them of the project and its requirements. If households are to be converted to a standardized benefit amount, the notice will also provide specific information on the value of the newly computed benefit and the formula used to calculate the benefit. This notice shall meet the requirements of a notice of adverse action, as set forth in § 273.13(a)(2).

(2) Prior to the last month of project operation, the State agency shall notify all project participants of the termination of the project and shall establish a recertification date based on a timetable agreed to by FNS.

(g) *Application processing procedures.* (1) The sponsoring agency shall develop a mechanism which will allow project eligible households to indicate their desire to receive food stamps. Such households shall be notified in writing, at the time such indication is made, that information contained in their AFDC, SSI, or Medicaid application will be used in making their food stamp eligibility determination.

(2) The sponsoring agency may use simplified application procedures only for those households containing members eligible to receive AFDC, SSI, or Medicaid benefits. Households jointly applying for food stamps and AFDC, SSI, or Medicaid benefits must have both determinations made within the 30-day food stamp processing period if simplified procedures are to be used. If a household's eligibility for AFDC, SSI or Medicaid cannot be established within the 30-day period, normal food stamp application, certification and benefit determination procedures would have to be used and benefits would have to be issued within 30 days if the household is eligible. Generally, households qualifying for expedited service, which are jointly applying for AFDC, SSI or Medicaid, would have to be certified for food stamps using normal expedited procedures. However, if the project sponsor can process the application of a household for categorical assistance within the expedited period of the food stamp rules, it may include such a household in the project.

(h) *Food Stamp Program eligibility.* Project eligible households shall have their food stamp eligibility determined using the following criteria:

(1) Resources—Based on their receipt of AFDC, SSI, or Medicaid project eligible households will be considered to have satisfied the resource requirements.

(2) Income.

(i) Project eligible households will be subject to the appropriate food stamp income eligibility standard.

(ii) Gross income shall be determined using the gross income definition of the categorical aid program, i.e., AFDC, SSI or Medicaid, under which the household is already receiving benefits plus any categorical benefits received. However, if child support payments received by the household are transferred to the State agency, such monies shall not be included in the gross income calculation.

(iii) Net income shall be determined by subtracting from gross income appropriate deductions. For each category and household size, such appropriate deductions shall include: (*a*) A standard deduction for all households; (*b*) An average excess shelter/dependent care deduction for households not containing qualified elderly or disabled members; (*c*) An average uncapped shelter deduction, an average dependent care deduction, and an average medical expense deduction for households containing a qualified elderly or disabled member; and (*d*) For households containing earners, an earned income deduction based either on averages or the normal earned income deduction. Average deductions shall be developed using recent historical information on deductions claimed by households in each category and size.

(3) Non-financial eligibility criteria—All non-financial food stamp eligibility criteria shall be applicable.

(i) *Benefit levels.* (1) Benefits for project eligible households shall be based on either the appropriate State standard of need (maximum aid payment) or gross income as determined for the appropriate categorical aid program.

(2) Separate benefit categories shall be developed to consider source of categorical aid, household size, and the presence of absence of either earned income or an elderly or disabled household member.

(3) The methodology to be used in developing benefit levels shall be determined by the sponsoring agency but shall be subject to FNS approval. Consideration shall be given to the standard and average deductions normally provided to such categories of households. The standardized allotment for each category and subcategory, by household size, shall be no less than the average allotment would have been were the project not in operation.

(4) With FNS approval, sponsors may develop an alternate methodology for determining standardized allotments/deductions for specific sizes and categories of households where such size and category is so small as to make the use of average deductions and/or standardized allotments impractical.

(5) FNS may require sponsors to revise their standardized allotments during the course of the project to reflect changes in items such as the Thrifty Food Plan, the benefit reduction rate, or benefit levels in AFDC or SSI.

(j) *Quality control.* (1) Project eligible households selected for quality control review shall be reviewed by the State agency using special procedures based on project requirements. FNS has determined that this project significantly modifies rules for determining household eligibility and allotments; therefore, these cases will be excluded from the State's active and negative case error rates, payment error rate, and underissuance error rate.

(2) The State's error rate during the demonstration will be based on the review of cases not included in the demonstration and, at the option of the project sponsor, either:

(i) The error rate(s) determined for the included cases during FY 83; or

(ii) The error rate(s) determined for the included cases during FY 83, except such error rate(s) shall be adjusted to reflect changes in the error rates for non-project eligible cases between FY 83 and 84.

(3) The error rate imputed to project eligible cases shall be applicable to the total issuances provided to participating food stamp households which are included in the demonstration.

(k) *Funding.* Sponsoring agencies shall be reimbursed for project related costs at the normal matching rates prescribed in Section 16 of the Food Stamp Act.

(l) *Monitoring and evaluation.* FNS shall establish procedures for monitoring sponsoring agencies' operation and administration of the Simplified Application Demonstration Project. The evaluation of the project shall be conducted by an independent contractor. The sponsoring agency shall, upon reasonable notification, provide the evaluation contractor with access to all information pertaining to project operations.

(91 Stat. 958 (7 U.S.C. 2011–2029); and Sec. 1330 of Pub. L. 97–98, 95 Stat. 1290 (7 U.S.C. 2026))

Dated: September 28, 1983.

Robert E. Leard,

Administrator.

[FR Doc. 83-26957 Filed 9-29-83; 10:17 am]

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September 30, 1983

Part IV

Small Business Administration

Small Business Investment Companies; Final Rule

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

[Rev. 6]

Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Final regulations.

SUMMARY: The Office of Finance and Investment, SBA, has generally revised and reorganized the regulations governing the operations of Small Business Investment Companies. The supplementary information section below explains the revisions and reorganization undertaken. The three appendices to Part 107 are not affected by this revision. The purpose of this revision is to incorporate and put into context all incremental changes made since the previous revision, as well as current needed items.

EFFECTIVE DATE: September 30, 1983.

ADDRESS: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Robert G. Lineberry, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, 202–653–6848.

SUPPLEMENTARY INFORMATION: On August 16, 1982, notice of proposed rule making was published in the **Federal Register** concerning the revision of Part 107 of the SBA regulations (47 FR 35499–35517). After careful consideration of the comments received, SBA has determined to adopt the revised provisions, set forth below, as being in the best interests of the SBIC-program. Textual changes have been made to modify and clarify regulations. It is felt that these changes will facilitate a better understanding of the regulations and their intent by the Licensee companies.

The definition of "Close Relative" has been revised to include "aunt" and "uncle". SBA has determined that the definition as revised would be beneficial to Licensees who qualify for Leverage in excess of three hundred percent and who must subordinate Debt Securities and Loans to all borrowings except borrowings from officers, directors and owners of the Small Concern, or Close Relatives thereof.

The definition of "Cost of Money" has been changed substantially by SBA after review of comments received on the proposed definition. The final definition has been revised from the proposed definition to eliminate charges paid by the Small Concern to Persons other than the Licensee or its Associates. Reference to redemption provisions and distributions from retained earnings of the Small Concern has also been eliminated in order to preclude any possible interpretation that income derived from the sale of Equity Securities to third parties, or from their repurchase or redemption in accordance with the terms of Section 107.321, is includible in Cost of Money. The definition has also been clarified to permit "front end" costs to be prorated over the "stated term of Financing" in order to prevent a prepayment from turning a lawful Financing into one that violates SBA's Cost of Money ceiling. If the Licensee has imposed front end costs upon a Small Concern the amount of any reasonable prepayment penalty that may also be imposed is to be added to the Small Concern's Cost of Money for the purpose of determining how much in unearned front end costs must be returned to the Small Concern to avoid a violation of the Cost of Money ceiling.

The definition of Debt Securities has been revised to eliminate the subordination requirement and the definition of Investment Adviser has been amended to indicate that such a Person performing the operating activities for a Licensee will be deemed an officer. This clarification was transferred from § 107.101(a).

The SBA has determined that it would be advisable to continue the definition of "Short-term Financing" as Financing for a term of less than five years rather than the seven years published as proposed. Therefore, all minimum periods that stated seven years in the proposed regulations have been changed to five years. The five year reference relating to Section 301(d) SBIC has been changed to four years.

The definition of "Private Capital" has been changed to accommodate the ruling of the Federal District Court for the District of Columbia, Civil Action No. 82–0269 (January 3, 1983), concerning Leveraging to Section 301(d) Licensees. That ruling is currently on appeal. Following a determination it may be appropriate further to amend this definition.

Section 107.102 was amended by adding a new paragraph [Section 107.102(b)] to provide for a $200 processing fee for each request for approval of a new officer, director, Control Person or owner of ten or more percent of a Licensee's Private Capital, where a transfer of control of a Licensee is not involved. Under the proposed regulation, the processing fee for changes that do not involve a transfer of control could conceivably be $5,000 which would have been exorbitant.

Section 107.201 is editorially changed to restore the requirement that any Licensee, including a Section 301(d), Licensee, that applies for Leverage must demonstrate its need for such Leverage. The requirement presently set forth in Revision 5 of Part 107 was inadvertently omitted from the proposed regulations. SBA does not consider itself obliged to solicit public comment on this point, for the same reason given when Revision 5 was amended by publication of the final rule on July 1, 1981 (46 FR 34309) without prior publication as a proposal: the language in question can only apply to parties that would not be adversely affected thereby—to SBIC's that have no need for Leverage funds.

Section 107.202(b)(3) has been liberalized to permit Licensees qualifying for Leverage in excess of three hundred percent not to have to subordinate Debt Securities or Loans to a small concern's borrowings from its officers, directors and owners of the Small Concern, or close Relatives thereof.

Section 107.203(d) has also been liberalized to provide that a section 301(d) Licensee whose earnings deficit exceeds seventy-five percent of Private Capital shall not be deemed capitally impaired for a period of five years after the effective date of these regulations unless its earnings deficit exceeds one hundred percent of Private Capital.

Section 107.301(a) has been amended to require that Financings provided Disadvantaged Concerns may be for four years instead of five, however, the aggregate of such Financings for less than five years shall not exceed fifty percent of the Licensee's portfolio.

Section 107.302(b) has been amended to provide that if the current FFB Rate is 8 percent or lower, the Cost of Money shall not exceed 14 percent, instead of 12 percent proposed; and if the FFB Rate exceeds 8 percent, the Cost of Money shall not exceed the sum of the FFB Rate plus 6 percentage points instead of the proposed 4 percentage points.

Section 107.303(b) has been amended by clarifying language changes, corrections of typographical errors and requiring that one of the market makers have offices in at least ten states. The intent of the change is to make it clear that the appreciation upon which the Licensee's increased overline limit has been predicated, actually reflects the existence of a reasonably substantial market for the securities in question.

Section 107.320(b) has been amended to clarify SBA's intention that the expiration date of any options or

warrants should be tied to the actual date of discharge of the Small Concern's indebtedness to the Licensee.

Section 107.321 was revised by having a minimum holding period of five years rather than seven, deleting the reciprocal redemption right requirement and changing the redemption price from book value per share or a multiple of earnings not to exceed six to a formula which is reasonable and legal, and is based on book value or earnings.

Section 107.402 has been clarified to ensure that commitments are to be in writing. Also a reference to the amortization provisions of § 107.301 appears in the language of § 107.503 of Revision 5. The reference was inadvertently dropped from the text of proposed § 107.402 of Revision 6. It was not intended that § 107.402 would exempt disbursements made under a commitment from the restrictions set forth in § 107.301(b) of proposed Revision 6; and, accordingly, the reference is restored. The restoration is consistent with the expressed intent of the proposed rule, which created only a limited exemption from the maturity restrictions of § 107.301, as set forth in § 107.301(a).

Sections 107.501, 107.602, and 107.802 have been changed for clarifying purposes, but no substantive changes were made.

Section 107.708 would allow Licensees to maintain idle funds in money market funds insured by Agencies of the Federal Government and to exempt an Unincorporated Licensee's corporate general partner's assets not invested in the Licensee from the time limits imposed by this section. In addition the period of investments in obligations of the United States has been extended from 12 to 15 months.

Language changes were made in § 107.802 to eliminate any reference to a Licensee's purchase of its own stock, to prevent any misinterpretation.

Section 107.901(e) has been amended to allow foreign joint ventures and to define "major" as fifty-one percent. A proviso has been added to § 107.901(f) which will permit Licensees to invest in a holding company which wholly owns a concern which is engaged in a regular and continuous business as long as both concerns are eligible Small Concerns. In addition clarifying language has been added to § 107.901(g) to make clear that proceeds of an SBIC Financing may not be used by a Small Concern to purchase capital goods from an associate to the Licensee, and that goods and services provided by an associate supplier shall be at a price no greater than those charged other customers.

A proviso has been added to § 107.902 to permit a larger percentage of idle funds to be maintained in certain instances with SBA approval.

As in the proposed Regulation, this final rule [§ 107.903(d)] removes the exception [previously contained in [§ 107.1004(d)] of closing costs paid to an Associate from the requirement of prior SBA approval as a conflict of interest transaction. This change is not intended to prohibit, or to subject to prior SBA approval, the collection of closing costs by the Licensee and payment of such costs to the Associate, which was similarly permitted in § 107.1004(d) of the prior Revision 5.

Section 107.903(f) has been amended by substituting the word "equity" for the "net worth" as the basis for measuring the "de minimis" interest a "watchdog" director may personally have in a portfolio Small Concern without losing his or her eligibility as a "watchdog." The intent of the proposal was to make it possible for potential "watchdogs" to have a minimal interest in a Small Concern with an extremely small, or even a deficit, net worth, a situation particularly likely to occur in the case of start-up concerns.

Section 107.1001(a) has been rewritten to make clear that examinations of Licensees will be initiated by SBA and that Licensees must make all pertinent materials available for the conduct of such examination.

Section 107.1002(b)(1) has been changed to require, for SBA purposes, that certain records shall be preserved for twenty years instead of permanently.

Review for Executive Order 12291 and the Regulatory Flexibility Act.

For the purpose of Executive Order 12291, effective February 17, 1981, SBA hereby certifies that these final regulations, taken either individually or as a whole, do not constitute a major rule(s) within the meaning of the Executive Order.

For the purpose of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., SBA has determined that certain of these rules will have a significant economic impact on a substantial number of small businesses. These individual regulations are identified below, and a regulatory flexibility analysis for each is also provided.

1. Definition of Private Capital, § 107.3. Reason for action: On July 29, 1980, the Comptroller General issued a decision [59 Comp. Gen. 635], holding that SBA has no authority to leverage Federal Funds invested as Private Capital in SBICs unless the funds are made available under statutory authority which stipulates that such funds shall be included in private capital. A subsequent opinion of the Comptroller General dated January 30, 1981 [60 Comp. Gen. 210] specifically held that SBA is authorized to include certain Community Development Block Grant funds in the Private Capital of an SBIC. SBA has decided, based on these decisions, to recognize as Private Capital, for Leverage purposes, only those funds so mandated by statute and Community Development Block Grant funds invested in SBICs before August 16, 1982, which was the date of publication of this regulation in proposed form. However, on January 3, 1983, the United States District Court for the District of Columbia issued a judgment and order which, among other things, stipulated that for purposes of calculating the amount of Leverage for which Section 301(d) Licensees are eligible for purposes of section 303(c) of the Act, SBA shall not exclude from the term private paid in capital and surplus those funds received from Federal entities other than SBA. The Department of Justice is appealing this decision. Accordingly, the definition of Private Capital is being adopted with the proviso that SBA will provide leverage on Federal Funds as may be judicially mandated.

Objectives: To stimulate and supplement the flow of Private Capital and long-term loan funds to Small Concerns.

Public Comments: Five letters were received from the public objecting to the non-leveraging of Federal Funds.

Increased Recordkeeping: None.

Significant Alternatives: None.

2. Definition of Cost of Money, § 107.3. Reason for action: To eliminate confusion as to what elements will be considered in computing cost of money and to reduce the amount an SBIC may charge a Small Concern when purchasing a Dept Security.

Objective: To clarify for the SBIC industry and Federal examiners the elements and non-elements to consider in determining the cost of money and to provide a lesser cost of money for a Small Concern which is willing to give a portion of its equity to the investor.

Public Comments: Twelve letters were received from the public concerning the definition of Cost of Money. The concerns expressed by these letters were as follows: (1) That expenses incurred by the Small Concern paid to other than the SBIC or its Associate would be computed in the Cost of Money. (2) That the difference between the price paid for an Equity Security, option or warrant by an SBIC and the

redemption price paid by the Small Concern may be construed to be an element of Cost of Money, and (3) That the proposed Cost of Money applicable to Debt Securities which was three percentage points less than that applicable to Loans would encourage SBICs to make Loans in a greater number than has been the practice of the industry.

SBA has revised the definition of Cost of Money taking into consideration the comments received and the revised definition clearly states that only consideration received by the SBIC or its Associate would be included in Cost of Money. References to redemption payments and distributions from retained earnings have been eliminated from the definition to assure that any profits received from the sale of Equity Securities, options or warrants would not be included in Cost of Money. SBA has also amended the maximum Cost of Money applicable to the purchase of Debt Securities by eliminating the requirement that they be subordinated and by increasing the percentage that an SBIC may charge from four percentage points above the FFB Rate to six percentage points.

Increased Recordkeeping: None.

Significant Alternatives: None.

3. Minimum Capital Standard § 107.101(d). Reason for action: To assure viability of SBICs.

Objective: To increase capital base of SBICs to assure greater viability. Public comments: Six letters were received from the public. Two of the comments expressed opinions that the minimum capital requirement should be not less than two million dollars instead of the proposed one million dollars. The other comments expressed opinions that it is possible for SBICs to be viable with capitalization of less than one million dollars. The final rule does not contemplate any change from the proposed one million dollar minimum capital.

Increased Recordkeeping: None.

Significant Alternatives: 1) To keep the current five hundred thousand minimum capital requirement. Based on its experience SBA is rejecting this alternative since it has found that this minimum is insufficient for viability. 2) To increase the minimum to two million dollars. Although SBA does not dispute the argument that a capital base of this size would assure greater viability of SBICs, it rejects this alternative since SBA is of the opinion, based on its experience with the program, that the one million capital base is adequate to assure a reasonable prospect that SBICs will be operated soundly and profitably, and managed actively and prudently in accordance with the Small Business Investment Act.

4. Minimum Period of Financing: § 107.301. Reason for action: To provide more long-term funds to Small Concerns.

Objectives: To make funds available on a longer term and to reduce the debt service for Small Concerns.

Public Comments: One hundred and eight letters were received, all of which protested the increase in the minimum period from five to seven years. The opinions expressed by these letters were that government was interfering with free market negotiations; that SBICs normally provide "risk" financings and the increased minimum period would increase the risk factor and the increased minimum period would dramatically alter the cash flow projections of the SBICs to their detriment; that no Small Concerns had complained that the current five year minimum was unduly burdensome; and that the majority of SBICs generally make Financings of seven years or more so there is no reason for a rule extending the minimum period.

After reviewing the comments, SBA is withdrawing the proposed rule extending the minimum period to seven years. SBA statistics of the SBIC industry regarding financing bear out the fact that SBICs do generally make financing for seven years or more. However, the proposed rule increased the minimum period of Financing to Disadvantaged Concerns from thirty months to five years and in the final rule the minimum period of financings to these Disadvantaged Concerns will be four years.

Increased Recordkeeping: None.

Significant Alternatives: Not applicable.

5. Proposed Overline Limit § 107.303. Reason for action: Encourage SBICs to make equity investments in Small Concerns.

Objective: To increase the number of equity investments by SBICs.

Public Comments: Two letters were received commenting on the proposed rule. The comments made were that once a Financing was made to a Small Concern based on appreciated marketable securities the size of the Financing should be legitimate regardless of the fluctuation of the price of the marketable securities. The SBA has determined that the final rule will be as proposed to insure that SBICs who avail themselves of this increased limit will do so with prudent judgment.

Increased Recordkeeping: SBICs who avail themselves of this rule will be required to maintain quarterly records in their files for SBA review.

Significant Alternatives: None.

6. Redemption Provisions § 107.321. Reason for action: To prevent redemption provisions detrimental to Small Concerns.

Objectives: To protect Small Concerns from exorbitant redemption requirements and to provide a just return to SBICs who purchase equity which has no market.

Public Comments: One hundred and fourteen letters were received regarding this proposed rule. Although most of the comments agreed in principle with the proposed rule, all argued that the formula proposed (book value per share or a multiple of net earnings or net operating income per share not to exceed a multiple of six) was too narrow and not appropriate, since the spectrum of the industries in which the SBICs invested was so broad and different industries used various means of determining the value of shares which would not fall within the proposed formula. After reviewing these comments and the examples which demonstrated that the proposed formula would not be workable, SBA revised the rule to eliminate the reciprocal redemption right and changed the formula by requiring that the redemption price must be determined by a formula which is legal and reasonable and based on book value or earnings of the Small Concern. SBA anticipates that the broader formula will meet all situations that may arise, however, should an SBIC invest in a Small Concern in an industry that is so unique that the final rule could not be accommodated, the SBIC may apply for a written exemption from this rule under § 107.1201, Exemptions.

Increased Recordkeeping: None.

Significant Alternatives: None.

7. Inactivity Standard, § 107.902. Reason for action: To provide SBA with an enforceable inactivity rule.

Objective: To require SBICs to be actively engaged in the purposes for which they have been licensed.

Public Comments: Thirty-six letters were received commenting on this proposed rule. None of the comments opposed the rule, however, all the comments pointed out that there were situations that could cause a SBIC to be in technical violation of this rule when they were in fact not inactive. Some examples put forth to demonstrate this were situations where an SBIC might receive a disproportionate number of prepayments, or an SBIC may raise additional capital, or receive Leverage from SBA, or sell equity of a Portfolio

Concern at an appreciated value. After considering these comments SBA has amended this rule by adding a proviso which will permit a SBIC, subject to SBA approval, to maintain a larger percentage of idle funds in appropriate cases.

Increased Recordkeeping: None.

Significant Alternatives: None.

Lists of Subjects in 13 CFR Part 107

Investment companies, Loan programs/business, Small businesses.

Accordingly, pursuant to authority contained in Section 308 of the Small Business Investment Act of 1958, as amended, [15 U.S.C. 687(c)], Part 107 of Title 13 of the Code of Federal Regulations is amended by revising §§ 107.1 through 107.1202. Appendices A, B, and C remain the same and are not affected.

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

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Authority: Sec. 308(c), 72 Stat. 694, as amended [15 U.S.C. 687(c)]; sec. 312, 78 Stat. 147 (15 U.S.C. 687d); sec. 315, 80 Stat. 1364 (15 U.S.C. 687g).

Regulations

§ 107.1 Scope of Part 107.

The regulations in this part implement Title III of the Small Business Investment Act of 1958, as amended. All Licensees, including section 301 (d) Licensees, must comply with all applicable regulations and appendices.[1]

§ 107.2 Information, Forms, Instructions and Captions.

All references in this Part to SBA forms, and instructions for their preparation, are to the current issue of such forms. The forms have been filed with the Office of the Federal Register with the original document. Copies may be obtained from SBA. Captions are used for convenience only and are not part of these regulations.

Definitions

§ 107.3 Definition of Terms.[2]

Act. "Act" means the Small Business Investment Act of 1958, as amended.

Articles. "Articles" means articles of incorporation or charter for a Corporate Licensee and the partnership agreement or certificate for an Unincorporated Licensee.

Assistance. "Assistance" or "Assisted" means Financing of or Management Services rendered to a Small Concern by a Licensee pursuant to the Act and these regulations.

Associate of a Licensee. "Associate of a Licensee" means:

(a)(1) An officer, director, employee or agent of a corporate Licensee; (2) a Control Person, employee or agent of an Unincorporated Licensee; (3) a manager or Investment Adviser of any Licensee, which in terms (manager or Investment Adviser) include any Person contracting with a Control Person of an Unincorporated Licensee to serve as manager on Investment Adviser to such Licensee, or (4) any Person regularly serving a Licensee on retainer in the capacity of attorney at law; or

(b) Any Person owning or controlling, directly or indirectly, ten percent or more of any class of stock of a Corporate Licensee or of the partnership capital of an Unincorporated Licensee;

(c) Any officer, director, partner, manager, or employee of any Associate described in paragraph (a) or (b) or this definition: *Provided, however,* That subject to paragraph (b) of this

[1] The accounting guidelines for SBICs include Audit Guide for SBICs, Guide for the Preparation of the Annual Report, SBA Form 468, and the System of Account Classification, and are set forth as Appendices A, B, and C to these regulations.

[2] Terms defined in this Section are capitalized hereafter.

definition, a Person with no other relationship to any Associate described in paragraph (a) or (b) of this definition but that of a limited partner shall not be considered an Associate of such Associate.

(d) Any Person which directly or indirectly Controls or is Controlled by, or is under common Control with, a Licensee or any Person described in paragraphs (a) and (b) of this definition; or

(e) Any Close Relative of any Person described in paragraphs (a) and (b) of this definition; or

(f) Any concern in which (1) any Person described in paragraphs (a) through (e) of this definition is an officer of director or (2) any such Person (or group of two or more such Persons acting in concert) who owns or Controls, directly or indirectly, a ten or more percent equity interest (exclusive of any interest attributable solely because of ownership of an equity interest in the Licensee).

(g) For the purposes of this definition, any Person in any of the relationships described in paragraphs (a) through (f) of this definition within six months before or after the date on which the Licensee provided Assistance, shall be deemed to have been in such relationship as of the date of the Licensee Assistance.

(h) A section 301(d) Licensee and a participant Licensee owning stock thereof, or securities evidencing a contribution to the partnership capital thereof, pursuant to § 107.712 as well as Associates of such section 301(d) Licensee and such participant Licensee shall be deemed Associates of each other.

Close relative. "Close relative" means ancestor, lineal descendant, brother or sister and lineal descendants of either, spouse, aunt, uncle, father-in-law, mother-in-law, son-in-law, brother-in-law, daughter-in-law, or sister-in-law.

Control. "Control" means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a Licensee or a Small Concern whether through the ownership of voting securities, by contract, or otherwise.

Control Person. "Control Person" means (a) a general partner of an Unincorporated Licensee, including all general partners of a partnership serving as general partner of an Unincorporated Licensee; (b) any officer, director, agent or employee of a corporate general partner of an Unincorporated Licensee, including any corporation that is a general partner in a partnership serving as general partner of an Unincorporated Licensee; and (c) any Person owning 10 percent or more of the stock of a corporate general partner of an Unincorporated Licensee.

Cost of Money. Generally, cost of money includes the total consideration given to a Licensee and its Associates by, or for the benefit of, the Small Concern, such as interest, discounts, points, fees, commissions, closing costs and any other thing of value given for financings in the form of Loans and Debt Securities and shall be prorated over the stated term of the financing. Cost of Money does not include fees for commitment fees persuant to § 107.501, bona fide commitment fees pursuant to § 107.402, or prepayment penalties pursuant to § 107.301(a). *Provided, however,* That if a Licensee has imposed a front end charge, such charge shall be prorated over the stated term of the financing. In that case, the sum of interest, unearned charges, and prepayment penalties shall not exceed the cost of money limit in effect at the time of the financing; and in the event of prepayment any excess shall be returned to the Small Concern.[3]

Corporate License: see Licensee.

Debt Securities means securities evidencing a Loan with options or any right to acquire Equity Securities in a Small Concern or its affiliates (as defined in § 121.3–2) or which are convertible to such equity position.

Debtor Licensee. "Debtor Licensee" means a Licensee which has Leverage from SBA.

Disadvantaged Concern. "Disadvantaged Concern" means a Small Concern owned by a person or persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Equity Securities "Equity Security" means stock of any class in an incorporated Small Concern, or limited partnership interests in an unincorporated Small Concern or joint venture interests. Equity Securities redeemable in a manner other than provided in § 107.321 shall be considered Loans.

FFB Rate. FFB rate means the interest rate, as published from time to time in the Federal Register by SBA, for ten year debentures sold by Licensees to the Federal Financing Bank (FFB).

Financing. "Financing" or "Financed" means outstanding financial assistance provided to a Small Concern by a Licensee, whether through (a) loans, (b) guarantees, (c) equity investments, (d) commitments or (e) purchases of securities of a Small Concern through or from an underwriter. (see § 107.404).

Investment Adviser/Manager. "Investment Adviser/Manager" of a Licensee means any person who pursuant to written contract executed in accordance with the provisions of § 107.709 furnishes advice or assistance with respect to operations of a Licensee.

"Lending Institution" means a concern operating under regulations of a state or Federal licensing, supervising, or examining body and which holds itself out to the public as engaged in the making of commercial and industrial loans and whose lending operations are not for the purpose of financing its own or an Associates's sales or business operations.

Leverage. "Leverage" means financial assistance provided to a Licensee by SBA, either through the purchase or guaranty of debentures, or through the purchase of preferred securities (see §§ 107.201 through 107.205).

Licensee. "Licensee" means either a corporation ('Corporate Licensee'), or a limited partnership organized pursuant to § 107.4 ('Unincorporated Licensee'), to which a license has been granted pursuant to the Act. For sections deeming ' Licensee' to include the corporate general partner of an Unincorporated Licensee, see § 107.4(b)(2).

Loan. "Loan" means a debt with no provision for the Licensee to acquire Equity Securities.

1940 Act Company. "1940 Act Company" means a Licensee which is registered under the Investment Company Act of 1940.

1980 Act Company. "1980 Act Company" means a Licensee which is registered under the Small Business Investment Incentive Act of 1980.

Person. "Person" means a natural person or legal entity.

Portfolio. "Portfolio" means the securities representing a Licensee's total outstanding Financing of Small Concerns. It does not include idle funds or assets in liquidation.

Portfolio concern. "Portfolio concern" means a Small Concern Assisted by a licensee.

Private capital. On and after August 16, 1982, "Private Capital" for licensing, leverage and regulatory purposes means the combined private paid-in capital and paid-in surplus of a Corporate Licensee, or in the case of an Unincorporated Licensee, the Permanent Partnership Capital. Private Capital does not include Leverage provided by SBA, funds borrowed by a Licensee from any source, or funds invested by any State or any subdivision or instrumentality of

[3] The SBA will use the latest edition of the *Financial Compound Interest and Annuity Tables*, Financial Publishing Company, Boston, Mass. 02215, in computing Cost of Money charged Small Concerns by SBICs.

a State, or funds invested directly or indirectly by any other Federal governmental entity ("public funds"): *Provided, however*, that for licensing, Leverage and regulatory purposes Private Capital shall include Federal funds invested in a Licensee pursuant to a statute, such as 42 U.S.C. § 9815, which expressly requires that such funds invested in a Licensee shall be included in Private Capital; and *Provided further*, that for Leverage and regulatory purposes only, Private Capital shall include Community Development Block Grant funds invested in a Licensee pursuant to the Housing and Community Development Act of 1974 not later than August 16, 1982, and such other public funds received from Federal governmental entities as may be judicially mandated.

SBA. "SBA" means the Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416.

Section 301 (d) Licensee. "Section 301 (d) Licensee" means a Licensee organized under a State business or nonprofit corporation statute, or a limited partnership organized pursuant to § 107.4, and licensed pursuant to Section 301(d) of the Act, the investment policy of which is limited to making investments solely in small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Short-term financing. "Short-term financing" means Financing for a term of less than five years in accordance with the regulations.

SIC Manual. "SIC Manual" means the latest issue of the Standard Industrial Classification Manual, prepared by the Office of Management and Budget, and available from the U.S. Government Printing Office.[4]

Small Concern. "Small Concern" means a small business concern as defined in section 103(5) of the Act (including affiliates as defined in § 121.3–2 of this chapter), which for purposes of size eligibility, meets the applicable criteria set forth in § 121.3–11 of Part 121 of this chapter.

Unincorporated Licensee: see Licensee.

§ 107.4 Limited Partnership SBIC.

(a) *General*. A limited partnership organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act may apply for a license pursuant to Section 301(c) or Section 301 (d) of the Act.

(b) *Application*. The following requirements shall apply to an application submitted by or on behalf of a limited partnership:

(1) *Number of General Partners*. Unless the applicant has a corporate general partner, it shall not have fewer than two individual general partners initially, and thereafter for not more than sixty days at any one time. Some or all of the general partners may be members of a separate partnership that serves as a general partner of such Licensee; but all general partners of such separate partnership shall be considered for all purposes to be general partners of the Unincorporated Licensee. A limited partnership may not serve as a general partner of an Unincorporated Licensee.

(2) *Corporate General Partner*. A corporate general partner shall be organized under State law solely for service as such and its Articles (which shall accompany the License Application) shall specify that no person shall serve as an officer or director without SBA's approval. No corporate general partner may serve as such for any other Licensee. The corporate capital of such general partner which is not invested in the Unincorporated Licensee shall be invested only as permitted by the last sentence of section 308(b) of the Act, pursuant to § 107.708 or in accordance with § 107.903(c), or any of them. A corporate general partner is subject to the same examination and reporting requirements as a Licensee under Section 310(b) of the Act. The restrictions and obligations imposed upon a Licensee by §§ 107.203(b)(2) and (3)(iii) and by §§ 107.601, 107.603, 107.701, 107.702, 107.703, 107.708, 107.709, 107.801, 107.802, 107.803, 107.1001, 107.1002, and 107.1004 apply also to a corporate general partner of a Licensee.

(3) *Articles of Partnership*. The Articles shall be transmitted to SBA with the application and shall provide that (i) the partnership shall have a duration of not less than thirty years unless sooner dissolved by the partners; (ii) no general partner may be removed or replaced by the limited partners without prior written approval of SBA; and (iii) any transferee of, or successor in interest to, a general partner shall have only the rights and liabilities of a limited partner pending SBA's written approval of such transfer or succession.

(c) *Obligations of a Control Person*. All Control Persons are bound by the disciplinary provisions of sections 313 and 314 of the Act and by the conflict-of-interest rules under section 312 of the Act. The term "Licensee," as used in §§ 107.602, 107.701 and 107.1004 includes a Control Person of a Licensee. The term "Licensee" as used in § 107.1101 includes only a general partner. The events of default specified in §§ 107.203(b)(1) (ii), (iii) and (iv) and in § 107.203(b)(2) shall apply to all general partners; the events of default specified in § 107.203(b)(4) shall apply to all Control Persons. The events of default enumerated in the preceding sentence shall be deemed to have been agreed to by the Unincorporated Licensee.

(d) *Liability of general partner for partnership debts to SBA*. Subject to section 314 of the Act, the general partner of an Unincorporated Licensee shall not be liable solely by reason of its status as a general partner for repayment of any debts owed by the Licensee to SBA unless SBA, in the exercise of reasonable investment prudence, and with regard to the financial soundness of such Unincorporated Licensee, shall determine otherwise prior to the purchase or guaranty of such Unincorporated Licensee's debentures.

(e) *Reorganization of Corporate Licensee*. A corporate Licensee Wishing to reorganize as an Unincorporated Licensee, or an Unincorporated Licensee wishing to reorganize as a Corporate Licensee, may apply to SBA for approval pursuant to § 107.803 of these Regulations.

Operational Requirements

§ 107.101 Operational requirements.

All Licensees shall comply with the following requirements:

(a) *Management*. Each Licensee shall have and maintain qualified management (including management pursuant to § 107.709) in charge of its operations who will be available at its office to the public. A manager of a Licensee shall be deemed an officer.

(b) *Office*. The Licensee shall maintain a reasonably accessible office, which will display the license, and the name of the Licensee, have a listed telephone number, and be open to the public during regular business hours.

(c) *Diversified investment policy-real estate and motion pictures*. Unless specifically authorized in writing by SBA.

(1) *General rule*. No Licensee shall maintain more than one-third of its portfolio, as of the close of any full fiscal year, in: (i) Permitted real estate investments, or (ii) investments in Small Concerns engage in motion picture production and distribution (classified

[4] As of the effective date of this proposed Revision 6 the latest issue of the SIC Manual was 1972.

under Industry Nos. 7813, 7814, 7823, and 7824 of the SIC Manual). For further provisions governing real estate investments, see §107.901(c). For statement of general policy concerning motion picture specialist-Licensees, see 42 FR 60729, November 29, 1977.

(2) *Licensees other than real estate specialists.* Where a Licensee dose not operate as an approved real estate specialist subject to paragraph (c)(3) of this section, its investments in Small Concerns classified under Major Groups 15, 65 and/or 70 of the SIC Manual shall not exceed one-third of its Portfolio in any one such Major Group, nor two-thirds for any combination of such Major Groups, as of the close of any full fiscal year.

(3) *Real estate specialists.* Where a Licensee maintains more than one-third of its Portfolio in Real Estate Investments pursuant to an investment policy approved by SBA, the total of its investments in Small Concerns classified under Major Group 15 (Building Construction-General Contractors and Operative Builders) and Major Group 70 (Hotels, Rooming Houses, Camps and Other Lodging Places) of the SIC Manual shall not exceed twenty percent of its Portfolio as of the close of any full fiscal year.

(4) *Prepayments.* Prepayments of outstanding Financing or similar events occurring beyond the control of the Licensee within the fiscal year shall be disregarded in determining whether the Licensee meets the foregoing requirements as of the close of its fiscal year.

(d) *Minimum Capital.* Every Licensee shall have:

(1) Private Capital of at least $1,000,000: *Provided, however,* That this $1,000,000 minimum capital requirement shall not apply with respect to any license application on file with SBA on the date of publication of this regualtion in final form nor with respect to any license issued on the basis of such application. Licensees licensed on or after October 1, 1979 and before the effective date of this regulation shall have a Private Capital of at least $500,000; Licensees licensed prior to October 1, 1979 shall have a Private Capital of at least $150,000; and

(2) Taking additional resources into account, adequate capital to assure a reasonable prospect that it will be operated soundly and profitably, and managed actively and prudently in accordance with the Act and regulations.

(e) *Borrowed funds.* Persons owning directly or indirectly, beneficially or of record, an equity interest of ten or more percent of a Licensee's private Capital may not use borrowed funds in purchasing such interest, unless the net worth of such person is at least twice the amount borrowed, or unless such person obtains SBA's prior written approval of a lesser ratio on the grounds that it is adequate in light of all the circumstances.

License

§ 107.102 License application and fees.

(a) *Initial Application.* The license application shall be submitted on SBA Form 415 (OMB Approval No. 3245-0062) together with a processing fee or $5,000 in accordance with accompanying instructions.

(b) *Post-licensing changes.* A processing fee of $200 shall accompany each request for approval, not subject to § 107.601, of a new officer, director, Control Person or owner of ten or more percent of the Licensee's Private Capital.

§ 107.103 Public notice

SBA shall publish notice of the license application in the **Federal Register.** It shall include such appropriate information as the name and location of the proposed Corporate Licensee, its area of operation, the names and addresses of its officers, directors, and owners of, or persons controlling, 10 or more percent of its voting stock; and in the case of an Unincorporated Licensee, its name, location, and area of the operations, and the names and addresses of its Control Persons. If any Control Person is a corporation, the notice shall set forth the names and addresses of any officers, directors, and owners of, persons controlling 10 percent or more of the stock of such corporation. In the case of an Unincorporated Licensee, the notice shall also include the name and address of each owner of 10 percent or more of the Licensee's Private Capital. The public shall be afforded reasonable opportunity for the submission of written comments. The proposed Licensee shall publish a similar notice in a newspaper of general circulation in the city or proposed area of operation, and shall furnish a certified copy to SBA within 10 days of the date of publication.

§107.104 Transferability of license.

A license shall not be transferred in any manner without SBA's prior written approval.

§ 107.105 Surrender of license.

A License shall not be surrendered without SBA's prior written approval. Request for approval shall be accompanied by an offer of immediate repayment of all Leverage, or by a plan satisfactory to SBA for the orderly liquidation thereof. Upon receipt of Licensee's request, SBA may remove Licensee's name from published lists of Licensees, and may conduct an examination or investigation of its affairs pursuant to section 310 of the Act.

Borrowing by Licensee

§ 107.201 Funds to Licensee.

(a) *Application procedure.*

(1) *Licensees other than Section 301(d) Licensees.* A Licensee (other than a section 301(d) Licensee) may apply for Leverage pursuant to section 303(b) of the Act on SBA Form 1022 in accordance with accompanying instructions. Applications for Leverage must be accompanied by evidence demonstrating to SBA's satisfaction the need therefor. Prior to the extension of any Leverage, an Unincorporated Licensee must furnish SBA with a ruling by the Internal Revenue Service that it qualifies as a partnership for tax purposes: *Provided, however,* That where a delay in obtaining an IRS ruling would cause a hardship to the Licensee, SBA may, pending receipt of such a ruling, make leverage funds available under interim financial arrangements which in SBA's judgment are satisfactory to protect SBA's creditor or guarantor position from an adverse IRS determination.

(2) *Section 301(d) Licensees.* A section 301(d) Licensee may apply for Leverage pursuant to section 303(c) of the Act [5] on SBA Form 1022A (for purchase of preferred securities and debentures), on SBA Form 1022B (for exchange of debentures for preferred securities), or on SBA Form 1022 (for guaranty of debentures) in accordance with accompanying instructions. Applications for Leverage must be accompanied by evidence demonstrating to SBA's satisfaction the need therefore.

(b) *SBA Guaranty.*

(1) SBA may in its discretion agree to guarantee a Licensee's debentures unconditionally, irrespective of the validity, regularity or enforceability of such debentures or any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor and, pursuant to its guaranty, to make timely payments of principal and interest, irrespective of any default by the issuing Licensee or

[5] Section 303(c) of the Act authorizes SBA to purchase nonvoting preferred securities, and to purchase or guarantee debentures issued by Section 301(d) Licensees, which may be subordinated in accordance with Section 303(b) of the Act.

acceleration of the maturity thereof by SBA.

(2) Persons interested in providing funds to Licensees under such guaranty may notify SBA by letter, certifying whether such lender has a direct or indirect beneficial interest of ten or more percent of the actual or potential voting rights in any Licensee, or in any person directly or indirectly controlling, controlled by or under common control with, any Licensee. Such certification will not be required from lenders where the borrowing Licensees will be selected or approved by SBA or its agents. SBA will endeavor to match such offers with applications pursuant to paragraph (a) of this section but cannot assure that such offers will be accepted. SBA in its discretion may also arrange for public or private financings under its guaranty authority. These reporting requirement are approved under OMB No. 3245-0081.

(3) No SBA guaranty shall be extended to a lender:

(i) Having a direct or indirect beneficial interest of ten or more percent in the Private Capital of the Licensee to be guaranteed, or in any Person directly or indirectly controlling, controlled by, or under common control with, such Licensee; or

(ii) Having such interest involving another Licensee which has received or is about to receive pursuant to any understanding, arrangement, cross-dealing, reciprocal or circular arrangement any direct or indirect financing (or a commitment for financing) from another lender with SBA's guaranty. SBA may void any guaranty obtained in violation of this paragraph (b)(3), but the foregoing shall not apply to lenders whose borrowers are selected or approved by SBA or its agents.

§ 107.202 Leverage in excess of three hundred percent.

(a) *Qualification.* In order to qualify for Leverage exceeding three hundred percent of Private Capital, at least sixty-five percent of the Licensee's Total Funds Available for Investment must be invested (or committed) in Venture Capital Financing of Small Concerns: *Provided, however,* That section 301(d) Licensees shall have thirty percent so invested.

(b) *Venture Capital Financing.* "Venture Capital Financing" shall mean:

(1) Equity Securities as defined in § 107.3 with no repurchase requirement for five years, except as may be specifically approved by SBA under § 107.801 for purposes of relinquishing Control over a Small Concern.

(2) Any right to purchase Equity Securities.

(3) Debt Securities or Loans which are subordinated by their terms to all borrowings of the issuer, except borrowings from officers, directors and owners of the Small Concern, or Close Relatives thereof, and have no part amortized during the first three years.

(c) *Total Funds Available for Investment.* The term "Total Funds Available for Investment" shall mean ninety percent of the sum of total current assets and loans and investments on a cost basis net of current maturities. (Based on the Statement of Financial Position, "total current assets" is the aggregate of lines 14 through 23 and "loans and investments on a cost basis net of current maturities" is line 10, column 1 less line 11.) Venture capital investments shall be valued on the same basis as Licensee's assets comprising its "Total Funds Available for Investment". A Financing carried as "assets acquired in liquidation of portfolio securities" or "operating concerns acquired" which originally qualified as venture capital shall retain the venture capital qualification.

(d) *Maintenance of Ratio.* The ration prescribed by paragraph (a) of this section shall be maintained as of the end of each fiscal year: *Provided, however,* That prepayment of venture capital investments, raising additional private capital and additional Leverage recently provided shall be disregarded in determining whether the Licensee meets the foregoing requirements as of the close of its fiscal year. Failure to maintain the ratio prescribed by this section shall be a violation of these regulations.

§ 107.203 SBA purchase, sale, or guaranty of securities evidencing Leverage; events of default.

(a) *SBA Disposal of Securities.* SBA may, upon such conditions and for such consideration as it deems reasonable, sell, assign, transfer, or otherwise dispose of any preferred security, debenture, or other security held in connection with Leverage. In such event and upon notice thereof by SBA, Licensee will make all payments of principal and of dividends or interest as shall be directed by SBA. Licensee shall hold SBA harmless from all damage or loss which SBA may sustain by reason of such disposal, limited, however, to the extent of Lincensee's liability under such security, plus court costs and reasonable attorney's fees incurred by SBA.

(b) *Leverage Conditions: General.* A Licensee issuing debentures pursuant to section 303 (b) and (c) of the Act after May 2, 1972, or preferred securities after August 16, 1982, shall be deemed to have agreed to the following terms and conditions, as in effect at the time of such issuance and as if fully set forth in such debentures or preferred securities:

(1) Upon written notice by SBA, the entire indebtedness and/or the principal amount of preferred securities of the Licensee issued to, held or guaranteed by SBA may be declared immediately due and payable to SBA upon the happening of any one or more to the following events:

(i) Default in the payment of the principal or interest, under any debenture, note or obligation of the Licensee, issued to, held or guaranteed by SBA;

(ii) Nonperformance or violation by the Licensee, as determined by SBA, of any one or more of the terms and conditions of any loan, obligation or preferred security of the Licensee, issued to, held or guaranteed by SBA, or of any agreement with or conditions imposed by SBA;

(iii) Failure of the Licensee, as determined by SBA, to comply with any one or more of the provisions of the Act or regulations promulgated thereunder, as they may be amended from time to time;

(iv) Failure of the Licensee to notify SBA within twenty days from the date of an event of default or nonperformance by the Licensee under any debenture, note or indebtedness of the Licensee issued to or held by anyone other than SBA.

(2) The entire indebtedness and principal amount of preferred securities of the Licensee issued to, held or guaranteed by SBA shall immediately become due and payable to SBA without notice, presentation or demand, whenever:

(i) Licensee is insolvent; or

(ii) Not having sufficient property to pay all of its debts, Licensee makes a voluntary assignment thereof; or

(iii) Licensee makes any transfer or incurs any obligation that is fraudulent under the terms of 11 USC 548; or

(iv) A petition is filed in commencement of any bankruptcy or reorganization proceeding, receivership, dissolution or other similar creditors' rights proceeding, by or against the Licensee, whichever event shall first occur.

(3) Except with the prior written consent of SBA, Licensee shall not:

(i) Repurchase or retire any of its Private Capital, except as permitted by § 107.802; or

(ii) Make any distribution to its shareholders or partners other than periodic payments out of retained

earnings based on the capital contributions of the recipient; or

(iii) Increase the aggregate amount of salaries or other compensation of officers, directors, or employees beyond the amount previously approved by SBA. In applying this provision, compensation to officers, directors, or employees of a wholly-owned corporation shall be deemed paid by the Licensee.

(4) Except with the prior written consent of SBA, Licensee will not employ or tender any offer of employment to, or retain for professional services, for a period of two years after the date of the latest debenture or preferred security issued by Licensee pursuant to section 303 (b) and (c) of the Act (or any SBA assistance as defined in Part 105 of this chapter) any person who on or within one year prior to said date:

(i) Shall have served as an officer, attorney, agent, or employee of SBA; and

(ii) As such, shall have occuped a position or engaged in activities which SBA shall have determined involved discretion with respect to the granting of assistance under the Act.

(5) Any failure on the part of SBA at any time to require the performance by Licensee of any one or more of the terms or provisions of any debt instrument or preferred security of Licensee issued to, held, or guaranteed by SBA shall in no way affect SBA's right thereafter to enforce the same, nor shall the waiver by SBA of any term or provision of any debt instrument or preferred security of Licensee issued to, held, or guaranteed by SBA be taken or held to be a waiver of any succeeding breach of any such term or provision.

(6) If the Licensee fails to maintain either the capital requirement or the investment ratio requirement under section 303(b)(2) of the Act, and the regulations promulgated thereunder from time to time, then the aggregate amount of the outstanding indebtedness evidenced by any debt instruments or principal amount of preferred securities issued to, held, or guaranteed by SBA which exceeds the maximum amount permitted under section 303(b)(1) shall (subject to the provisions of § 107.202(d)), and upon written notice by SBA, be immediately due and payable to SBA. In the event of such acceleration of payment, SBA in its sole discretion shall determine which preferred securities or debenture instrument or instruments, or parts thereof, shall be subject thereto.

(7) The debentures hereafter issued by a Licensee pursuant to section 303(b) of the Act, and SBA's claims relating thereto, shall be subordinate to all other debts of the Licensee unless such debentures provide otherwise, but shall have priority over all ownership interest in the Licensee upon any dissolution, winding-up, liquidation or reorganization of the Licensee.

(c) *Debenture Conditions. Section 301(d) Licensees.* Paragraph (b) of this section shall be applicable to section 301(d) Licensees obtaining Leverage pursuant to section 303(c) (1) or (2) of the Act: *Provided, however,* That the capital and investment ratio requirements referred to in paragraph (b)(6) shall be those prescribed by section 303(c) of the Act and § 107.202(a) of these regulations.

(d) *Capital Impairment.* In addition to the events of default set forth in paragraph (b) of this section, capital impairment occurring after November 7, 1973 (or, in the case of a section 301(d) Licensee, ninety days from [publication date], shall also constitute an event of default if Licensee fails to give SBA prompt written notice as soon as it knows or should reasonably have known thereof, or if, following such notice, Licensee fails to cure the impairment within time limits set by SBA in writing; *Provided, however,* That a Section 301(d) Licensee whose undistributed net realized earnings deficit exceeds seventy-five percent of private capital within ninety days after September 30, 1983 shall not be deemed capitally impaired for a period of five years after September 30, 1983 unless, during such five-year period, its undistributed net earnings deficit shall exceed 100 percent of private capital. In either such event, SBA may, in its discretion, by written notice declare the entire principal amount of preferred securities and indebtedness of the Licensee, issued to, held or guaranteed by SBA, immediately due and payable. Capital impairment shall be deemed to exist when the undistributed net realized earnings deficit of a section 301(d) Licensee exceeds seventy-five percent, or that of any other Licensee exceeds fifty percent of Private Capital. Treasury stock shall be deducted from paid-in capital stock and paid-in surplus in determining Private Capital. Where unrealized appreciation is not sufficient to offset unrealized depreciation on loans and investments, the resulting unrealized loss on securities held will reduce undistributed net realized earnings.

§ 107.204 Collection or compromise of SBA claims.

SBA may, upon such conditions and for such consideration as it deems reasonable, collect or compromise all claims relating to preferred securities or obligations held or guaranteed by SBA, and all legal or equitable rights accruing to it.

§ 107.205 Leverage for section 301(d) Licensees.

(a) *General.* SBA may provide Leverage to any section 301(d) Licensee through the purchase or guaranty of debentures, or to a section 301(d) Licensee organized as a corporation, through the purchase of nonvoting preferred stock (or nonvoting preferred securities other than stock, but only if applicable law precludes the issuance of nonvoting preferred stock) pursuant to application filed under § 107.201(a)(2).

(b) *Charter Requirements for Leveraging.* No Leverage will be extended to any section 301(d) Licensee unless the following matters are appropriately provided for in the Licensee's articles:

(1) *Investment Policy.* Statement of Investment Policy in conformity with section 301(d) of the Act.

(2) *Prior SBA approval to amend articles.* The articles shall not be amended without SBA's prior written approval.

(3) *Additional requirements for nonvoting preferred securities Leverage.* No nonvoting preferred securities may be purchased by SBA from any corporate section 301(d) Licensee unless its articles make appropriate provision for the following additional matters:

(i) *Payment of dividends to SBA.* Subject to the sound discretion of the board of directors, SBA shall be paid from retained earnings an annual three percent dividend on the par value of its preferred securities. Such dividends shall be payable before any amount shall be set aside for or paid to any other class of stock, and shall be preferred and cumulative, so that in the event SBA has received less than three percent in any fiscal year, such dividends shall be payable on a preferred basis from subsequent retained earnings without interest thereon. Before any declaration of dividends or any distribution (other than to SBA), all dividends accumulated and unpaid on preferred securities issued to SBA shall be paid.

(ii) *Redemption rights.* A section 301(d) Licensee shall be entitled at its option to redeem in whole or in part preferred securities purchased by SBA, on any dividend date (after giving SBA at least thirty days written notice) by paying SBA the par value of such securities, but not less than $50,000 par value in any one transaction, and any dividends accumulated and unpaid to the date of redemption.

(iii) *Redemption, liquidation, or distribution of assets.* Before any redemption of securities not purchased by SBA, or liquidation in whole or in part, or any distribution of assets to other stockholders, SBA shall be paid any amounts due pursuant to paragraph (b)(3)(i) of this section, and the par value of its preferred securities; *Provided, however,* That such par value need not be paid to SBA before the distribution of ordinary dividends from retained earnings.

(c) *Sale of debentures to SBA.* Debentures purchased by SBA but not debentures guaranteed by SBA pursuant to section 303(c) of the Act, shall be entitled to a reduced interest rate determined according to section 317 of the Act. Such debentures shall specify the interest rates prescribed by sections 317 and 303(b) of the Act, together with the dates between which each applies. With respect to payment of interest SBA shall have the same priority as applies to debentures purchased or guaranteed under section 303(b) of the Act.

(d) *Preferred Securities Leverage in Excess of 100 percent*—(1) *General.* Subject to the following restrictions, SBA is authorized to purchase preferred securities in amounts in excess of 100 percent of Private Capital, but not in excess of 200 percent of Private Capital:

(i) From any corporate section 301(d) Licensee licensed on or before October 13, 1971; or

(ii) From any corporate section 301(d) Licensee licensed after October 13, 1971, and having Private Capital of $500,000 or more. SBA has no authority to purchase preferred securities in excess of 100 percent of Private Capital from any corporate section 301(d) Licensee licensed after October 13, 1971, if the private Capital of such Licensee is less than $500,000.

(2) *Qualified Investments.* In no event shall the amount of preferred securities purchased by SBA in excess of 100 percent of Private Capital exceed the amount of the Licensee's funds invested in, or legally committed to, qualified investments. As used herein, "qualified investments" means, subject to §§ 107.320 and 107.801, stock of any class (including preferred stock) or limited partnership interests in eligible small concerns, or shares of any eligible syndicate, business trust, joint stock company or association, mutual corporation, cooperative or other joint venture for profit; or unsecured debt instruments which are subordinated by their terms to all other borrowings (as distinguished from all other debts and obligations) of the issuer.

(3) *Maintenance of Qualified Investment Portfolio.* Any Licensee that has sold preferred securities to SBA in excess of 100 percent of its Private Capital shall maintain its portfolio of "qualified investments" at not less than the amount of such preferred securities. If, as of the end of its fiscal year, the amount of such Licensee's "qualified investments" is less than the amount required by this paragraph (d)(3) the Licensee shall be deemed in violation of these regulations unless the Licensee redeems promptly such excess securities, or unless SBA shall authorize temporarily a lesser amount of "qualified investments."

(e) *Exchange of outstanding debentures for Preferred Stock.*

(1) Subject to the conditions applicable to the issuance of preferred securities to SBA, a section 301(d) Licensee may, in SBA's discretion, retire debentures against issuance of preferred securities to SBA. A section 301(d) Licensee proposing to exchange its outstanding debentures shall be required to pay SBA all unpaid interest accruing to the date of the exchange.

(2) Notwithstanding the provisions of the preceding paragraph, debentures purchased or guaranteed by SBA on the basis of funds not includible in Private Capital, as defined in § 107.3, may not be retired against issuance of preferred stock on or after August 16, 1982. Such debentures, to the extent purchased or guaranteed by SBA on the basis of ineligible funds, shall be paid at maturity. SBA may at its discretion extend such maturity, not to exceed fifteen (15) years from the date of issuance if necessary for an orderly liquidation.

(f) *State law.* SBA does not intend that provisions of this seection not mandated by the Act shall supersede existing State law. Whenever a party claims that a conflict exists, it shall submit an opinion of independent counsel, citing authorities, for SBA's resolution of the issues involved.

Financing of Small Concerns (Loan and Debt; Securities; Equity Capital Financing; Guarantees and Commitments)

§ 107.301 Financing term and amortization.

(a) *Minimum period of Financing.* Except as otherwise provided for in these regulations, Financings of Disadvantaged Concerns may be made for a minimum period of four years, the aggregate of such Financings for less than five years not to exceed fifty percent of the Licensee's Portfolio at the end of any fiscal year, determined without regard to prepayments (or similar events beyond the Licensee's control) which occur during that fiscal year,[6] but all other Financings shall be for a minimum period of five years. Voluntary prepayment shall be permitted at any time, but a reasonable prepayment penalty may be agreed upon. (See definition of Cost of Money § 107.3). Any other restriction on prepayment shall require SBA's prior written approval

(b) *Maximum amortization.* Amortization during the first five years (or during the first three years of an authorized Financing for at least four years) shall not be required at a rate exceeding an accumulated average based on the straight line method of amortization.[7]

§ 107.302 Cost of Money; Loans and Debt Securities.

Subject to lower ceilings prescribed by local law, Cost of Money on Loans and Debt Securities shall not exceed the following:

(a) *Loans*

(1) If the current FFB Rate is 8 percent per annum or lower, Cost of Money shall not exceed 15 percent.

(2) If the current FFB Rate is in excess of 8 percent per annum, Cost of Money shall not exceed the sum of the current FFB Rate plus 7 percentage points, but rounded off to the next lowest eighth of one percent.

(b) *Debt Securities.*

(1) If the current FFB Rate is 8 percent per annum or lower, Cost of Money shall not exceed 14 percent.

(2) If the current FFB Rate is in excess of 8 percent per annum, Cost of Money shall not exceed the sum of the current FFB Rate plus 6 percentage points, but rounded off to the next lowest eighth of one percent.

(c) *Ceiling on specific Financing.* The maximun Cost of Money on any specific Financing shall be determined with reference to the FFB Rate in effect at the time of first disbursement or when a legally binding written commitiment was issued ("current FFB Rate") whichever shall first occur. A fluctuating interest rate is nevertheless subject to the maximum Cost of Money limitation in effect at the time of commitment, or of first disbursement if no legally binding written commitment was issued.

(d) *Applicability to existing Financings.* The maximum annual Cost of Money on any Financing made or committed before April 16, 1980 shall in no event exceed the lesser of 15 percent

[6] For other short-term financing and amortization, see § 107.403(b) (1) and (2).

[7] (Ibid.)

or any lower rate prescribed by local law.

(e) *Commitments.* All commitments for Financing are subject to the provisions of § 107.402.

§107.303 Overline limitation.

(a) *General.* Without written SBA approval, the aggregate amount of funds disbursed for securities acquired (exclusive of write-down), and of commitments and guaranties issued for a Small Concern (including affiliated concerns as defined in § 121.3–2 (a) of this Chapter) shall not exeed twenty percent of Licensee's Private Capital: *Provided, however,* That for section 301(d) Licensees the limitation shall be thirty percent.

(b) *Increased Limit.* For purposes of this section only, Private Capital may include the net unrealized gains of a Licensee represented by marketable securities and support an additional overline limitation ("increased limit") subject to the following conditions:

(1)"Marketable securities" means securities that are traded on a regulated stock exchange, or that are listed in the Automated Quotation System of the National Association of Securities Dealers (NASDAQ), or that have, at a mimimum, at least three market makers as defined in Section 3(a)(38) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(38)) one of which has offices in at least ten states.

(2)Unrealized losses on marketable and unmarketable securities must be deducted from unrealized gains on marketable securities (net unrealized gains).

(3)Valuation of marketable securities shall be at the lowest bid price.

(4) Licensee must have positive retained earnings (undistributed net realized earnings less allowances for losses on loans and investments).

(5)At the time of the first use of this subsection, and thereafter as of the the first business day of each calendar quarter as long as Licensee avails itself to this increased limit, it shall retain in its files copies of the NASDAQ listings (or the Wall Street Journal) or written quotations from the market makers quoting the marketable securities which support the increased limit.

(6)By availing itself of this increased limit, Licensee agrees that, in the event the net unrealized gains show a reduction on the first business day of any calendar quarter and for at least thirty days thereafter, below seventy percent of the net unrealized gains, Licensee will (not later than ninety (90) days from such date) cause to be injected sufficient private Capital to restore support for the increased limit or reduce the increased limit of its investments to a point at which no investment exceeds 20 percent of the sum of its Private Capital plus the remaining net unrealized appreciation represented by marketable securities.

(7)Failure to maintain or restore support for the increased limit or to reduce investments as required by paragraph (6) shall be a violation of these Regulations.

Example: On January 15, 1982 the Licensee documents net unrealized gains of $100,000. Licensee adds $100,000 to its Private Capital and increases its overline limitation accordingly. Licensee now makes one or more investments in reliance on this increased limit. Hereafter, on each subsequent first business day of April, July, October, and January, Licensee must document net unrealized gains of a least $100,000. On April 15, 1982 Licensee can document further net unrealized gains for an aggregate of $150,000 and invest pursuant to an increased limit of $30,000 (20% of $150,000). Following the first business day of April, 1983, Licensee documents net unrealized gains of only $120,000. All investments within the increased limit remain undimished in the portfolio. Licensee is now required to cause to be injected sufficient cash into Private Capital before July 1, 1983, so that the sum of the remaining net unrealized gains and the added cash equals at least five times the increased limit of its largest investment. In the alternative, Licensee must reduce before July 1, 1983, its "overline" investments made in reliance on this subsection so that none will exceed 20 percent of Private Capital Plus $24,000. Any further reduction of net unrealized gains will require additional proportionate injection of cash or reduction of investments.

§ 107.304 Size status and nondiscrimination.

No Assistance shall be provided unless: (a) The Licensee and the Small Concern have executed SBA Form 480, Size Status Declaration, including Licensee's determination that applicable size standards have been met, or SBA has determined at the request of the Licensee or such concern that the latter is a Small Concern: and (b) The Small Concern has certified on SBA Form 652–D that it will not illegally discriminate in its operations, employment practices or facilities as set forth in Part 113 of this chapter. Such forms shall be kept available for SBA's examination: *Provided, however,* That the foregoing shall not apply when the Licensee acquires the securities from an underwriter in a public offering (see § 107.404), in which event the Licensee shall keep the prospectus showing the small size status of the issuer as part of its records for SBA's examination.

Equity Capital

§ 107.320 Equity securities.

(a) *General.* A Licensee may be a source of equity capital for incorporated and unincorporated small concerns. Such equity capital may be supplied by the purchase of Equity Securities: *Provided, however,* That a Licensee shall not become a general partner in any unincorporated concern, or otherwise become jointly or severally liable for the general obligations of an unincorporated concern, inadvertently or otherwise.

(b) *Options.* A Licensee may acquire options or warrants (including conversion rights) in a Portfolio Concern or in an affiliate of such concern, as defined in § 121.3–2(a) of this chapter. Such options or warrants shall expire not later than six years from the termination of the Licensee's Financing by prepayment or at maturity. For exercise of options after the Portfolio Concern becomes large, see § 107.706

§ 107.321 Redemption provisions.

Subject to the following restrictions, a Licensee may acquire Equity Securities, options or warrants on terms that may include redemption by the issuer (Put).

(a) No redemption shall be required for the first five years.

(b) The redemption price shall not exceed a price to be agreed upon not later than the date of the Licensee's first disbursement and such price shall not be pre-determined but must be determined by a formula which is legal and reasonable and based on book value or earnings of the Small Concern.

§ 107.322 Refinancing; first refusal on new indebtedness.

Whenever a Licensee purchases Equity Securities from a Small Concern, it may require it to:

(a) Refinance any or all of its outstanding indebtedness so that the Licensee is the only holder of any evidence of indebtedness of such concern, and:

(b) Agree not to incur any new indebtedness without Licensee's approval and affording it an opportunity to finance such new indebtedness: *Provided, however,* That the Licensee shall allow appropriate exceptions for open account or other short-term credit.

Guaranties and Commitments

§ 107.401 SBIC guaranty of loans.

(a) Subject to § 107.301(a) (Minimum Period of Financing), a Licensee may guarantee to any non-Associate creditor the monetary obligation of a Small Concern: *Provided, however,* That:

(1) No such guaranty shall be issued where Licensee would become subject to the State regulation as an insurance, guaranty or surety business;

(2) No such guaranty may be issued except at the request of the Small Concern or where necessary to protect Licensee's existing investment;

(3) Any direct Financing plus the amount of the guaranties does not exceed the overline limits under § 107.303;

(4) The total financing cost to the Small Concern may not exceed the limits set by § 107.302;

(5) The Total guaranties issued and outstanding for all Small Concerns shall not exceed one hundred percent of Private Capital.

(6) A Licensee may guarantee an Associate creditor on the same conditions pursuant to § 107.903.

(b)[Reserved]

§ 107.402 Commitments.

(a) *General.* A Licensee is authorized to enter into a commitment to furnish Financing to a Small Concern. Such commitment shall be in writing and a reasonable commitment fee may be charged.

(b) *Repayment period as to funds advanced pursuant to Licensee's commitment.*

(1) Where a Licensee enters into a commitment to finance a Small Concern, disbursement to be made at the latter's request, it shall be lawful (notwithstanding the maturity provisions of § 107.301(a)) to provide for repayment as follows:

(i) Funds advanced during the first two years of the commitment period shall become payable not less than five years after date of the commitment; and

(ii) Funds subsequently advanced shall become payable not less than three years of the respective disbursement dates.

(2) [Reserved]

(c) Amortization of each disbursement shall not be required at an annual average rate in excess of the principal amount thereof divided by the number of years of the respective repayment period.

§ 107.403 Other permissible Financing.

(a) *Authorization.* A Licensee may furnish Financing pursuant to paragraph (b) of this section, within the overline limits of § 107.303, but the aggregate of all such Financing to any one or all Small Concerns shall not at any time exceed twenty percent of the Licensee's total adjusted assets. "Total adjusted assets" means total assets reduced by all outstanding Leverage provided by SBA and current liabilities.

(b) *Investments permitted.* Notwithstanding §§107.301 (a) and (b) and 107.320, a Licensee may make the following investments in Small Concerns:

(1) *Short-term Financing.* Financing with a term of less than five years when it constitutes interim financing in contemplation of long-term Financing of a Small Concern, the protection of prior investments or financing ownership change pursuant to § 107.711. The maximum aggregate period for this short-term financing cannot exceed one year. This paragraph (b)(1) supplements the authority to make short-term investments in Disadvantaged Concerns under § 107.301(a).

(2) *Amortization rate of forty percent per annum.* Financing with the minimum term of five years amortized at a rate not exceeding forty percent per annum of the declining principal balance outstanding, except for the final year of the term.

(3) *Securities purchased from nonissuer.* Securities of a Small Concern purchased from a seller other than the issuer or his underwriter (see § 107.404), when such acquisition constitutes a reasonably necessary part of the overall sound financing of such concern pursuant to the Act or when the securities are acquired to finance a change of ownership pursuant to § 107.711. See also § 107.304 regarding size status and nondiscrimination certification. See § 107.404 for purchases of Equity Securities through or from an underwriter.

§ 107.404 Purchase of Securities through or from underwriter.

A Licensee may purchase securities issued by a Small Concern through or from an underwriter, within 90 days of the date a public offering is first lawfully made: *Provided, however,* That (a) such purchase may not be made at more than the original public offering price; (b) the underwriter certifies in writing whether it is an Associate of any Licensee, that the portion of the offering purchased by the Licensee represents only newly issued Securities, and that an amount equal to the amount paid by the Licensee (less reasonable and customary underwriting and related charges permitted to be charged by the underwriter in connection with the Licensee's purchase) has been, or will be, paid to the small concern; (c) if the underwriter is an Associate of any Licensee, no fees or charges may be retained by such underwriter with respect to the portion of the offering purchased by any Licensee; and (d) Licensee maintains records available for SBA inspection showing relevant details of the transaction, including date, price, commissions, etc., paid, if any, and underwriter's certificate. See also § 107.304 regarding size status and nondiscrimination certification.

Management Services

§ 107.501 Management services.

(a) *General.* Management services may be advisory only or may, subject to §107.801, include performance of any technical service relating to the financial, management, administrative, or operating activity of a Small Concern. Services shall be deemed "advisory only" where the Small Concern is free to accept or reject the advice rendered.

(b) *Conditions.* (1) Where a Licensee directly or indirectly provides management services to a Small Concern and such services are advisory only, no SBA approval is required. The Licensee shall maintain a record for examination by SBA of the time spent and charges made for such services and such charges shall not exceed comparable charges by established professional non-Licensee consultants.

(2) Where a Licensee directly or indirectly provides management services to a Small Concern that is being Financed by it and such services are not advisory only, such services shall be performed pursuant to a written contract with such Small Concern and the contract shall be approved in advance by the board of directors or principals of the Small Concern and by SBA. Such contracts shall thereafter be approved annually by the board of directors or principals of the Small Concern and the Licensee. In the event of a material change, the revised contract shall also be approved in advance by SBA. A doubt regarding materiality of a change shall be resolved by submission to SBA. An agreement to perform such services for Small Concern that is not being Financed by the Licensee shall not require such annual approval. Records shall be kept and charges made in accordance with paragraph (b)(1) of this section.

(3) Where an Associate of a Licensee provides management services to a Small Concern that is being Financed by such Licensee and such services are advisory only, such advice shall be rendered pursuant to a written contract,

and the contract shall be approved in advance by the board of directors or the principals of the Small Concern and by SBA. Such contracts shall thereafter be approved annually by such board of directors, or principals and the Licensee. In the event of a material change, the revised contract shall also be approved in advance by SBA. A doubt regarding materiality of a change shall be resolved by submission to SBA. The Licensee shall maintain records of time spent and charges made in accordance with paragraph (b)(1) of this section. Such services rendered to a Small Concern not being Financed by such Licensee are not subject to regulation by SBA until such time as Financing is provided.

(4) Where an Associate of a Licensee provides management services to a Small Concern that is being Financed by such Licensee and such services are not advisory only, such services shall be performed pursuant to a written contract, and the contract shall be approved in advance by the board of directors or the principals of the Small Concern and by SBA. Such contracts shall thereafter be approved annually by the board of directors or principals of the Small Concern and the Licensee. In the event of a material change, the revised contract shall also be approved in advance by SBA. A doubt regarding materiality of a change shall be resolved by submission to SBA. Records shall be kept and charges made in accordance with paragraph (b)(1) of this section. Such services rendered to a Small Concern not being Financed by the Licensee are not subject to regulation by SBA until such time as Financing is provided.

(c) *Management Services Corporation.* A Licensee may organize a corporation solely to provide management services. All of its stock shall be owned and held by such Licensee, and the Licensee shall be responsible for the compliance by such corporation with the Act and regulations. In the case of a Debtor Licensee, the remuneration paid to officers, directors and employees of such corporation and any changes therein, shall be subject to SBA written approval. Reports submitted to SBA by the Licensee shall reflect consolidated figures when both are corporations. The corporation shall maintain adequate records and make any separate reports required by SBA and it shall submit to SBA examination. Failure to do so shall be deemed noncompliance by the Licensee. Licensee's investments in and receivables from such corporation shall not exceed 3 percent of the Licensee's Private Capital.

Control of Licensee

§ 107.601 Changes in ownership or control of Licensee.

(a) *General.* Transfer of Control over a Licensee by any means whatsoever shall be subject to prior written approval of SBA.

(b) *Prior approval requirements.* Prior written approval of SBA shall be required in case of:

(1) A proposed transfer which would result in the beneficial ownership by any Person, or group of Persons acting in concert, of ten or more percent of any class of its stock or Partnership Capital; or

(2) Any proposed transfer which results in a change in Control over a Licensee.

(c) *Acts prohibited.* Without prior written approval of SBA, no such transaction shall be consummated and no officer, director, employee or other Person acting on the Licensee's behalf shall:

(1) Register on its books any transfer of ownership interest to the proposed new owner (or owners); or

(2) Permit the proposed new owner (or owners) to exercise voting rights with respect to said ownership interest or participate in any manner in the conduct of Licensee's affairs.

(d) *Terms used:*

(1) "Transfer," "stock transfer," "transfer of shares," or "ownership interest" refers to the aggregate amount of shares or Permanent Partnership Capital which any Person or group of Persons acting in concert transfers or undertakes to transfer during any six month period.

(2) "Exercise of voting rights" with respect to ownership interest of Licensee's capital shall include directly or indirectly procuring or voting any proxy, consent or authorization as to such voting rights at any shareholders' or partnership meeting.

(3) "Participation in the conduct of Licensee's affairs" shall include control over Licensee's books, records, funds or other assests; participation directly or indirectly in any disposition thereof; or serving as an officer, director, partner, employee or agent of such Licensee.

(e) *Transferors' Liability.* SBA may in its discretion as a condition of a Licensee's Leverage, require the Control Person(s) to assume in writing personal liability for such Licensee's Leverage, effective only in the event of their direct or indirect participation in any violation of the requirements of this section applicable to transfers of Control, and terminable if SBA subsequently approves the transfer of Control and so notifies the transferor(s) in writing.

(f) *Application for approval.* Written application for prior SBA approval shall be promptly made by the Licensee and by other parties in interest. A processing fee of $5,000 shall accompany any application for approval of one or more transfers of stock or of partnership interests that will result in acquisition of control over the Licensee by a Person(s) not previously approved by SBA. For applications not involving control, see 107.102.

(g) *Public Notice.* SBA shall publish notice in the **Federal Register** concerning the application for approval of a proposed transfer of Control over a Licensee, including such appropriate information as the name and location of the Licensee and of the proposed transferees who will own ten or more percent of any class of its Private Capital. The notice shall provide an opportunity to submit written comments. A similar notice shall also be published in a newspaper of general circulation in the city or locality where the Licensee is or will be located (or conduct operations), and a certified copy shall be furnished to SBA within ten days.

(h) *Standards governing SBA approval.*

(1) SBA may, as a condition of approving a proposed transfer of Control, require an increase in Licensee's Private Capital.

(2) SBA may condition its approval on the assumption in writing by the new owners of contractual liability pursuant to paragraph (e) of this section, and such other requirements as SBA deems necessary.

(3) SBA approval shall be contingent upon full disclosure of the real parties in interest, the source of funds used, and other data requested by SBA.

(i) *Reporting transactions involving possible transfer of Control.* The Licensee shall, upon obtaining knowledge thereof, promptly report to SBA the facts pertaining to any transaction or event which affords reasonable grounds for belief that a transfer of Control over such Licensee is likely to occur. If there is any doubt as to whether a particular transaction or event will result in a change of Control, such doubt shall be resolved in favor of reporting the facts to SBA.

§ 107.602 Common control.

Without prior written SBA approval, a Licensee shall not have an officer, director, manager, nor a Control Person or a stockholder or partner owning or controlling directly or indirectly ten or more percent of its stock or ownership interest who at the same time is:

(a) An officer, director, manager or Control Person, or such stockholder or partner of another Licensee; or

(b) An officer or director of any Person which directly or indirectly controls, or is controlled by, or is under common Control with, another Licensee: *Provided, however,* That officerships or directorships in, and management, ownership or Control of stock or Permanent Partnership Capital of, a section 301(d) Licensee shall be excepted from the foregoing provisions.

§ 107.603 Pledge of Licensee's shares.

Whenever ten or more percent of a Licensee's Private Capital is pledged by any Person (or group of Persons acting in concert) as collateral for indebtedness, and such pledge does not involve any transfer for which prior approval is required under § 107.601, written notice of the terms of such transaction shall be furnished to SBA by the pledgor within thirty calendar days from the date of the pledge.

Lawful Operations

§ 107.701 Amendments to Act and regulations.

A Licensee shall be subject to all existing and future provisions of the Act and these regulations, including Parts 112, 113 and 116 of Title 13 of the Code of Federal Regulations.

§ 107.702 Other laws.

Each Licensee shall comply with all applicable State and Federal law.

§ 107.703 Operations under Act.

A Licensee shall engage only in the activities contemplated by the Act and in no other activities.

§ 107.704 Identification as an SBIC.

Any written communications made by a Licensee shall identify that Licensee as "a Federal Licensee under the Small Business Investment Act of 1958."

§ 107.705 Consideration for issuance of Licensee securities.

(a) *General.* A Licensee may issue its securities or other ownership interests, including stock options to management and employees, for:

(1) Cash;

(2) Direct obligations of, or obligations guaranteed as to principal and interest by, the United States;

(3) Securities of which it is the issuer, in connection with a reclassification approved by SBA;

(4) Services previously rendered or to be rendered to the Licensee not to exceed the fair value thereof;

(5) Physical assets to be currently employed in Licensee's operation at the fair market value thereof;

(6) As a dividend; and

(7) In connection with a merger, consolidation, or reorganization approved by SBA: *Provided, however,* That any evidence of ownership interest issued as a part of Licensee's minimum capital pursuant to § 107.101(d) must be paid for in cash or securities permitted by the last sentence of section 308(b) of the Act; *And provided, further,* That a section 301(d) Licensee which has received Portfolio securities from a participant Licensee pursuant to § 107.712(c), may issue shares for such securities at their cost or fair market value, whichever is lower.

(b) *Stock options.*

(1) Licensees may issue stock options. A 1940 Act Company or a 1980 Act Company may issue stock options as permitted under such Acts or orders issued thereunder.

(2) *Stock options not deemed compensation.* Stock options issued by any Licensee including a 1940 or 1980 Act company, shall be deemed not to constitute "compensation" for purposes of any requirement of prior written consent of SBA with respect to increases of salaries or other compensation beyond the amounts approved by SBA.

§ 107.706 Retention of investments.

A Licensee may retain its investment in a concern which qualified as small at the time of initial financing, but which subsequently became large. Securities received in connection with a portfolio concern's merger, consolidation, or affiliation with a large business may be retained until Licensee has recovered its investment plus a reasonable return thereon, and thereafter, so long as continued ownership does not interfere with the Financing of small concerns. Subject to § 107.303, additional financing may be provided only to the extent necessary (a) to honor a commitment made while the concern was small, or (b) to protect Licensee's original investment, or (c) to exercise stock options or other rights to purchase equity securities pursuant to such options or rights acquired as part of the initial Financing.

§ 107.707 Purchases of securities from another Licensee.

A Licensee may exchange with or purchase for cash from another Licensee Portfolio securities (or any interest therein): *Provided, however,* That: (a) Licensee shall not have at any time more than one-third of its total assets (valued at cost) invested in such securities; and (b) the amount for which the selling Licensee may be contingently liable shall be included in its overline limit under § 107.303.

§ 107.708 Deposits and investments of idle funds.

Except as hereinafter set forth, all funds of a Licensee shall be deposited without delay in an account in a financial institution insured by the Federal Deposit Insurance Corporation (FDIC) or by the Federal Savings and Loan Insurance Corporation (FSLIC). Funds of a Licensee not invested in Small Concerns and not reasonably needed for its day-to-day operations shall be invested in (a) direct obligations of, or obligations guaranteed as to principal and interest by, the United States the remaining maturities of which do not exceed fifteen months; or (b) in certificates of deposit maturing within one year or less, or in an insured deposit account of an institution insured by the FDIC or FSLIC; or (c) deposited in a savings account subject to a withdrawal restriction not to exceed one year in any institution insured by the FDIC or FSLIC: *Provided, however,* That (1) a Licensee may maintain a petty cash fund of up to $500 and (2) corporate assets of a corporate general partner not invested in the Licensee shall be excluded from the time limits imposed by this Section.

§ 107.709 Investment Adviser/Manager.

(a) *General.* A Licensee may employ an Investment Adviser/Manager as defined in § 107.3, subject to the supervision of the Licensee's Board of Directors or general partner and shall furnish SBA with a copy of the contract for prior written approval. Services performed may include management and operating activities. The contract shall specify the services to be rendered to the Licensee and to Portfolio Concerns, and the basis for computation of compensation. Such contracts shall thereafter be approved annully by the board of directors or principals of the Licensee. In the event of a material change, the revised contract shall be approved in advance by the Licensee and SBA. A doubt regarding materiality of change shall be resolved by submission to SBA.

(b) *Common Manager.* Two or more Licensees may, with prior written SBA approval, employ the same Investment Adviser or Manager.

§ 107.710 Assets in liquidation.

(a) *Timely Disposal.* A Licensee shall dispose of assets acquired in total or partial liquidation of a Portfolio asset, within a reasonable period of time.

(b) *Preservation of Assets.* (1) A Licensee may incur reasonably necessary expenditures for maintenance and preservation or such assets, and

(2) A Licensee may, subject to prior written SBA approval, incur reasonably necessary expenditures for improvements to render such assets saleable: *Provided, however,* That aggregate expenditures made pursuant to paragraphs (a) and (b) of this section plus Licensee's total investment attributable to such assests, shall not exceed its overline limit under § 107.303, except as specifically approved in writing by SBA.

(3) In addition to the amounts authorized by paragraphs (a) and (b) of this section, a Licensee may make the following required expenditures allocable to such assets in an aggregate amount which, together with its total investment attributable thereto, and its expenditures pursuant to paragraphs (a) and (b) of this section do not exceed 35 percent of its Private Capital, except as specifically approved in writing by SBA: Prior mortgage interest; principal payments; taxes and necessary insurance coverage.

(c) *SBA Approval.* Application for SBA approval under paragraphs (b)(2) and (b)(3) of this section shall specify all expenses estimated to be necessary pending disposal of the assets.

§ 107.711 Financing changes of ownership.

A Licensee may finance a change of ownership in a Small Concern when in the reasonable judgment of the Licensee it will promote the sound development or preserve the existence of a Small Concern as such; or will assist in the creation of a Small Concern as a result of a corporate divestiture; or will facilitate ownership in a Disadvantaged Concern. For restrictions governing purchases from nonissuer, see §107.403.

§ 107.712 Section 301(d) Licensee wholly or partly owned by Licensee companies.

A Section 301(d) Licensee may be licensed to operate as the subsidiary of one or more Licensee companies (participant Licensee), with or without non-Licensee participation, subject to the following conditions:

(a) *Application.* In reviewing a license application, SBA will consider the effect on the participant Licensee of its capital contribution to the proposed Section 301(d) Licensee.

(b) *Participant Licensees.* Each participant Licensee shall own at least twenty percent of the voting securities of the proposed Section 301(d) Licensee, and such ownership shall constitute a presumption of active participation. Licensees proposing to own less than twenty percent of such voting securities may demonstrate to SBA's satisfaction that they will be active participants.

(c) *Capital contribution.* The capital contribution of a participant Licensee which is no part of the minimum capital ($1,000,000) of the Section 301(d) Licensee, may (notwithstanding §107.705(a)) be represented by securities of Small Concerns eligible for investment by a Section 301(d) Licensee, at cost or fair market value, whichever is lower. Assumption by the proposed Section 301(d) Licensee of any part of such participant Licensee's indebtedness held or guaranteed by SBA will not be permitted. A capital contribution shall, for purposes of the participant Licensee's Leverage be treated as a reduction of its capital, and shall not justify the retention of Leverage by such participant Licensee.

Restricted Activities

§107.801 Control of Small Concern.

(a) *General.* The Act does not comtemplate that Licensees shall operate business enterprises or function as holding companies exercising control over such enterprises. Accordingly, neither a Licensee, nor a Licensee and its Associates, nor two or more Licensees may, except as hereinafter set forth, assume Control over a Small Concern pursuant to management agreements, voting trusts, majority representation on the board of directors, or otherwise.

(b) *Presumption of Control.* Control over a Small Concern will be presumed to exist whenever a Licensee or a Licensee and its Associates, or two or more Licensees, own or Control, directly or indirectly, voting securites equivalent to:

(1) Fifty percent or more of the outstanding voting securities, if held by fewer than fifty shareholders; or

(2) More than twenty-five percent or a block of twenty or more percent which is as large as or larger than the largest other outstanding block of such securities, if held by fifty or more shareholders.

(3) Potential ownership of voting securities through options or conversion privileges shall not be considered in determining whether a presumption of control exists. This presumption may be rebutted by evidence satisfactory to SBA.

(c) *Temporary Control permitted.* A Licensee may acquire temporary Control only where reasonably necessary for the protection of its investment.

(d) *Plan to relinquish Control.* A Licensee may assume Control pursuant to paragraph (c) of this section only if it has entered into a written plan, enforceable by the small concern or its shareholders, providing for relinquishment of Control within a reasonable period, not to exceed seven years, without prior written SBA approval of any extension prior to the end of such period. Such plan shall recite the facts and circumstances necessitating Control for the protection of the Licensee's investment, and shall be filed with SBA and the Small Concern within thirty days after Control is acquired, subject to SBA's post approval as to form and substance, including fairness and the necessity for Control as a condition for the continuation of the license and shall be deemed approved unless Licensee is otherwise notified within ninety days after its receipt by SBA. Where an approved plan later becomes inadequate, a revised plan shall be submitted for SBA's approval. SBA approval shall be contingent upon disclosure of all relevant facts and be subject to such conditions as SBA may prescribe.

(e) *Enforcement actions.* A divestiture plan shall not interfere with Licensee's enforcement of its legal rights against a Portfolio Concern. If the Licensee retains or acquires Control through enforcement action, it shall immediately notify SBA and submit within thirty days a divestiture plan pursuant to paragraph (d) of this section for SBA approval. Subject to § 107.904, such plan may be negotiated with parties other than the Small Concern or its owners.

(f) *Additional Financings.* A Licensee which has assumed Control of a Small Concern may later provide additional Financing, without an exemption under § 107.903(b)(1), and shall within 30 days resubmit its divestiture plan for SBA approval only where the additional Financing requires significant changes in such SBA approved plan on file in order to effect divestiture of Control.

(g) *Control in excess of seven years.* SBA approval pursuant to paragraph (d) of this section for extension of Control in excess of seven years will only be granted if unique circumstances are demonstrated to SBA's satisfaction. Examples of such circumstances are (1) the former owners abandoned the Small Concern or became incapacitated; or (2) the only other available option is the extinction of the Small Concern as such.

§ 107.802 Voluntary capital decrease.

Without prior written approval, a Licensee shall not voluntarily reduce its Private Capital except that a Licensee in any one fiscal year may reduce its

capital in an amount not exceeding two percent": *Provided, however,* That the amount of such reduction may not reduce the Licensee's Private Capital below the minimum required by the Act nor cause the Licensee to retain excess Leverage contrary to Section 303 of the Act.

§ 107.803 Mergers, consolidations, and reorganizations.

Without prior written SBA approval, a Licensee may not merge, consolidate or reorganize.

§ 107.804 Financing of farm land purchases.

Without prior written SBA approval, a Licensee shall not, after September 8, 1976, provide financing to a Small Concern for the acquisition of farm land. For purposes of this section, farm land shall mean land which is or is intended to be used for agricultural or forestry purposes, such as the production of food, fiber, or wood, or is so taxed or zoned.

Prohibitions

§ 107.901 Prohibited uses of funds.

No funds may be provided to a Small Concern:

(a) *Relending, reinvesting, etc.* For relending or reinvesting, if its primary business activity involves, directly or indirectly, providing funds to others, the purchase of debt obligations, factoring, or long-term leasing of equipment with no provision for maintenance or repair: *Provided however,* That Venture Capital Financing (as defined in § 107.202(b)) of any Disadvantaged Concern engaged primarily in relending or reinvesting activities shall be permitted, except for banks and savings and loan associations not insured by agencies of the Federal Government, and agricultural credit companies. Without SBA's prior written approval, all financings pursuant to this proviso shall not exceed the Licensee's Private Capital as of the close of any full fiscal year.[8]

(b) *Financing Licensees.* Directly or indirectly, for purchasing stock in or otherwise providing capital for a Licensee, or to repay an indebtedness to accomplish such purpose.

(c) *Real estate.* (1) If the Small Concern is classified under Major Group 65 (Real Estate) of the SIC Manual except for:

(i) Subdividers and developers (other than cemetary subdividers and developers);

(ii) Title abstract companies; and

(iii) Agents, brokers and managers, or

(2) If the Financing will be used by a Small Concern eligible under paragraph (c)(1) of this section to acquire realty or discharge an obligation relating to the prior acquisition of realty unless such realty is to be promptly and substantially improved for sale to others: *Provided, however,* That prompt improvement shall not be required where an adverse change of circumstances beyond the Small Concern's control makes leasing necessary, pending improvement or sale at the earliest feasible date. Realty acquired for sale which is promptly and substantially improved, may be leased pending sale at the earliest feasible date, where such adverse change makes immediate sale impracticable. Evidence of such adverse change shall be kept for SBA examination. Improvement shall, for the purposes of this paragraph, be deemed prompt and substantial if:

(i) An amount equal to fifty or more percent of the Financing is used for improvements; and

(ii) Such improvements are undertaken within one year from date of acquisition or date of Financing, whichever is later.

(d) *Public interest.* For purposes contrary to the public interest, including but not limited to activities which are in violation of law, or inconsistent with free competitive enterprise.

(e) *Foreign investment.* For use outside the United States: *Provided, however,* That a Licensee may provide funds to a domestic Small Concern:

(1) To acquire abroad materials and industrial property rights for a domestic operation; or

(2) For foreign branch operations and foreign joint ventures or for transfer to a controlled foreign subsdiary, so long as at least fifty-one percent of the assets and activities of such concern will remain within the United States.

(f) *Passive businesses.* If that concern is not engaged in a regular and continuous business operation; *Provided, however,* That this prohibition shall not apply to any Small Concern wholly owning another eligible Small Concern engaged in a regular and continuous business operation.

(g) *Associated supplier.* If fifty or more percent of the funds (or funds of the Small Concern released by such Financing) are used to purchase goods or services from a supplier which is an Associate of the Licensee: *Provided, however,* 1) Such funds may not be used to purchase capital goods from an Associate supplier; 2) That in the case of a section 301(d) Licensee, such limit shall be seventy-five percent; and 3) Goods and services shall be at a price no greater than those charged other customers of the associate supplier.

§ 107.902 Inactive Licensees.

(a) *Active Operations.* The Act contemplates that a Licensee shall conduct active operations to meet the needs of Small Concerns. Accordingly, inactivity constitutes a violation of these regulations.

(b) *Activity Test.* A Licensee which on the close of any full fiscal year has more than twenty-five percent of its assets (valued at cost) in idle funds (§ 107.708) is inactive if it has not, during the past eighteen months, provided Financing aggregating at least twenty-five percent of the average amount of its said idle funds; *Provided, however,* That subject to SBA approval, a Licensee may maintain a larger percentage of idle funds. Approval may be granted in appropriate cases such as prepayments, raising of additional capital and Leverage recently received.

§ 107.903 Conflicts of interest.

(a) *General.* Self-dealing to the prejudice of the Small Concern, or of a Corporate Licensee or its shareholders, or, in the case of an Unincorporated Licensee, the partnership or its members, or of SBA, is prohibited.

(b) *Prohibitions.* Except where a written exemption may be granted by SBA in special instances in furtherance of the purposes of the Act:

(1) A Licensee shall not, directly or indirectly, provide Financing to any of its Associates.

(2) A Licensee shall not, directly or indirectly, provide Financing to an Associate of another Licensee if an Associate of the first Licensee receives, has received, or is about to receive (including receipt pursuant to any understanding, agreement, or cross-dealing, reciprocal or circular arrangement) any direct or indirect Financing or commitment for Financing from such other Licensee or a third Licensee.

(3) No Licensee or any of its Associates shall directly or indirectly borrow money from:

(i) A concern Financed by such Licensee, or

(ii) An officer, director, or owner of ten or more percent equity interest in such concern; or

(iii) A Close Relative of such officer, director, or equity owner.

(4) No Licensee shall directly or indirectly provide Financing to discharge or to free other funds for use in discharging an obligation to an Associate of the Licensee: *Provided,*

[8] 1940 Act Companies are reminded that sections 12(d) (2) and (3) of that Act impose additional restrictions on certain investments otherwise permitted by this § 107.901(a).

however, That the foregoing shall not apply to transactions by Associate Lending Institutions in the normal course of business involving lines of credit or short-term financing.

(5) No Licensee shall directly or indirectly Finance, except as permitted by § 107.901(g), the purchase of property from an Associate of the Licensee.

(c) *Joint Financing with Associate.* (1) A Licensee may provide Financing to a non-Associate also Financed by an Associate of such Licensee contemporaneously or within six months before or after the Licensee's financing, but only on terms not less favorable to the Licensee than to the Associate. Licensee shall retain written evidence of the entire transaction. Where the Associate's financing is of a different kind, the burden shall be on the Licensee to show that the terms of its Financing were at least as favorable as those of its Associate's financing: *Provided, however*, That the foregoing shall not apply to transactions by Associate Lending Institutions in the normal course of business involving lines of credit or short-term financing.

(2) The six months rule of paragraph (g) of the definition of "Associate of a Licensee" in section 107.3 shall not apply to an initial joint Financing pursuant to paragraph (1) of this subsection.

(d) *Compensation to Associates.* Without the prior written approval of SBA and subject to any limitations or restrictions of Federal or State law governing conflicts of interest and fiduciary obligations, no Associate of a Licensee shall receive from a Small Concern, directly or indirectly, any compensation in connection with Assistance rendered by such Licensee or anything of value for procuring, attempting to procure, or influencing Licensee's action with respect thereto.

(e) *Public notice.* Before SBA grants an exemption under this section, the Licensee shall publish in a newspaper of general circulation in the locality most directly affected by the transaction, a notice prescribed by SBA, and furnish a certified copy to SBA within ten days; SBA shall publish a similar notice in the **Federal Register**.

(f) *Protection of investment.* Nothing contained in this section shall preclude a Licensee from designating an Associate to serve as an officer, director or in any other capacity in the management of a Portfolio Concern to protect its investment: *Provided, however*, That such Associate has no other direct or indirect financial interest that exceeds, or has the potential to exceed, three percent of the Portfolio concern's equity and has not served as an officer or director or in any other capacity in the management of such concern for more than thirty days prior to such Financing. This proviso may be waived by SBA's prior written approval. Remuneration or anything of value received by such Associate (excluding directors fees, expenses and distributions attributable rateably to the Associate's ownership of the Portfolio Concern's equity) from the Small Concern shall inure to the benefit of the Licensee. The Licensee shall identify the individual Associate so designated in its records pursuant to Section 107.1002.

(g) *1940 and 1980 Act Companies.* A 1940 and 1980 Act Company which has been granted an exemption by the Securities and Exchange Commission with regard to a transaction described in this section shall be exempt therefrom: *Provided, however*, That the Licensee shall promptly notify SBA and publish notice thereof pursuant to paragraph (e) of this section.

§ 107.904 Disposition of Assets to Licensee's Associates or to Competitors of Portfolio Concern.

(a) *Sale to Associate.* Except with a prior written exemption from SBA in special instances, a Licensee shall not dispose of assets (including assets in liquidation) to any Associate. As a prerequisite to such exemption, the Licensee must demonstrate that the proposed terms of disposal are no less favorable to it than are obtainable elsewhere.

(b) *Sale to Competitor.* Except with prior written approval of the Portfolio concern which is not Controlled by the Licensee, or of SBA, a Licensee shall not dispose of Portfolio securities to a competitor of such concern. The particulars of any such disposal shall be promptly reported to SBA.

§ 107.905 No Government sponsorship.

No Licensee shall represent or imply in any manner that any evidence of ownership interest issued or obligation incurred by it has been approved by the United States, or any agency or officer thereof, and a statement to such effect shall be included in any solicitations to investors.

§ 107.906 Violations based on false filings and nonperformance of agreements with SBA.

The following shall constitute a violation of these regulations:

(a) *Nonperformance.* Nonperformance of any of the requirements of any debenture or preferred security issued to or guaranteed by SBA, or any written agreement with SBA.

(b) *False Statement.* Any false statement knowingly made, or misrepresentation or failure to state a material fact necessary in order to make a statement not misleading in the light of the circumstances under which the statement was made, in any document submitted to SBA.

Examinations, Accounts, Records and Reports

§ 107.1001 Examination and fees.

(a) *Examinations.* Examinations of Licensees shall be initiated by SBA pursuant to Section 310(b) of the Act. Licensees shall make all books, records and other pertinent materials available for the conduct of such examination.

(b) *Fees.* Examination fees will be assessed for examinations made in accordance with the Act. As a general rule, SBA will not assess examination fees for special examinations to obtain specific information.

(c) *Rates.* The fee structure provides rates based on the Licensee's assets as of the date of the latest certified financial statement submitted to SBA before the examination. The rate table is as follows:

Total assets of licensee	Base rate	Percent of assets
$500,000 or less	$800	+0.
$500,001 to $1,000,000.	800	+0.12 over 500,000.
$1,000,001 to $3,000,000.	1,400	+0.030 over 1,000,000.
$3,000,001 to $5,000,000.	2,000	+0.016 over 3,000,000.
Over $5,000,001	2,320	+0.006 over 5,000,000.

For example, a Licensee with total assets of $2,000,000 would pay an examination fee of $1,700 ($1,400 + 0.030% of $1,000,000).

(d) *Users Fee.* Whenever the length of time required for an examination is excessive because of a lack of cooperation by the Licensee or because of the condition of the Licensee's records, in the judgement of SBA an additional fee, not to exceed $250 per day for such time, may be assessed.

§ 107.1002 Records and reports.

(a) *Records.* Current financial records including books of account are to be maintained in all material respects in accordance with SBA's system of Account Classifications. All financial records, and minutes of meetings of stockholders, directors, executive committees, or other officials including partners of an Unincorporated Licensee, and all documents and supporting material relating to Licensee's transactions shall be kept at its principal office: *Provided, however*, That Portfolio items held by a custodian pursuant to written agreement shall be

excepted from this requirement. All financial reports furnished to SBA shall make complete disclosure of all matters relevant to the Act and regulations.

(b) *Preservation of records.* Each Licensee shall preserve, for the periods hereinafter specified and in a manner that permits the immediate location of any record, such documents which are the basis for financial statements required by paragraph (e) of this section, and of the accompanying independent public accountant's certificate. Each Licensee shall:

(1) Preserve for a period of at least twenty years:

(i) All general and subsidiary ledgers (or other records) reflecting assets and valuation, liability, capital stock and surplus, income, and expense accounts;

(ii) All general and special journals (or other records forming the basis for entries in such ledgers); and

(iii) The Articles, bylaws, license application, and all minute books, certificates evidencing ownership or stubs relating thereto, ownership ledgers and ownership transfer registers, such documents to be kept readily accessible for the first two years.

(2) Preserve for a period of at least six years following final disposition of the related loan or investment, all applications for Financing; size status declarations; lending, participation, and escrow agreements; Financing instruments; capital stock certificates and warrants of Small Concerns not surrendered or exercised; and all other documents and supporting material relating to such loan or investment, including correspondence, such documents to be kept readily accessible for the first two years.

(3) Preserve for a period of at least six years all vouchers, checkbooks, bank statements, cancelled checks, cash reconciliations, ledger trial balances, memoranda, correspondence, and other documents forming the initial accounting data for entry in, or underlying records in support of, the records enumerated in paragraph (b)(1) of this section.

(4) Notwithstanding the provisions of paragraphs (b) (1) through (3) of this section, a micro-production of any records may be substituted for the original and preserved for the required time in the required manner: Provided, *however*, That Licensee shall:

(i) Cause a duplicate micro-reproduction to be made on a current basis and stored separately from the original micro-reproduction for the time required;

(ii) At all times have available facilities for easily readable projection and the production of easily readable facsimile enlargements.

(c) *Reports to owners.* At the time any report (including any prospectus, letter, or other publication concerning the financial operations of the Licensee or any of its Portfolio Concerns) is furnished to investors, the Licensee shall file three copies with the Investment Division, SBA.

(d) *Documents filed with SEC.* Whenever a Licensee files any report, application or document with the Securities and Exchange Commission, it shall concurrently provide SBA with a copy thereof.

(e) *Filing of SBA Form 468.* Each Licensee shall submit to SBA, at the end of each fiscal year, a report containing financial statements for fiscal year (Part I of SBA Form 468) as well as management information (Part II of SBA Form 468.) When requested by SBA, interim reports may be required, i.e., financial statements and/or management information. The reports are to be prepared in accordance with Appendix B, Guide for the Preparation of the Annual Report, SBA Form 468, which is equally applicable to interim reports, and shall be filed on the prescribed form, in triplicate, with the Investment Division, SBA, on or before the last day of the month immediately following the end of the reporting period (in the case of interim reports), and on or before the last day of the third month following the end of the reporting period (in the case of the Annual Report). These reporting requirements are approved under OMB No. 3245-0063. The financial statements contained in the Annual Report will be examined by the Licensee's independent public accountant in accordance with Appendix A, Audit Guide for Small Business Investment Companies. The 1940 and 1980 Act Companies should refer to the rules of the Securities and Exchange Commission for the reports to be filed with SEC.

(f) *Litigation reports.* When a Licensee becomes a party to litigation or other proceedings, including any action by the Licensee, or by a security holder thereof in a personal or derivative capacity, against an officer, director, Investment Adviser or other Associate of such Licensee for alleged breach of official duty, it shall within thirty days file a report with SBA describing the proceedings, identity of and Licensee's relationship to other parties involved and, upon request, submit copies of the pleadings and other documents specified by SBA. Where such proceedings have been terminated by settlement or final judgment, the Licensee shall promptly advise SBA of the terms thereof. This paragraph shall not apply to collection actions or proceedings in enforcement of Licensee's ordinary creditors' rights.

(g) *Other reports.* Each Licensee shall file with the Investment Division, SBA, such other reports as SBA shall require by written directive.

§ 107.1003 Internal control.

(a) *General.* Each Licensee shall adopt a plan designed to safeguard its assets and monitor the reliability of its financial data, personnel, Portfolio, funds, and equipment.

(b) *Dual control, Bonding.* (1) Licensees shall maintain dual control over disbursements of funds and withdrawal of securities. Disbursements shall be made only by checks requiring two or more signatures or wire transfer authorized by two or more signatures. In the case of a Corporate Licensee, the signature of two or more officers shall be required. In the case of an Unincorporated Licensee, disbursements shall require the signature of two or more general partners, or two or more officers of a corporate general partner. Notwithstanding the foregoing requirement, checks in the amount of $1,000 or less may be signed by one officer of a Corporate Licensee or by one general partner of a Licensee. Two or more officers of a Corporate Licensee, or one officer and one employee shall be required to open safe deposit boxes or withdraw securities from safekeeping. Two or more general partners, or two or more officers, or one officer and one employee of a corporate general partner shall be required to open safe deposit boxes or withdraw securities from safekeeping: *Provided, however,* That an employee of the Licensee may be substituted for any of the persons described in this sentence. Licensees shall furnish to each depository bank and custodian a certified copy of its resolution or other formal act implementing the foregoing control procedures.

(2) In lieu of or in addition to the above, Licensees may maintain a Brokers Blanket Bond, Standard Form No. 14 or Finance Companies Blanket Bond, Standard Form 15, or such other form of coverage as SBA may approve, in a minimum amount of $25,000, executed by a surety holding a certificate of authority from the Secretary of Treasury pursuant to 6 U.S.C. Section 6-13. Each Person who has control over or access to cash, securities or other property of the Licensee shall be covered by such bond. The bond shall contain minimum coverage equivalent to insuring agreements (i) Fidelity, (ii) On premises and (iii) In transit provided in Finance

Companies Blanket Bond Standard Forms 15 and 14. The bond shall also contain a rider or endorsement providing that the surety notify the SBA Investment Division of its intent to cancel the bond at least 30 days in advance of the effective date of cancellation.

§ 107.1004 Reporting changes not subject to SBA approval.

(a) *Changes to be reported.* Any change of Licensee's name, address, telephone number, officers, directors, or other participants in the management of a Licensee, articles, operating area, investment policy, or increase in capitalization not otherwise required to be reported (see, for example § 107.601) shall be reported to SBA not later than thirty days after these events. All changes shall be subject to SBA postapproval as a condition for the continuance of the license.

(b) *SBA approval.* Reports and requests filed pursuant hereto shall be deemed approved unless Licensee is notified to the contrary by SBA within ninety days after receipt thereof. Approval shall be contingent upon full disclosure of all relevant facts, subject to any conditions SBA may prescribe.

Compliance

§ 107.1101 Exemption from civil penalty.

Where it is impracticable to submit any required report within the prescribed time, the Licensee may, before such time has expired, promptly file an application which:

(a) Identifies such report;

(b) Certifies to an extraordinary occurrence not within the Licensee's control which makes timely submission of such report impracticable; and

(c) Is accompanied by written evidence.

SBA may thereupon exempt the Licensee from the civil penalty provision of section 315(a) of the Act, in such manner and upon such conditions as SBA determines.

Exemptions

§ 107.1201 Exemptions.

A Licensee may file an application in writing with SBA to have a proposed action, which is subject to any procedural or substantive requirement, restriction, or prohibition specified under this Part, exempted from provisions thereof. SBA may approve such application and grant an exemption, conditionally or unconditionally, to the extent that such exemption from the requirement, restriction, or prohibition would not be contrary to the purposes of the Act. Such application must be accompanied by supporting evidence which demonstrates to SBA's satisfaction that:

(a) The proposed action is fair and equitable; and

(b) The exemption requested is reasonably calculated to advance the best interests of the SBIC program in a manner consonant with the policy objectives of the Act and regulations.

§ 107.1202 Savings clause.

The legality of transactions consummated pursuant to provisions of these regulations in effect at that time shall be governed thereby, notwithstanding subsequent changes. Nothing herein shall bar SBA enforcement action with respect to any transaction consummated in violation of provisions applicable at the time, but no longer in effect.

(Catalogue of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: August 4, 1983.

James C. Sanders,

Administrator.

[FR Doc. 83 26294 Filed 9-29-83; 8:45 am]

BILLING CODE 8025-01-M

federal register

Friday
September 30, 1983

Part V

Environmental Protection Agency

Standards of Performance for New Stationary Sources; Appendix A; Traverse Point Revisions to Method 1

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL 2387-6]

Standards of Performance for New Stationary Sources; Appendix A: Traverse Point Revisions to Method 1

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revises method 1, "Sample and Velocity Traverses for Stationary Sources," of Appendix A of 40 CFR Part 60 to decrease the minimum number of required traverse points. This action is being taken because several studies have shown that the number of traverse points can be reduced from those now specified without sacrificing accuracy. The intended effect of this final rule is to have those sources subject to standards of performance specifying the use of Method 1 to use the revised method. This change would reduce the sampling time and possibly the cost of testing.

EFFECTIVE DATE: September 30, 1983. Under Section 307(b)(1) of the Clean Air Act, judicial review for the revisions is available only by the filing of a petition for review in the U.S. Court of Appeals for the District of Columbia Circuit within 60 days of today's publication of this rule. Under Section 307(b)(2) of the Clean Air Act, the requirements that are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

ADDRESS: *Docket.* A docket, number A-82-07, containing information considered by EPA in the development of the promulgated revisions, is available for public inspection between 8:00 a.m. and 4:00 p.m., Monday through Friday, at EPA's Central Docket Section (LE-131), West Tower Lobby, Gallery 1, 401 M Street, S.W., Washington, D.C. 20460. A reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Roger T. Shigehara, Emission Measurement Branch, Emission Standards and Engineering Division (MD-19), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711, telephone (919) 451-2237.

SUPPLEMENTARY INFORMATION:

Revisions

Method 1, "Sample and Velocity Traverses for Stationary Sources," is being revised because several studies have shown that the number of traverse points can be reduced from those now specified without sacrificing accuracy. This change would reduce the sampling time and possibly the cost of testing.

These revisions would apply to those sources subject to the standard of performance specifying the use of Method 5 for the measurement of particulate matter emissions or Method 2 for velocity measurements, including standards that have already been promulgated. This rulemaking would not impose any additional emission measurement requirements on any facilities. Rather, the rulemaking would simply revise a test method associated with emission measurement requirements that would apply irrespective of this rulemaking.

Public Participation

The revisions were proposed and published in the **Federal Register** on October 28, 1982 (47 FR 47867). Public comments were solicited for 60 days after proposal. A public hearing was offered to provide interested persons the opportunity for oral presentation of data, views, or arguments concerning the proposal, but no person requested to speak. Twelve comment letters were received.

Significant Comments and Changes to the Proposed Revisions

All 12 commenters favored the proposed revisions, commenting that the proposed rule would simplify test protocol, reduce costs and times of tests, increase opportunities to obtain complete tests under environmental and process constraints, and reduce costs of installing ports for rectangular stacks. Three of the commenters, however, felt that the figures were difficult to read. One suggested using algebraic expressions, and the other two commenters suggested using step functions for the figures and addressing rectangular stacks.

EPA has reviewed the commenters' suggested equations and modifications to the figures and felt that the step functions would be simpler. In modifying the figures, EPA noticed a slight discrepancy between Figures 1-1 and 1-2; between 7 and 8 duck diameters (or equivalent diameters) downstream, the particulate traverse required less traverse points (12 points) the velocity traverse (16 points). Therefore, Figure 1-2 (velocity traverses) was altered to require 12 points. To simplify further this figure, the minimum number of points between 6 and 7 diameters was reduced from 16 to 12 for stack diameters (or equivalent diameters) greater than 0.61 m (24 in.). EPA feels that this latter change would not affect significantly the accuracy of velocity measurements.

Docket

The docket is an organized and complete file of all the information considered by EPA in the development of this rulemaking. The docket is a dynamic file, since material is added throughout the rulemaking development. The docketing system is intended to allow members of the public and industries involved to identify readily and locate documents so that they can intelligently and effectively participate in the rulemaking process. Along with the statement of basis and purpose of the proposed and promulgated revisions and EPA responses to significant comments, the contents of the docket will serve as the record in case of judicial review (Section 307(d)(7)(A)).

Miscellaneous

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a regulatory impact analysis. This regulation is not major because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices; and there will be no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the attached rule will not have a significant economic impact on small entities, because the revisions do not impose any additional testing cost. In fact, in some cases, cost may be reduced.

List of Subjects in 40 CFR Part 60

Air pollution control, Aluminum, Ammonium sulfate plants, Asphalt, Cement industry, Coal, Copper, Electric power plants, Glass and glass products, Grains, Intergovernmental relations, Iron, Lead, Metals, Metallic Minerals, Motor vehicles, Nitric acid plants, Paper and paper products industry, Petroleum, Phosphate, Sewage disposal, Steel, Sulfuric acid plants, Waste treatment and disposal, Zinc, Tires, Incorporation by Reference, Can surface coating, Sulfuric acid plants.

Dated: September 22, 1983.
William D. Ruckelshaus,
Administrator.

PART 60—[AMENDED]

Appendix A of 40 CFR Part 60 is amended by revising Method 1 as follows:

1. By revising Figure 1-1 and Figure 1-2 as shown:

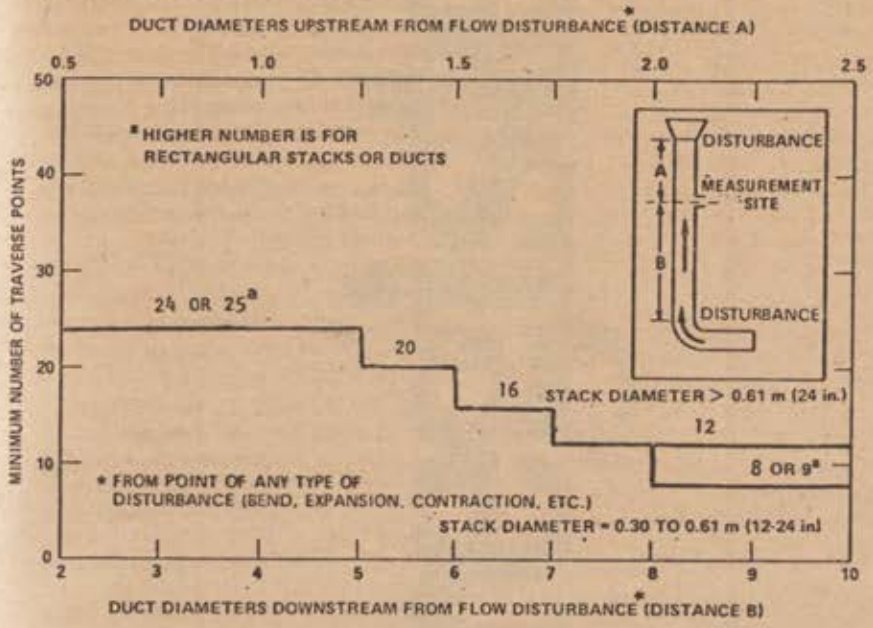


Figure 1-1. Minimum number of traverse points for particulate traverses.

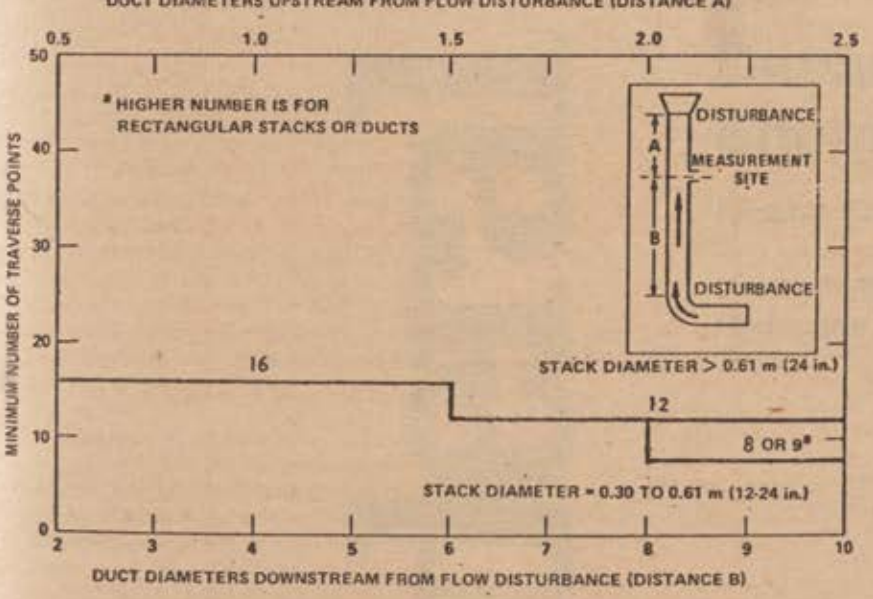


Figure 1-2. Minimum number of traverse points for velocity (nonparticulate) traverses.

2. By adding Citations 7 through 12 to Section 3 (Bibliography) as follows:

Appendix A—Reference Methods

* * * * *

Method 1. Sample and Velocity Traverses for Stationary Sources

* * * * *

3. * * *

7. Hanson, H.A., R.J. Davini, J.K. Morgan, and A.A. Iversen. Particulate Sampling Strategies for Large Power Plants Including Nonuniform Flow. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA-600/2-76-170. June 1976. 350 p.

8. Brooks, E.F., and R.L. Williams. Flow and Gas Sampling Manual. U.S. Environmental Protection Agency. Research Triangle Park, N.C. Publication No. EPA-600/2-76-203. July 1976. 93 p.

9. Entropy Environmentalists, Inc. Traverse Point Study. EPA Contract No. 68-02-3172. June 1977. 19 p.

10. Brown, J. and K. Yu. Test Report: Particulate Sampling Strategy in Circular Ducts. Emission Measurement Branch, Emission Standards and Engineering Division. U.S. Environmental Protection Agency, Research Triangle Park, N.C. 27711. July 31, 1980. 12 p.

11. Hawksley, P.G.W., S. Badzioch, and J.H. Blackett. Measurement of Solids in Flue Gases. Leatherhead, England, The British Coal Utilisation Research Association, 1961. p. 129-133.

12. Knapp, K.T. The Number of Sampling Points Needed for Representative Source Sampling. In: Proceedings of the Fourth National Conference on Energy and the Environment, Theodore, L., et al. (ed.). Dayton, Dayton Section of the American Institute of Chemical Engineers. October 3-7, 1976. p. 563-568.

(Secs. 111, 114, and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7411, 7414, and 7601(a)))

[FR Doc. 83-26377 Filed 9-29-83; 8:45 am]
BILLING CODE 6560-50-M

federal register

Friday
September 30, 1983

Part VI

Department of Energy

Federal Energy Regulatory Administration

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Volume 973]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

Issued: September 26, 1983.

The following notices of determination were received from the indicated jurisdictional agencies by the Federal Energy Regulatory Commission pursuant to the Natural Gas Policy Act of 1978 and 18 CFR 274.104. Negative determinations are indicated by a "D" before the section code. Estimated annual production (PROD) is in million cubic feet (MMCF).

The applications for determination are available for inspection except to the extent such material is confidential under 18 CFR 275.206, at the Commission's Division of Public Information, Room 1000, 825 North Capitol St., Washington, D.C. Persons objecting to any of these determinations may, in accordance with 18 CFR 275.203 and 275.204, file a protest with the Commission within fifteen days after publication of notice in the **Federal Register.**

Source data from the Form 121 for this and all previous notices is available on magnetic tape from the National Technical Information Service (NTIS). For information, contact Stuart Weisman (NTIS) at (703) 487–4808, 5285 Port Royal Rd., Springfield, Va. 22161.

Categories within each NGPA section are indicated by the following codes:

Section 102–1: New OCS lease
102–2: New well (2.5 Mile rule)
102–3: New well (1000 Ft rule)
102–4: New onshore reservoir
102–5: New reservoir on old OCS lease
Section 107–DP: 15,000 feet or deeper
107–GB: Geopressured brine
107–CS: Coal Seams
107–DV: Devonian Shale
107–PE: Production enhancement
107–TF: New tight formation
107–RT: Recompletion tight formation
Section 108: Stripper well
108–SA: Seasonally affected
108–ER: Enhanced recovery
108–PB: Pressure buildup

Kenneth F. Plumb,
Secretary.

NOTICE OF DETERMINATIONS
ISSUED SEPTEMBER 26, 1983

VOLUME 973

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
MONTANA BOARD OF OIL & GAS CONSERVATION									
-CELSIUS ENERGY CO				RECEIVED:	09/06/83	JA: MT			
8354421	10-82-252	2510122265		103		BANKSON #1-23	OLD SHELBY GAS FIELD	110.0	MICHAEL L LETSON
8354435	10-82-250	2510122266		103		BANKSON STATE #1-26	OLD SHELBY GAS FIELD	123.0	MICHAEL L LETSON
8354420	10-82-253	2510122267		103		BENJAMIN FEDERAL LAND BANK #1-7	OLD SHELBY GAS FIELD	146.0	MICHAEL L LETSON
8354434	10-82-251	2510122264		103		STATE #2-23	OLD SHELBY GAS FIELD	208.0	MICHAEL L LETSON
-CRESCENT PETROLEUM CORP				RECEIVED:	09/06/83	JA: MT			
8354418	10-82-260	2510122255		103		FIRST NATIONAL BANK #1 32N 2W SEC9	WILDCAT	20.0	
8354419	10-82-261	2510122253		103		MASQUET #1 T32N R2W SEC 11	OLD SHELBY	24.0	
8354427	10-82-262	2510122252		103		MASQUET #2 T32N R2W SEC 10	OLD SHELBY	15.0	
8354428	10-82-259	2510122022		103		HOUDEK #1 T33N R2W SEC 25	WILDCAT	73.0	OPTEK INC
8354424	10-82-263	2510122251		103		WILLIAMS #1 T32N R2W SEC 2	OLD SHELBY	36.0	
-FALCON-COLORADO EXPLORATION INC				RECEIVED:	09/06/83	JA: MT			
8354433	10-82-254	2507121820		103		CONLON 33-1	SWANSON CREEK	21.2	MONTANA-DAKOTA UT
8354423	10-82-255	2507121828		102-2		STEVENSON 24-1	SWANSON CREEK	0.8	MONTANA-DAKOTA UT
-HELMERICH & PAYNE INC				RECEIVED:	09/06/83	JA: MT			
8354426	11-82-266	2508321439		103		LAWSON RANCH #1-14	NORTH SOUIX PASS	31.0	TRUE OIL CO
-HUNT ENERGY CORPORATION ET AL				RECEIVED:	09/06/83	JA: MT			
8354430	10-82-257	2509121461		102-2		NORMAN F STRINGER #1	NORTH KATY LAKE	22.0	PHILLIPS PETROLEU
-MIDLANDS GAS CORPORATION				RECEIVED:	09/06/83	JA: MT			
8354436	10-82-246	2507121819		102-2		FEDERAL #2 2641	BOWDOIN	36.0	KN ENERGY INC
8354425	11-82-269	2507121811		102-2		MURDOCK 2 1061	BOWDOIN	95.0	KN ENERGY INC
-SHELL OIL CO				RECEIVED:	09/06/83	JA: MT			
8354431	10-82-256	2502521233		103		UNIT 33-8B	PENNEL -	0.4	MONTANA DAKOTA UT
-SOUTHLAND ROYALTY CO				RECEIVED:	09/06/83	JA: MT			
8354429	11-82-265	2507121839		103		STATE #2 1612	BOWDOIN DOME (SWANSON	83.0	KN ENERGY INC
-TRICENTROL UNITED STATES INC				RECEIVED:	09/06/83	JA: MT			
8354432	10-82-248	2500522258		102-4		BOGGESS 2-13-T25N-R17E	HUEBSCHWERLEN UNIT	0.0	NORTHERN NATURAL
8354437	10-82-249	2500522259		102-4		BOGGESS 3-2-T25N-R17E	HUEBSCHWERLEN UNIT	0.0	NORTHERN NATURAL
8354422	10-82-247	2500522247		102-4		BRECK 13-10-T25N-R17E	SHERARD - HUEBSCHWERL	0.0	NORTHERN NATURAL
NORTH DAKOTA INDUSTRIAL COMMISSION									
-AMINOIL USA INC				RECEIVED:	09/01/83	JA: ND			
8354411	810	3305301513		102-2		NELSON 1-7X	WILDCAT	1340.0	
8354410	811	3305301513		102-2		NELSON 1-7X	BUFFALO WALLOW	66.0	
-KAISER-FRANCIS OIL COMPANY				RECEIVED:	09/06/83	JA: ND			
8354417	830	3301500000		108		GROVE BANK OF NORTH DAKOTA #1	PORTAL	8.3	NORTHWEST CENTRAL
-MONSANTO COMPANY				RECEIVED:	09/01/83	JA: ND			
8354403	806	3301300954		103		ABEL-USA #3	FLAXTON	24.0	CITIES SERVICE CO
8354407	814	3301300969		103		DELORES-USA #5	FLAXTON	18.0	CITIES SERVICE CO
8354406	815	3301300968		103		DELORES-USA #4	FLAXTON	74.0	CITIES SERVICE CO
8354412	807	3301300861		103		LOTTIE #2	FLAXTON	10.0	CITIES SERVICE CO
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	09/01/83	JA: ND			
8354409	812	3305301621		102-2		IVERSON STATE #1-36	GLASS BLUFF	170.0	PHILLIPS PETROLEU
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/01/83	JA: ND			
8354408	813	3305301638		102-2		ANNA BROSTUEN #1	WILDCAT	49.0	PHILLIPS PETROLEU

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-SUPERIOR OIL CO				RECEIVED: 09/01/83 JA: ND					
8354404	809	3305301578		102-2		ABELMANN-DAVIDSON #22-1	CAMP	59.0	PHILLIPS PETROLEU
8354405	808	3305301569		102-2		LINDVIG-DAVIDSON "A" #14-1	CAMP	51.0	PHILLIPS PETROLEU
-TEXACO INC				RECEIVED: 09/01/83 JA: ND					
8354413	816	3305301655		103		CHARLSON MADISON SOUTH UNIT B227X	CHARLSON MADISON SOUT	45.0	AMERADA HESS CORP
**********									
OHIO DEPARTMENT OF NATURAL RESOURCES									
**********									
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED: 09/07/83 JA: OH					
8354312		3412122024		108		BATES A0-14		0.0	EAST OHIO GAS CO
8354311		3412122021		108		GUILDER WELL A0-17		0.0	EAST OHIO GAS CO
8354313		3412122078		108		MICHAEL - A0-13		0.0	EAST OHIO GAS CO
8354310		3412122016		108		MICHAEL A0-8		0.0	EAST OHIO GAS CO
8354309		3412122010		108		MURRAY - A0-18		0.0	EAST OHIO GAS CO
8354314		3412122109		108		MURRAY - A0-19		0.0	EAST OHIO GAS CO
-BANDS COMPANY INC				RECEIVED: 09/07/83 JA: OH					
8354315		3407523776		107-TF		FLACK #4	PRAIRIE	5.0	COLUMBIA GAS TRAN
-BARTLO OIL AND GAS COMPANY				RECEIVED: 09/07/83 JA: OH					
8354316		3415321413		103	107-TF	G MILLER UNIT #2	COPLEY	15.0	EAST OHIO GAS CO
-BEREA OIL AND GAS CORPORATION				RECEIVED: 09/07/83 JA: OH					
8354317		3415722355		108		DENNING UNIT #1	GNADENHUTTEN	0.0	ATLANTIC RICHFIEL
-BERMAN J SHAFER				RECEIVED: 09/07/83 JA: OH					
8354320		3415321452		107-TF		H LINK #6	COPLEY	125.0	EAST OHIO GAS CO
8354319		3415321422		107-TF		OVERNIGHT TRANS UNIT #2	RICHFIELD	7.5	EAST OHIO GAS CO
8354318		3410323279		107-TF		REEVES #1	WESTFIELD	7.5	COLUMBIA GAS TRAN
-CLARENCE K TUSSEL JR				RECEIVED: 09/07/83 JA: OH					
8354321		3400722210		103	107-TF	M PODDUBNY #1	MONROE	30.0	
-CNG DEVELOPMENT CO				RECEIVED: 09/07/83 JA: OH					
8354322		3405520448		103	107-TF	L EIERMANN #1	CLARIDON	4.0	
8354323		3405520522		103	107-TF	L EIRMANN #2	CLARIDON	4.0	
-DEER CREEK INC				RECEIVED: 09/07/83 JA: OH					
8354324		3411926719		103		KINCAID #3	MONROE	15.0	
-EASTERN PETROLEUM SERVICES INC				RECEIVED: 09/07/83 JA: OH					
8354326		3415520504		103		BELLOWS #1	WEATHERSFIELD	20.0	EAST OHIO GAS CO
8354325		3415520386		103		CAMPBELL #1A	WEATHERFIELD	20.0	EAST OHIO GAS CO
8354327		3415520577		103		CITY OF WARREN #1	WEATHERSFIELD	20.0	EAST OHIO GAS
-ENERGY DEVELOPMENT CORP				RECEIVED: 09/07/83 JA: OH					
8354328		3400720697		107-TF		BYLER #11	WINDSOR	19.0	COLUMBIA GAS TRAN
8354329		3400722240		103	107-TF	GIRMAN #1	ROME	20.0	
8354330		3405520205		107-TF		MAST #2	MIDDLEFIELD	18.0	COLUMBIA GAS TRAN
-ENTERPRISE ENERGY CORP				RECEIVED: 09/07/83 JA: OH					
8354331		3411523028		103	107-TF	HARPER #3	MANCHESTER	18.2	POI ENERGY INC
8354333		3415723698		103	107-TF	MORELAND #1	UNION	36.5	POI ENERGY INC
8354332		3411926602		103	107-TF	OHIO POWER #15	NEWTON	27.3	TEXAS EASTERN TRA
-ENVIROGAS INC				RECEIVED: 09/07/83 JA: OH					
8354334		3400922694		103	107-TF	DRYDOCK COAL #28D	DOVER	18.2	
8354335		3400922737		103	107-TF	DRYDOCK COAL #48D	DOVER	18.2	
8354336		3400922757		103	107-TF	GIBSON #1	DOVER	18.2	
8354338		3400922805		103	107-TF	SUNDAY CREEK COAL #2E	DOVER	18.2	
8354337		3400922804		103	107-TF	SUNDAY CREEK COAL #3E	DOVER	18.2	
8354339		3400922807		103	107-TF	SUNDAY CREEK COAL #4E	DOVER	27.3	
-GASEARCH INC				RECEIVED: 09/07/83 JA: OH					
8354340		3400722203		103	107-TF	SLATER #4	CHERRY VALLEY	20.0	AMERICAN ENERGY S
-HOPEWELL OIL AND GAS DEVELOPMENT CO				RECEIVED: 09/07/83 JA: OH					
8354341		3411926586		103		CHESTER SWINGLE #1	BRUSH CREEK	0.0	NATIONAL GAS & OI
-J D DRILLING CO				RECEIVED: 09/07/83 JA: OH					
8354342		3410522510		103		LARRY THOMAS #3	SALISBURY	7.0	COLUMBIA GAS TRAN
-JERRY MOORE INC				RECEIVED: 09/07/83 JA: OH					
8354343		3403124985		107-TF		FLEET FREEMAN & THOMAS LEECH #6259	WARSAW	2.0	COLUMBIA GAS TRAN
-K S T OIL & GAS CO INC				RECEIVED: 09/07/83 JA: OH					
8354344		3415321141		103	107-TF	ECKARD #1	BATH	45.0	RSC ENERGY CORP
-LIBERTY OIL & GAS CORP				RECEIVED: 09/07/83 JA: OH					
8354345		3400922783		103		JAMES DEEM #1	TROY	18.0	COLUMBIA GAS TRAN
-MAJ				RECEIVED: 09/07/83 JA: OH					
8354346		3414520294		103		CLETIS & INEZ DUMMITT #4	MADISON	0.4	
-MARK RESOURCES CORP				RECEIVED: 09/07/83 JA: OH					
8354347		3400722225		107-TF		R FREDERICK #1	KINGSVILLE	30.0	EAST OHIO GAS CO
8354348		3400722250		107-TF		T W KISTER #4	KINGSVILLE	30.0	EAST OHIO GAS CO
-NEIL R. WYNN				RECEIVED: 09/07/83 JA: OH					
8354349		3416727173		108		LEMASTERS #6		2.5	GAS TRANSPORT INC
-NORTHEASTERN ENERGY				RECEIVED: 09/07/83 JA: OH					
8354350		3410323399		103	107-TF	ZUCHNIAK WELL #1	WADSWORTH	20.0	EAST OHIO GAS CO
-OILTECH INC				RECEIVED: 09/07/83 JA: OH					
8354356		3407523392		103		H MABEL BRUMME #5	KILLBUCK	0.0	COLUMBIA GAS TRAN
8354354		3407523378		103		H MABEL BRUMME #6	KILLBUCK	0.0	COLUMBIA GAS TRAN
8354355		3407523379		103		H MABEL BRUMME #8	KILLBUCK	0.0	COLUMBIA GAS TRAN
8354351		3407523316		103		KENNETH BRUMME #7	KILLBUCK	0.0	COLUMBIA GAS TRAN
8354352		3407523317		103		KENNETH BRUMME #8	KILLBUCK	0.0	COLUMBIA GAS TRAN
8354353		3407523318		103		KENNETH BRUMME #9	KILLBUCK	0.0	COLUMBIA GAS TRAN
-PEMCO GAS INC				RECEIVED: 09/07/83 JA: OH					
8354357		3411924827		107-TF		SARAH FLIGER #3	ADAMS	150.0	COLUMBIA GAS TRAN
8354358		3411924828		107-TF		SARAH FLIGER #4	ADAMS	150.0	COLUMBIA GAS TRAN
-REDMAN OIL CO INC				RECEIVED: 09/07/83 JA: OH					
8354359		3411521381		108		DWIGHT M HALL #1		8.0	COSHOCTON PIPE CO
8354361		3411521443		108		ELLIS MILLER #1		10.0	COSHOCTON PIPE CO
8354362		3411521447		108		JAMES CARRICK #1		9.0	COSHOCTON PIPE CO
8354360		3411521398		108		RICHIE-DUNKLE #1		10.0	COSHOCTON PIPE CO
-SHONGUM OIL & GAS INC				RECEIVED: 09/07/83 JA: OH					
8354363		3410323295		107-TF		YANT #2	MONTVILLE	0.0	
-TIGER OIL INC				RECEIVED: 09/07/83 JA: OH					
8354364		3412122858		103	107-TF	R GERST #1	ENOCH	15.0	EAST OHIO GAS CO
-VIKING RESOURCES CORPORATION				RECEIVED: 09/07/83 JA: OH					
8354366		3408520458		103	107-TF	BARCLAY/MESZAROS UNIT #3	PERRY	30.0	
8354369		3416723923		108		BROOKHART #1		0.0	SHELL CHEMICAL CO
8354373		3416724831		108		CARPENTER/HUSK UN #1		6.0	SHELL CHEMICAL CO
8354371		3416724478		108		DANIELL #2		3.0	SHELL CHEMICAL CO
8354367		3415321388		103	107-TF	HUBER-YOUNG UNIT #6	COPLEY	30.0	
8354365		3408520417		103	107-DP	LAKE COUNTY NURSERY EXCHANGE #7	MADISON	30.0	
8354372		3416724825		108		ROUSH #1		5.0	SHELL CHEMICAL CO
8354376		3416727100		108		S ALLOWAY #1		4.0	SHELL CHEMICAL CO
8354370		3416724078		108		SMITH #1		5.0	SHELL CHEMICAL CO
8354368		3416723922		108		STEPHENS #1		2.0	SHELL CHEMICAL CO
8354375		3416727069		108		W D HOUSER #3		8.0	SHELL CHEMICAL CO
8354374		3416724907		108		W DANA HOUSER #1		5.0	SHELL CHEMICAL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
-WILLIAM F HILL				RECEIVED:	09/07/83	JA: OH			
8354382		3407522775		108		DAVID D NOBLE #1		3.0	COLUMBIA GAS TRAN
8354381		3407522774		108		DAVID O KAUFMAN #1		3.0	COLUMBIA GAS TRAN
8354379		3407522278		108		KERMIT W DIIMARS #1		3.0	COLUMBIA GAS TRAN
8354378		3407522185		108		SCHONAUER #1		3.0	COLUMBIA GAS TRAN
8354377		3407522081		108		TROYER #1		3.0	COLUMBIA GAS TRAN
8354380		3407522773		108		WILLIAM F HILL #1		3.0	COLUMBIA GAS TRAN
8354383		3407522776		108		WILLIAM F HILL #2		3.0	COLUMBIA GAS TRAN
-WILLIAM N TIPKA				RECEIVED:	09/07/83	JA: OH			
8354398		3415723227		108		C KEENER #1		7.0	STONE CREEK BRICK
8354397		3415723209		108		C SCHWARTZ #1		7.0	EAST OHIO GAS CO
8354396		3415723199		108		C SCHWARTZ #1A		5.0	EAST OHIO GAS CO
8354402		3415723338		108		FRANK QUILLEN #1		4.0	EAST OHIO GAS CO
8354390		3415722762		108		G SAUSER #1A		9.0	EAST OHIO GAS CO
8354389		3415722708		108		I REIFENSNYDER #1		6.0	EAST OHIO GAS CO
8354384		3403520253	D	108		INA MORTON #1		1.0	COLUMBIA GAS TRAN
8354394		3415723081		108		J RIDENOUR #1		8.0	EAST OHIO GAS CO
8354391		3415722842		108		KAFER UNIT #1		5.0	EAST OHIO GAS CO
8354393		3415722853		108		KEFFER-BEITZEL #1		10.0	EAST OHIO GAS CO
8354400		3415723332		108		LUCY PROCTOR #1		8.0	EAST OHIO GAS CO
8354399		3415723242		108		MARY WARNER #1		6.0	EAST OHIO GAS CO
8354392		3415722843		108		MATTISON-KEFFER #1		5.0	EAST OHIO GAS CO
8354395		3415723116		108		MUTTI-TURNER-SEARS #1		4.0	EAST OHIO GAS CO
8354401		3415723335	D	108		ORR-BABER #1		8.0	EAST OHIO GAS CO
8354387		3410323251		107-TF		SHARON ACRES INC #4	SHARON	40.0	BARTLO OIL & GAS
8354388		3413321704		108		SOLLBERGER ESTATE #1		3.0	EAST OHIO GAS CO
8354386		3405922520		108		VINCENZO #1		5.0	EAST OHIO GAS CO
8354385		3405922518		108		VINCENZO #2		5.0	EAST OHIO GAS CO
WEST VIRGINIA DEPARTMENT OF MINES									
-ACE OIL SERVICES INC				RECEIVED:	09/06/83	JA: WV			
8354463		4701301111		108		SETTLE-SHAFFER #1	C E SHAFFER FARM	21.0	CABOT CORP
-ADENA PETROLEUM INC				RECEIVED:	09/06/83	JA: WV			
8354461		4702103563		108		ALLMAN #1	GLENVILLE NORTH	4.0	CONSOLIDATED GAS
-ALLEGHENY & WESTERN ENERGY CORP				RECEIVED:	09/06/83	JA: WV			
8354450		4708703691		107-DV		ELLISON #1	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
8354451		4708703711		107-DV		ELLISON #2	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
8354452		4708703712		107-DV		ELLISON #3	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
8354453		4708703713		107-DV		ELLISON #4	WALTON DISTRICT	36.0	COLUMBIA GAS TRAN
8354449		4708703714		107-DV		FERRELL #2	HARPER DISTRICT	36.0	COLUMBIA GAS TRAN
8354448		4708703709		107-DV		FERRELL #3	HARPER DISTRICT	36.0	COLUMBIA GAS TRAN
8354447		4708703710		107-DV		FERRELL #4	HARPER DISTRICT	36.0	COLUMBIA GAS TRAN
-ALLEGHENY LAND & MINERAL COMPANY				RECEIVED:	09/06/83	JA: WV			
8354472		4708300661		103		A-1059	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8354474		4708300696		103		A-1205	ROARING CREEK DISTRIC	0.0	COLUMBIA GAS TRAN
8354473		4708300677		103		A-1213	MIDDLE FORK DISTRICT	0.0	COLUMBIA GAS TRAN
8354471		4704103249		103		A-1257	COURTHOUSE DISTRICT	0.0	CONSOLIDATED GAS
-ASHLAND EXPLORATION INC				RECEIVED:	09/06/83	JA: WV			
8354483		4703903796		103		BRIAR MTN COAL & COKE #9 - 092841	PAINT CREEK	22.0	COLUMBIA GAS TRAN
-BRAXTON OIL AND GAS CORP				RECEIVED:	09/06/83	JA: WV			
8354470		4709702464		103		DAIL #1	CASSITY	60.0	COLUMBIA GAS TRAN
8354469		4708300709		103		DOVE #1	CASSITY	60.0	COLUMBIA GAS TRAN
8354468		4700701436		103		MCCORD #1	ORLANDO 7 1/2	15.0	EQUITABLE GAS CO
-BRUCE FOSTER				RECEIVED:	09/06/83	JA: WV			
8354459		4702103614		108		SUMMERS #5	GLENVILLE SOUTH	8.0	EQUITABLE GAS CO
-CLINT HURT & ASSOCIATES INC				RECEIVED:	09/02/83	JA: WV			
8354439		4707301385		103		COX #1	ST MARYS	24.0	COLUMBIA GAS TRAN
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	09/02/83	JA: WV			
8354441		4708505523		103		LUCILLE C DEBERRY 12757	UNION	34.0	GENERAL SYSTEM PU
8354440		4703302785		103		W L HUGHES 12466	GRANI	7.0	GENERAL SYSTEM PU
-CONSOLIDATED GAS SUPPLY CORPORATION				RECEIVED:	09/06/83	JA: WV			
8354456		4700100778		108		C J MITCHELL 12149	PLEASANT	18.0	GENERAL SYSTEM PU
8354482		4709702485		103		CHARLES DEPOY 12792	WASHINGTON	28.0	GENERAL SYSTEM PU
8354475		4703302767		103		CONSOLIDATED COAL CO 12749	CLAY	2.0	GENERAL SYSTEM PU
8354476		4703302768		103		CONSOLIDATION COAL CO 12750	CLAY	1.0	GENERAL SYSTEM PU
8354478		4703302782		103		CONSOLIDATION COAL CO 12766	CLAY	1.0	GENERAL SYSTEM PU
8354484		4700101790		102-3		DALLAS WHITE 12759	GLADE	55.0	GENERAL SYSTEM PU
8354477		4703302777		103		E E YOUNG 12754	ELK	4.0	GENERAL SYSTEM PU
8354455		4700100260		108		GIDEON ROGERS 10776	UNION	20.0	GENERAL SYSTEM PU
8354485		4700101777		102-3		RALPH L JONES 12762	PHILIPPI	14.0	GENERAL SYSTEM PU
8354486		4700101767		102-3		SCOTT WAGNER #1 12781	PHILIPPI	5.0	GENERAL SYSTEM PU
-GENE STALNAKER INC				RECEIVED:	09/06/83	JA: WV			
8354465		4702103944		103		MINER B-62-1	DEKALB DISTRICT	8.0	CONSOLIDATED GAS
-JAMES F SCOTT				RECEIVED:	09/06/83	JA: WV			
8354467		4706700587		103		ALVA BROWN SW-418	GRANT	0.7	EQUITABLE GAS CO
8354493		4701703115		103		C N INGRAM S-394	MCCLELLAN	11.0	COLUMBIA GAS TRAN
8354492		4701900486		103		CHARLES COLEMAN SW-420	VALLEY	27.0	ROARING FORK GAS
8354495		4701703122		103		CHARLES JOHNSTON S-417	MCCLELLAN	18.0	COLUMBIA GAS TRAN
8354481		4705901019		103		CLINTON FRANCIS SW-433	STAFFORD	0.2	COLUMBIA GAS TRAN
8354466		4701703145		103		COFFMAN HEIRS #1 S-429	MCCLELLAN	0.3	COLUMBIA GAS TRAN
8354490		4701900489		103		EDITH COOKRO SW-409	VALLEY	12.0	ROARING FORK GAS
8354497		4701703088		103		HAYWARD VARNER S-403	MCCLELLAN	18.0	COLUMBIA GAS TRAN
8354496		4701703106		103		HOSKINSON-EVANS #1 S-413	GRANT	13.0	COLUMBIA GAS TRAN
8354494		4701703107		103		HOSKINSON-EVANS #2 S-412	GRANT	0.9	COLUMBIA GAS TRAN
8354457		4704102529		108		I P SIMMONS S-261	FREEMAN'S CREEK	28.0	CONSOLIDATED GAS
8354460		4703301244		108		J A SWIGER S-252	EAGLE	0.3	CONSOLIDATED GAS
8354491		4701900487		103		ROSCOE SIMMONS SW-412	VALLEY	26.0	ROARING FORK GAS
8354479		4701900488		103		SIMMS #1 SW-428	VALLEY	0.3	ROARING FORK GAS
8354480		4704900736		103		TERRY SAURBORN S-427	UNION	0.7	CONSOLIDATED GAS
8354489		4704900737		103		WALTER SHAFFER "B" S-439	UNION	0.3	CONSOLIDATED GAS
-KEITH CRIHFIELD				RECEIVED:	09/06/83	JA: WV			
8354458		4700701857		108		DEWEY BELKNAP #1	UNION	5.0	CONSOLIDATED GAS
-LINCOLN PRODUCTION CO				RECEIVED:	09/06/83	JA: WV			
8354464		4703302661		103		KATE REYNOLDS	EAGLE DISTRICT	0.0	LUMBERPORT-SHINNS
-PATTY R RICHNER				RECEIVED:	09/06/83	JA: WV			
8354454		4710900844		107-DV		BUZZO #1	BEARHOLE	12.0	ROARING FORK GAS
-STERLING DRILLING AND PROD CO INC				RECEIVED:	09/02/83	JA: WV			
8354438		4704131110		108		CREASEY #533	SKIN CREEK	20.3	BROOKLYN UNION GA
-STONEWALL GAS CO				RECEIVED:	09/06/83	JA: WV			
8354462		4703302620		108		HARVEY C WILLIAMS #3 82-SH	TENMILE DISTRICT	14.0	CONSOLIDATED GAS
-STUART PETROLEUM CO				RECEIVED:	09/06/83	JA: WV			
8354488		4703302732		103		BOYD L WARNER #1	SHINNSTON	30.0	PENNZOIL CO
8354487		4703302733		103		BOYD L WARNER #2	SHINNSTON	15.0	PENNZOIL CO

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
** DEPARTMENT OF THE INTERIOR, MINERALS MANAGEMENT SERVICE, DENVER,CO									
-AMERICAN RESOURCES MANAGEMENT CORPO			RECEIVED:	09/06/83		JA: CO 1			
8354442	CD 0537-82	0504506050		102-4		C C 824-2	25' FNL AND 109' FEL	132.0	NORTHWEST PIPELIN
-BEARTOOTH OIL & GAS CO			RECEIVED:	09/06/83		JA: CO 1			
8354414	CD 0144-83	0510308956		107-TF		MATOMAS FEDERAL #9-6	DRAGON TRAIL	70.0	NORTHWEST PIPELIN
-COORS ENERGY CO			RECEIVED:	09/06/83		JA: CO 1			
8354446	CD 0359-82	0507708385		102-2		USA 1-22LG	LANE GULCH FEDERAL UN	54.8	NORTHWEST PIPELIN
8354445	CD 0358-82	0507708301		107-TF		USA 1-26HG	HANCOCK/GULCH FEDERAL	108.8	NORTHWEST PIPELIN
8354444	CD 0356-82	0507708415		107-TF		USA 1-8MR	MONUMENT ROCKS FEDERA	5.5	NORTHWEST PIPELIN
-NORRIS OIL CO			RECEIVED:	09/06/83		JA: CO 1			
8354415		0507700000		108		U S MORAN 26-1	PLATEAU	0.0	ROCKY MOUNTAIN NA
-TENNECO OIL COMPANY			RECEIVED:	09/06/83		JA: CO 1			
8354416	CD 0154-83	0504506150		108		FEDERAL 5-3	BRIDLE	8.5	SOUTHWEST GAS COR
-UNIVERSAL RESOURCES CORPORATION			RECEIVED:	09/06/83		JA: CO 1			
8354443	CD 0067-83	0508100000		103		SUGAR LOAF 1-3	MESA VERDE	0.0	MOUNTAIN FUEL RES

[FR Doc. 83-26717 Filed 7-83; 8:45 am]

BILLING CODE 6717-01-C

[Volume 974]

Determinations by Jurisdictional Agencies Under the Natural Gas Policy Act of 1978

September 26, 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 Services (NTIS). For information, contact Stuart Weismen (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–CB: 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 974

ISSUED SEPTEMBER 26, 1983

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
LOUISIANA OFFICE OF CONSERVATION									
-AMOCO PRODUCTION CO				RECEIVED:	09/07/83	JA: LA			
8354579	82-3086	1711920372		103		INTERNATIONAL PAPER CO "D" #1	NORTH SHONGALOO RED R	183.0	TEXAS GAS TRANSMI
8354573	82-3103	1707321878		103		L WERNER SAWMILL CO #1 CHEN C SU	CHENIERE	1825.0	TEXAS GAS TRANSMI
8354528	83-0463	1711321276		107-DP		STATE LEASE 4011 #12 15500 RBSUA	REDFISH POINT	340.0	FLORIDA GAS TRANS
-BROWN OPERATING & MANAGEMENT CORP				RECEIVED:	09/07/83	JA: LA			
8354546	83-0949	1701700000		108		BROWN HOLT #1 SERIAL #110721	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8354544	83-0950	1701700000		108		BROWN HOLT #2 SERIAL #110720	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8354545	83-0951	1701722307		108		BROWN HOLT #3 SERIAL #156521	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8354541	83-0954	1701722321		108		DAVIS ETAL #2 SERIAL 156684	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8354543	83-0953	1701722483		108		LONG #1 SERIAL #158180	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
8354540	83-0948	1701722460		108		LONG #2 SERIAL #157967	CADDO PINE ISLAND	0.0	ARKANSAS LOUISIAN
-C & K PETROLEUM INC				RECEIVED:	09/07/83	JA: LA			
8354581	83-0602	1771120266		107-DP		STATE LEASE 8083 #2	COON POINT	229.0	AMERICAN PIPELINE
-CHEVRON U S A INC				RECEIVED:	09/07/83	JA: LA			
8354582	83-0608	1712120120		107-DP		F E FARWELL #4 19,800 TUSC RA SUK	FALSE RIVER	1825.0	TEXAS EASTERN TRA
-COTTON PETROLEUM CORPORATION				RECEIVED:	09/07/83	JA: LA			
8354593	83-739	1701521752		103		O'DANIEL #1 SMK RA SU "A"	ARKANA	0.0	ARKANSAS LOUISIAN
-DAMSON OIL CORPORATION				RECEIVED:	09/07/83	JA: LA			
8354516	82-3422	1710121248		103		AVOCA INC #6	WYANDOTTE	350.0	TEXAS GAS TRANSMI
-DYNAMIC EXPLORATION INC				RECEIVED:	09/07/83	JA: LA			
8354505	83-1005	1704520667		103		BROWNELL KID #1	BAYOU PIGEON	320.0	TEXAS GAS TRANSMI
8354506	83-1006	1704520667		103		BROWNELL KID #1-D	BAYOU PIGEON	523.0	TEXAS GAS TRANSMI
-DYNAMIC EXPLORATION IN				RECEIVED:	09/08/83	JA: LA			
8354667	83-722	1704520667		103		BROWNELL KIDD #1 KK-2 RA SUA	BAYOU PIGEON	402.0	TEXAS GAS TRANSMI
-ELDORADO GAS INC				RECEIVED:	09/07/83	JA: LA			
8354532	82-3391	1703920243		103		DESHOTELS #2 SUA	WEST FENRIS	50.0	CONOCO INC
-ENNEX PRODUCTION COMPANY				RECEIVED:	09/08/83	JA: LA			
8354644	83-460	1703320135		107-DP		SINCLAIR #1	COMITE	2373.0	TRANSCONTINENTAL
-ERGON INC				RECEIVED:	09/07/83	JA: LA			
8354538	83-764	1711123983		103	107-TF	JERRY RAMSEY #1	MONROE	8.8	TEXAS GAS TRANSMI
8354586	83-0530	1711123669		103		MARY E HAYES #1	MONROE	9.1	TEXAS GAS TRANSMI
8354539	83-765	1711123984		103	107-TF	ROBERT WADE #1 VUWW	MONROE	10.8	TEXAS GAS TRANSMI
-EVANS BROTHERS				RECEIVED:	09/07/83	JA: LA			
8354608	83-1216	1708520940		102-4		EVANS FEE M #1	SAN MIGUEL CREEK	300.0	TENNESSEE GAS PIP
-EVANS BROTHERS				RECEIVED:	09/08/83	JA: LA			
8354656	83-713	1708520941		102-4		EVANS FEE M #2 LAF RA SUW	SAN MIGUEL CREEK	365.0	TENNESSEE GAS PIP
-EXXON CORPORATION				RECEIVED:	09/07/83	JA: LA			
8354568	82-2900	1709920872		103		GOODRICH C #16-D DL OPERC 7 RA SU	DUCK LAKE	50.0	UNITED GAS PIPE L
8354525	82-3092	1707523031		103		MIO 9F RF SUB H SOLIS #1	POTASH	90.0	UNITED GAS PIPE L
-EXXON CORPORATION				RECEIVED:	09/08/83	JA: LA			
8354641	83-459	1710121288		107-DP		MIAMI CORPORATION V #2	BAYOU CARLIN	4000.0	COLUMBIA GAS TRAN
-FRANKS & BASS ETAL				RECEIVED:	09/07/83	JA: LA			
8354509	82-3232	1706120332		103		D W EMANUEL #1 CV DAVIS RB SUDD	MIDDLEFORK	70.0	MANVILLE FOREST P
-FRANKS & PETROFUNDS INC				RECEIVED:	09/07/83	JA: LA			
8354530	82-3195	1711920273		103		M L CONNELL #1-D HOSS A SUO	SIBLEY	730.0	UNITED GAS PIPELI
-FRANKS HURLEY CONSOLIDATED				RECEIVED:	09/07/83	JA: LA			

BILLING CODE 6717-01-M

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8354561	82-3181	1706120314		103		DAVIS SUD DUGDALE HEIRS B #1-ALT	TREMONT	310.0	MANVILLE FOREST P
-FRANKS PETROLEUM INC ETAL				RECEIVED:	09/07/83	JA: LA			
8354533	82-3397	1703121874		103		M ELLIS #1-ALT CRANE SUI	BETHANY-LONGSTREET	347.0	ARKANSAS LOUISIAN
8354531	82-3203	1707321259		103		PARNELL A #1 CV DAVIS RA SUA	NORTH CARLTON	100.0	LOUISIANA GAS PUR
8354510	82-3233	1706920159		103		W H KILPATRICK A #1	ASHLAND	110.0	UNITED GAS PIPELI
-GETTY OIL COMPANY				RECEIVED:	09/07/83	JA: LA			
8354536	83-0761	1702702118		108		LILLIAN WALLACE #1 HOSS SUY	ATHENS	21.0	ARKANSAS LOUISIAN
8354603	83-1210	1702702096		108		MANCE LOWE #1-D	ATHENS	1.0	ARKANSAS LOUISIAN
8354604	83-1209	1702702095		108		MANCE LOWE #2 HOSS SUQ	ATHENS	20.0	ARKANSAS LOUISIAN
8354537	83-0762	1703100400		108		PYLE "B" #1 PYY SUI	LOGANSPORT	20.0	TENNESSEE GAS PIP
-GOLDKING PRODUCTION COMPANY				RECEIVED:	09/07/83	JA: LA			
8354587	82-3267	1703320116		103		GOLDKING PROPERTIES FEE #1	SIEGEN	32.0	UNITED GAS PIPE L
8354553	82-3266	1703320116		103		GOLDKING PROPERTIES FEE #1-D	SIEGEN	43.0	UNITED GAS PIPE L
8354554	82-3265	1703320123		103		GOLDKING PROPERTIES FEE #2	SIEGEN	65.0	UNITED GAS PIPE L
8354555	82-3264	1703320123		103		GOLDKING PROPERTIES FEE #2-D	SIEGEN	57.0	UNITED GAS PIPE L
8354512	82-3263	1703320129		103		GOLDKING PROPERTIES FEE #3	SIEGEN	190.0	UNITED GAS PIPE L
8354511	82-3262	1703320129		103		GOLDKING PROPERTIES FEE #3-D	SIEGEN	240.0	UNITED GAS PIPE L
8354569	82-2820	1703320033		102-2		KLEINPETER #3-D	SIEGEN	36.0	UNITED GAS PIPE L
-GRACE PETROLEUM CORPORATION				RECEIVED:	09/07/83	JA: LA			
8354563	82-3192	1706120304		103		HANNA #1	SIMSBORO	0.0	LOUISIANA GAS PUR
-GRIFFIN SOUTHERN CORP				RECEIVED:	09/07/83	JA: LA			
8354591	83-1194	1708520609		102-4		BRIDGES #1	SAN MIGUEL CREEK	144.0	TENNESSEE GAS PIP
8354570	82-3027	1708520806		102-4		DAISY CANTON #1	SAN MIGUEL CREEK	280.0	TENNESSEE GAS PIP
8354549	83-0652	1708520547		102-4		INTERNATIONAL PAPER CO #1	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354548	83-0653	1708520621		102-4		INTERNATIONAL PAPER CO #4	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354607	83-1215	1708520780		102-4		INTERNATIONAL PAPER CO B #1	SAN MIGUEL CREEK	60.0	TENNESSEE GAS PIP
8354601	83-1214	1708520820		102-4		INTERNATIONAL PAPER CO B #2	SAN MIGUEL CREEK	73.0	TENNESSEE GAS PIP
8354600	83-1213	1708521067		102-4		INTERNAT PAPER CO C #1 LAF RA SUL	SAN MIGUEL CREEK	300.0	TENNESSEE GAS PIP
8354565	82-2355	1708520807		102-4		MARIE TERRELL #1	SAN MIGUEL CREEK	31.0	TENNESSEE GAS PIP
8354590	83-1207	1708521089		102-4		MARIE TERRELL #2 LAF RA SUEE	SAN MIGUEL CREEK	161.0	TENNESSEE GAS PIP
8354547	83-0654	1708520542		102-4		RAY CANTON #A-1	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354584	83-0651	1708520491		102-4		RAY CANTON #1	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354557	83-1220	1708521029		102-4		ROBBIE GADDIS #1	SAN MIGUEL CREEK	271.0	TENNESSEE GAS PIP
8354589	83-1206	1708520808		102-4		SHEILA TERRELL #1	SAN MIGUEL CREEK	18.0	TENNESSEE GAS PIP
8354508	82-3028	1708520578		102-4		SPEIGHTS #2	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354592	83-1195	1708520623		102-4		T W TERRELL #1	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
-GRIFFIN SOUTHERN CORP				RECEIVED:	09/08/83	JA: LA			
8354647	83-1208	1708520709		102-4		CANTON B #1	SAN MIGUEL CREEK	65.0	TENNESSEE GAS PIP
8354634	83-1198	1708520937		102-4		DAISY CANTON #2	SAN MIGUEL CREEK	18.3	TENNESSEE GAS PIP
8354646	82-2361	1708520669		102-4		DEWITT JACKSON #1	SAN MIGUEL CREEK	180.0	TENNESSEE GAS PIP
8354651	83-1196	1708520891		102-4		EMILY DILLARD #1	SAN MIGUEL CREEK	365.0	TENNESSEE GAS PIP
8354627	83-1199	1708520570		102-4		INTERNATIONAL PAPER CO A #1	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354626	83-1204	1708520697		102-4		INTERNATIONAL PAPER CO A #2	SAN MIGUEL CREEK	219.0	TENNESSEE GAS PIP
8354633	83-1197	1708520927		102-4		INTERNATIONAL PAPER CO A #3	SAN MIGUEL CREEK	365.0	TENNESSEE GAS PIP
8354629	83-1201	1708521008		102-4		INTERNATIONAL PAPER CO A #4	SAN MIGUEL CREEK	91.3	TENNESSEE GAS PIP
8354669	83-1205	1708520892		102-4		JOANN TERRELL #1	SAN MIGUEL CREEK	73.0	TENNESSEE GAS PIP
8354632	83-1202	1708520896		102-4		KATE PONDER #2	SAN MIGUEL CREEK	365.0	TENNESSEE GAS PIP
8354628	83-1200	1708520508		102-4		PONDER #1	SAN MIGUEL CREEK	21.6	TENNESSEE GAS PIP
8354643	82-2362	1708520527		102-4		SPEIGHTS #1	SAN MIGUEL CREEK	14.4	TENNESSEE GAS PIP
8354618	83-1203	1708520897		102-2		VERNA JACKSON #1 LAF RA SUU	SAN MIGUEL CREEK	150.0	TENNESSEE GAS PIP
8354645	82-2363	1708520672		102-4		VIRGINIA GODGREY #1	SAN MIGUEL CREEK	54.0	TENNESSEE GAS PIP
-GULF OIL CORPORATION				RECEIVED:	09/07/83	JA: LA			
8354588	82-3269	1707522640		103		S L 195 QQ #227 QB 3 RB SU	QUARANTINE BAY FIELD	2.0	UNITED GAS PIPELI
8354558	82-3358	1707522821		103		S L 195 QQ #315 QB 3 RB SU	QUARANTINE BAY	1.1	UNITED GAS PIPELI
-HADDOX PETROLEUM CORP				RECEIVED:	09/07/83	JA: LA			
8354575	82-3108	1711123285		103		MANVILLE 793 #1	MONROE GAS ROCK	12.8	LOUISIANA POWER &
8354576	82-3109	1711123286		103		MANVILLE 793 #2	MONROE	12.8	LOUISIANA POWER &
-HENRY GOODRICH D/B/A GOODRICH OIL C				RECEIVED:	09/07/83	JA: LA			
8354534	82-3433	1705721814		103		JANE D CULVER #1	LAKE LONG	365.0	UNITED GAS PIPE L
-HIGHLAND RESOURCES INC				RECEIVED:	09/07/83	JA: LA			
8354583	83-1004	1708120919		103		C A ROMERO #1 MARG TEX VU A	SOUTH BOSCO	365.0	TEXAS GAS TRANSMI
-IMC EXPLORATION COMPANY				RECEIVED:	09/07/83	JA: LA			
8354594	83-0757	1711122754		108		OLIN GAS TRANSMISSION CO #74	MONROE	20.4	IMC PIPELINE CO I
8354596	83-0758	1711122801		108		OLIN GAS TRANSMISSION CO #80	MONROE	20.4	IMC PIPELINE CO I
8354595	83-0756	1711123865		108		OLIN GAS TRANSMISSION CO #92	MONROE	20.4	IMC PIPELINE CO I
-JFD INC				RECEIVED:	09/07/83	JA: LA			
8354529	83-0462	1712520012		107-DP		DAVIS-HYMAN-ARBOR#1 15,100 TUSC	RACCOURCI ISLAND	750.0	TRANSCONTINENTAL
-JFD INC				RECEIVED:	09/08/83	JA: LA			
8354642	83-461	1712520008		107-DP		TOWLES #1 15,100' TUSC RB SUC R 5	RACCOURCI ISLAND	1100.0	TRANSCONTINENTAL
-JOHN G CLAY EXPLORATION INC				RECEIVED:	09/07/83	JA: LA			
8354499	82-3345	1702120749		103		DONNER #2 NEGLEY RA SUA	SWIM LAKE	30.0	LOUISIANA INTRAST
-LIGHTNING PRODUCTIONS INC				RECEIVED:	09/07/83	JA: LA			
8354571	82-248	1703120628		102-4		L A SMITH #1 GLENN ROSE RA SUC	CANADIAN BAYOU	180.0	TEXAS EASTERN TRA
-MARATHON OIL COMPANY				RECEIVED:	09/07/83	JA: LA			
8354560	82-3161	1711920361		103		GRANT #1 CV5U MOC	COTTON VALLEY	474.5	UNITED GAS PIPE L
-MID LOUISIANA GAS COMPANY				RECEIVED:	09/07/83	JA: LA			
8354526	82-3030	1711123582		103		MLGC FEE GAS #1108	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8354522	82-3102	1711123583		103		MLGC FEE GAS #1109	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
8354521	82-3031	1711123586		103		MLGC FEE GAS #1110	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8354556	82-3032	1711123587		103		MLGC FEE GAS #1111	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8354524	82-3033	1711123588		103		MLGC FEE GAS #1112	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8354580	82-3034	1711123589		103		MLGC FEE GAS #1113	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8354514	82-3415	1711123590		103		MLGC FEE GAS #1114	MONROE GAS FIELD	21.9	MID LOUISIANA GAS
8354574	82-3035	1711123591		103		MLGC FEE GAS #1115	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8354522	82-3036	1711123592		103		MLGC FEE GAS #1116	MONROE GAS FIELD	29.2	MID LOUISIANA GAS
8354515	82-3416	1711123600		103		MLGC FEE GAS #1117	MONROE GAS FIELD	36.5	MID LOUISIANA GAS
8354523	82-3104	1711236170		103		MLGC FEE GAS #1122	MONROE GAS FIELD	25.5	MID LOUISIANA GAS
-MITCHELL ENERGY CORPORATION				RECEIVED:	09/08/83	JA: LA			
8354664	83-1188	1704920160		107-TF		DAVIS BROS SHAREHOLDERS #1	CARTWRIGHT	273.0	LOUISIANA GAS PUR
8354658	83-1190	1704920152		107-TF		DAVIS BROS SHAREHOLDERS A #1	KELLYS	0.0	LOUISIANA GAS PUR
8354660	83-1192	1704920163		107-TF		E BUCKNER #1 C V RA SUB	KELLEYS	27.0	LOUISIANA GAS PUR
8354673	83-1187	1704920168		107-TF		HEARD #1 CV DAVIS RA SUE	KELLYS	192.0	LOUISIANA GAS PUR
8354661	83-1191	1704920151		107-TF		SILAS AULDS #1	CALHOUN	182.0	LOUISIANA GAS PUR
8354663	83-1189	1704920169		107-TF		STELL #1	CARTWRIGHT	0.0	UNITED GAS PIPELI
8354659	83-1193	1704920133		107-TF		T J GREEN #1	KELLEYS	250.0	LOUISIANA GAS PUR
-MOSELEY PETROLEUM CORP				RECEIVED:	09/07/83	JA: LA			
8354562	83-1003	1701724724		102-2		HOWARD #1	METCALF	219.0	J-W OPERATING CO
-NELSON OIL & GAS INC				RECEIVED:	09/07/83	JA: LA			
8354513	82-3413	1701320489		103		WOODARD WALKER C #1	ADA	100.0	LOUISIANA GAS INT
-O B MOBLEY				RECEIVED:	09/07/83	JA: LA			
8354564	82-3357	1701521748		103		BOLINGER #12 CV RA SUD	PLAIN DEALING	295.0	ARKANSAS LOUISIAN
-PAR EXPLORATION CO				RECEIVED:	09/07/83	JA: LA			
8354578	82-3078	1708320490		103		T J NEWSOM #1 172941	BIG CREEK	54.0	SUN GAS CO
-PENNZOIL PRODUCING COMPANY				RECEIVED:	09/07/83	JA: LA			

JD NO	JA DKT	API NO	D	SEC(1)	SEC(2)	WELL NAME	FIELD NAME	PROD	PURCHASER
8354535	82-3344	1707321888		103		FEE 60 #2	MONROE	25.0	UNITED GAS PIPE L
-PLACID OIL COMPANY				RECEIVED:	09/07/83	JA: LA			
8354566	82-2969	1705922104		103		LOUISIANA CENTRAL B #60	OLLA	6.5	
-PORTER FLOYD RAY				RECEIVED:	09/07/83	JA: LA			
8354519	83-0692	1708520357		102-4		BENTON M JOHNSON ETAL #1	SAN MIGUEL CREEK	73.0	TENNESSEE GAS PIP
8354598	83-1217	1708521138		102-4		JACOBS ESTATE #2 LAF RA SUA	SAN MIGUEL CREEK	350.0	TENNESSEE GAS PIP
8354520	83-0689	1708520851		102-4		STILLE #1	SAN MIGUEL CREEK	200.0	TENNESSEE GAS PIP
-PRIMOS PRODUCTION CO				RECEIVED:	09/07/83	JA: LA			
8354585	83-0533	1707320974		108		STOVALL DRILLING CO FEE #5	MONROE	13.1	SOUTHERN NATURAL
-PRUET PRODUCTION CO				RECEIVED:	09/07/83	JA: LA			
8354559	82-3160	1711920303		103		MANVILLE PRODUCTS #1 GRAY RA SU A	IVAN	61.0	
-RESOURCES INVESTMENT CORPORATION				RECEIVED:	09/07/83	JA: LA			
8354498	82-3385	1701521739		103		KOUNS NESBITT #1 CV RB SU122	ARKANA	0.0	ARKANSAS LOUISIAN
-SAN MIGUEL OIL & GAS INC				RECEIVED:	09/07/83	JA: LA			
8354605	83-1219	1708521078		102-4		INTL PAPER CO #1 LAF RA SUJ	SAN MIGUEL CREEK	350.0	TENNESSEE GAS PIP
8354599	83-1212	1708521079		102-4		INTL PAPER CO #2 LAF RA SUK	SAN MIGUEL CREEK	350.0	TENNESSEE GAS PIP
-SANDERS FOUNT L				RECEIVED:	09/07/83	JA: LA			
8354551	82-3282	1705921393		103		FOUNT L SANDERS-LA PACIFIC #1	OLLA	20.0	LOUISIANA INTRAST
8354517	82-3283	1705921418		103		FOUNT L SANDERS-LA PACIFIC #2	OLLA	54.0	LOUISIANA INTRAST
-SEVARG COMPANY INC				RECEIVED:	09/07/83	JA: LA			
8354518	82-3307	1709720697		103		NOAH YOUNG ESTATE #1 GUILLORY SU F	SAVOY	54.0	TEXAS EASTERN TRA
-SUN EXPL. & PROD. CO. - HOUSTON				RECEIVED:	09/07/83	JA: LA			
8354602	83-1211	1700120896		103		HAYES "A" #4 BM RA SUA	EGAN	959.0	TEXAS EASTERN TRA
-SUN EXPLORATION & PRODUCTION CO				RECEIVED:	09/07/83	JA: LA			
8354597	83-0759	1703120456		108		W A NABORS #2	RED RIVER BULL BAYOU	20.0	LOUISIANA INTRAST
-SUPERIOR OIL CO				RECEIVED:	09/07/83	JA: LA			
8354501	82-3158	1704720604		103		SCHWING L & S CO #74	BAYOU BLEU	1.0	
8354502	82-3153	1704720614		103		SCHWING L & S CO #76	BAYOU BLEU	1.0	
8354504	82-3154	1704720615		103		SCHWING L & S CO #77	BAYOU BLEU	1.0	
8354562	82-3151	1704720616		103		SCHWING L & S CO #78	BAYOU BLEU	1.0	
8354527	82-3156	1704720647		103		SCHWING L & S CO #80	BAYOU BLEU	1.0	
8354500	82-3157	1704720603		103		SCHWING L&S CO #73	BAYOU BLEU	1.0	
8354552	82-3155	1704720646		103		SCHWING L&S CO #79	BAYOU BLEU	1.0	
-SUPERIOR OIL CO				RECEIVED:	09/08/83	JA: LA			
8354620	83-0599	1702321376		107-DP		S L 2038 #34	DEEP LAKE	900.0	MICHIGAN WISCONSI
-T C MORROW OIL CO				RECEIVED:	09/07/83	JA: LA			
8354606	83-1218	1708521108		102-4		BROWN-COOK #1 LAF RA SUE	SAN MIGUEL CREEK	400.0	TENNESSEE GAS PIP
8354550	83-0701	1708520850		102-4		ROY O MARTIN LBR CO #3	SAN MIGUEL CREEK	0.0	TENNESSEE GAS PIP
-T C MORROW OIL CO				RECEIVED:	09/08/83	JA: LA			
8354668	83-716	1708521016		102-4		ARVELL ELLARD #1 LAF RA SUG	SAN MIGUEL CREEK	525.0	TENNESSEE GAS PIP
8354666	83-704	1708520646		102-4		L A BROWN	SAN MIGUEL CREEK	365.0	TENNESSEE GAS PIP
-TEXACO INC				RECEIVED:	09/07/83	JA: LA			
8354583	83-559	1702321137		103		STATE EAST HACKBERRY #135	EAST HACKBERRY	26.0	CONSOLIDATED ALUM
-TEXACO INC				RECEIVED:	09/08/83	JA: LA			
8354611	83-565	1701724511		102-4	103	B H WILLIAMS JR #2	CADDO PINE ISLAND	233.0	
8354636	83-575	1705721479		103		BDC UB #122 VUB	BAY DE CHENE	353.0	KAISER ALUMINUM &
8354672	83-551	1709720432		103		BOTANY BAY LBR CO MIN FEE TR-2 #159	PORT BARRE	26.0	CAJUN ELECTRIC PO
8354638	83-577	1709720432		103		BOTANY BAY LBR CO MIN FEE TR-2 #159	PORT BARRE	438.0	CAJUN ELECTRIC PO
8354650	83-570	1710922029		103		BSE U7 #32 VU7	BAY ST ELAINE	234.0	KAISER ALUMINUM &
8354652	83-0409	1705120603		103		C F CO #165 LFT NVUR RIGOLETS	LAFITTE	197.0	KAISER ALUMINUM &
8354653	83-0408	1702321138		103		DEWEY LE DOUX #2	BIG LAKE	161.0	CONSOLIDATED ALUM
8354624	83-581	1701725954		102-4	103	HUNSICKER FEE #1 SLI RC SU 6	CADDO PINE ISLAND	560.0	
8354648	82-3388	1707700879		102-4		J R REUTER #4 WX RA SUA	BAYOU FORDOCHE	31.0	
8354621	83-563	1707720261		102-4	103	J R REUTER #5 WX RA SUB	BAYOU FORDOCHE	26.0	
8354654	82-2623	1707700066		102-4		KRAEMER U 11 #1 WX RA SUC	BAYOU FORDOCHE	3.0	
8354630	82-169	1710922423		103		LB U35 #7 VU 35	LAKE BARRE	22.0	KAISER ALUMINUM &
8354615	83-0560	1702321413		103		MIAMI CORPORATION FEE #1	SECOND BAYOU	962.0	NATURAL GAS PIPEL
8354619	83-0572	1700720257		103		P R NORMAN B #2	GRAND BAYOU	577.0	KAISER ALUMINUM &
8354639	83-0578	1700720237		102-4		P R NORMAN B #8 LIEB 5 RB SUA	GRAND BAYOU	1606.0	KAISER ALUMINUM &
8354612	83-564	1710724824		102-4	103	ROY THORNTON #1	CADDO PINE ISLAND	26.0	
8354670	83-0547	1710922363		102-4		SL 1249 #101	CAILLOU ISLAND	176.0	KAISER ALUMINUM &
8354631	83-568	1710121186		103		SL 1819 #7-ALT LWR 10900 RA SUA	SWEET BAY LAKE	1095.0	KAISER ALUMINUM &
8354655	82-2634	1707522951		102-4		SL 214 GARDEN ISLAND BAY #858	GARDEN ISLAND BAY	43.0	SOUTHERN NATURAL
8354649	83-569	1707522787		103		SL 214 GARDEN ISLAND BAY #860	GARDEN ISLAND BAY	30.0	SOUTHERN NATURAL
8354665	83-0407	1709920802		103		SL 293 LAKE FAUSSE POINTE A #138	FAUSSE POINTE	14.0	FLORIDA GAS TRANS
8354614	83-0561	1704520486		103		SL 334 VERMILION BAY B-66	VERMILION BAY	438.0	COLUMBIA GAS TRAN
8354635	83-574	1710121058		103		SL 340 #722 WCBB 16 RL SU	WEST COTE BLANCHE BAY	96.0	MICHIGAN WISCONSI
8354622	83-567	1710121199		103		SL 340 #730 WCBB 4750 R441 SU	WEST COTE BLANCHE BAY	73.0	MICHIGAN WISCONSI
8354637	83-576	1710121090		103		SL 340 WEST COTE BLANCHE BAY #724	WEST COTE BLANCHE BAY	24.0	MICHIGAN WISCONSI
8354662	82-3473	1710121075		103		SL 341 BATEMAN LAKE #8	BATEMAN LAKE	374.0	CITY OF MORGAN CI
8354616	83-0558	1710120739		103		SL 341 WKL U1 #3 BAL SU	BATEMAN LAKE	60.0	CITY OF MORGAN CI
8354613	83-0562	1705721976		103		SO LA CANAL & NAV CO #14	LEEVILLE	110.0	KAISER ALUMINUM &
8354623	83-566	1711321080		103		STANSBURY #2 BOUD RB SUA	GROSSE ISLE	989.0	TENNESSEE GAS PIP
8354671	83-0550	1710121051		103		WAX BAYOU CO INC #58 BAL SU	BATEMAN LAKE	700.0	CITY OF MORGAN CI
8354617	83-0557	1710121119		103		WAX BAYOU CO INC NO 59 BAL SU	BATEMAN LAKE	599.0	CITY OF MORGAN CI
8354625	83-0580	1710121199		102-4		WCBB 4750 R441 SU SL 340 #730	WEST COTE BLANCHE BAY	73.0	MICHIGAN WISCONSI
-TRANSCO EXPLORATION COMPANY				RECEIVED:	09/07/83	JA: LA			
8354587	82-982	1704520673		102-4		EDNA DELCAMBRE #3	TIGRE LAGOON	360.0	TRANSCONTINENTAL
-TUMA JERRY J				RECEIVED:	09/08/83	JA: LA			
8354657	83-710	1708520830		102-4		HARMON JAMISON #1	SAN MIGUEL CREEK	300.0	TENNESSEE GAS PIP
-TXO PRODUCTION CORP				RECEIVED:	09/07/83	JA: LA			
8354577	82-3059	1707321825		103		FULLER "C" #1	CALHOUN	284.7	ARKANSAS-LOUISIAN
-UNION OIL COMPANY OF CALIF				RECEIVED:	09/07/83	JA: LA			
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federal register

Friday
September 30, 1983

Part VII

Department of Justice

Federal Prison Industries
Bureau of Prisons

Work and Compensation; Control, Custody, Care, Treatment, and Instruction of Inmates; Final Rule

DEPARTMENT OF JUSTICE

Federal Prison Industries

28 CFR Part 345

Work and Compensation

AGENCY: Federal Prison Industries, Inc., Department of Justice.

ACTION: Final rule.

SUMMARY: Federal Prison Industries, Inc., is publishing its final rule on inmate pay. While Federal Prison Industries is not required to pay inmates for work performed in an industrial assignment, 18 U.S.C. 4126 provides for discretionary compensation to paid to these inmates. The final rule provides information on the Federal Prison Industries work program, with specific attention directed to the methods of compensation. Some areas covered in this rule include the industrial grade structure and standard hourly rate of compensation, the type of compensation paid (hourly, individual or group piece rates), and the benefits earned.

EFFECTIVE DATE: October 1, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, Phone 202/724–3062.

SUPPLEMENTARY INFORMATION: In this document Federal Prison Industries, Inc. is publishing its final rule on Federal Prison Industries, Inc.—Inmate Pay. A proposed rule on this subject was published in the **Federal Register** October 22, 1982 (at 47 FR 47174 et seq.). Interested persons were invited to submit comments on the proposed rule. Members of the public may submit comments on the final rule by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register.**

Federal Prison Industries, Inc. plans to implement its final rule on inmate pay to coincide with the beginning of the new fiscal year (October 1, 1983). To allow for this, Federal Prison Industries, Inc., finds good cause to waive the requirement of 5 U.S.C. 553(d) that the publication of the rule be made not less than 30 days before its effective date.

Federal Prison Industries, Inc., has determined that this rule is not a major rule for the purpose of EO 12291. Federal Prison Industries has determined that EO 12291 does not apply to this set of rulemaking since the rule involves agency management. After review of the law and regulations, the Commissioner, Federal Prison Industries, Inc., has certified that this rule, for the purpose of the Regulatory Flexibility Act (Pub. L. 96–354), does not have a significant impact on a substantial number of small entities.

Summary of Changes/Comments

1. Section 345.11—In § 345.11(a), the abbreviation "(FPI)" is inserted after Federal Prison Industries, Inc. Proposed § 345.11 (b) and (c) defined "full-time" and "part-time" work assignments based on a work schedule of seven hours per normal factory workday. Because the location, and type, of factory may affect its operating hours, the final rule does not refer to the number of hours worked. Instead, a full-time work assignment is where the weekly work schedule is 90% or more of the normal factory work schedule, with a part-time work assignment being less than 90%. Section 345.11(d) identifies the scope of the term "medical idle" as referring to UNICOR work-related injury. Proposed § 345.20(d) stated that an inmate who is returned to the institution because of a violation of conditional release is not entitiled to credit for time spent in Industries prior to release. This intent, plus a similar intent for an inmate returned from a community treatment center (CTC) as a program failure, is now included in final § 345.11(d). If the individual returns to custody, a new application for industrial assignment may be made, with benefits starting at the base level.

2. Section 345.14—To accurately reflect the inmate's work status, § 345.14 substitutes the phrase "assigned to" for "employed in."

3. Section 345.18—In § 345.18(c)(1), the term "Warden" is substituted for "Chief Executive Officer."

4. Section 345.19—This section is rewritten. The overtime rate discussed in the second sentence of proposed § 345.19(a) is now included in the introductory paragraph of final § 345.19. The phrase "industrial operations" is substituted for "industrial assignment" in this paragraph. Section 345.19(a) includes an example of a non-scheduled workday. The final rule states the inmate "shall be" (as opposed to "may be") compensated at the overtime rate. The example given in paragraph (b) now contains an introductory sentence identifying the scheduled workday as seven hours. Proposed § 345.19(c), now included within final § 345.19(b), is revised to state that an inmate on a standard pay plan who works overtime under an individual incentive pay plan shall receive piece work earnings plus half the standard hourly rate for the job being worked. This change is compatible with the proposed rule's rate of overtime compensation provided other inmates in UNICOR work assignments. Proposed § 345.19(d) becomes final § 345.19(c).

5. Section 345.20—Section 345.20(a) is reworded. Final § 345.20(a) and (b) states the inmate "earns" as opposed to the proposed rule's "may earn". The final rule allows UNICOR work service to be in one or more institutions or "factories". Because the intent of proposed § 345.20(d) is now included in final § 345.20(c), the reference to paragraphs (c) and (d) in proposed § 345.20(a) becomes paragraph (c) in final § 345.20(a). Because an inmate returned from a CTC as a program failure constitutes a situation similar to the inmate returned for a violation of conditional release final § 345.20(c) states that the inmate returned from a community treatment center as a program failure will not have a prior UNICOR work status considered for the purpose of determining longevity pay. Proposed § 345.20(e), now final § 345.20(d) is clarified by adding the phrase "for disciplinary reasons or poor work performance". The disciplinary reasons must be UNICOR related. Proposed § 345.20(f), now final § 345.20(e), is reworded. The final rule expands the basis for an inmate to retain longevity status. The final rule requires the inmate to request an assignment to UNICOR within 90 days (was 45 days) of arrival at a location which has a UNICOR operation or within 90 days of completion of the program which caused the resignation. Because of the renumbering of proposed § 345.20(e) and (f), reference in the note following § 345.20 now reads "paragraphs (d) and (e)".

6. Section 345.21—Paragraph (a) substitutes the phrase "vacation credit" for "an annual vacation with pay". Paragraph (b) is revised. The amount of vacation credit will be based not only on the inmate's work status but will also recognize tenure. Specifically, the amount of an inmate's vacation credit per month will double after the first year. For clarity, final § 345.21(c) states "within sixty days after" as opposed to "within sixty days of". The final rule deletes the extraneous phrase "approved by the Superintendent." Proposed § 345.21(f) is revised. The final rule states the inmate "earns", as opposed to "may earn." The injury must be UNICOR work-related. Deleted is the extraneous reference to the inmate returning to the work assignment promptly upon termination of the medical absence.

7. Section 345.22—The final rule expands from two to three the aggregate number of hours for which an inmate may earn administrative pay. Because the rule identifies what warrants administrative pay, the final rule deletes examples citing where such pay is not authorized.

8. Section 345.23—Paragraph (b) is simplified. Rather than require a part-time worker's holiday pay to be determined at the discretion of the Superintendent of Industries and in proportion to the number of hours worked, the final rule states that part-time workers will receive a half-day's pay.

9. Section 345.24—This section is reworded to require that each inmate be notified of monthly earnings. Deleted is the specific reference to each inmate in UNICOR work status receiving a monthly earnings statement. An inmate, however, ordinarily will receive such a statement.

10. Section 345.25—For clarity, the wages referred to in § 345.25 are identified as "lost-time wages". The final rule describes what is meant by the term "work-related injuries".

A public commenter confused the Bureau's proposed rule on UNICOR inmate pay with the Bureau's policy on performance pay. These are two separate systems. UNICOR inmate pay applies to inmates in UNICOR work assignments. Performance pay is received by inmates in non-UNICOR work assignments. Similarly, a comment that good-time allowances be offered as a further incentive to inmate participation in vocational training and educational programs is not relevant to this rule on UNICOR inmate pay.

List of Subjects in 28 CFR Part 345

Prisoners.

Conclusion

By virtue of the authority vested in the Attorney General by 18 U.S.C. 4126 and delegated by the Attorney General at 28 CFR 0.99 to the Board of Directors of Federal Prison Industries, Inc., Chapter III of Title 28, Code of Federal Regulations is hereby amended by adding a new Part 345.

Dated: September 27, 1983.

Norman A. Carlson,

Commissioner, Federal Prison Industries.

In Chapter III, add a new Part 345 to read as follows:

PART 345—WORK AND COMPENSATION

Subpart A—[Reserved]

Subpart B—Federal Prison Industries, Inc.—Inmate Pay

Sec.

345.10 Purpose and scope.
345.11 Definitions.
345.12 Assignment to UNICOR work status.
345.13 Dictionary of occupational titles.
345.14 Grade structure and standard hourly rate.
345.15 Individual and group piece rates.
345.16 Individual piece workers.
345.17 Wage fund—group piece workers.
345.18 Limitation of incentive pay plans.
345.19 Overtime compensation.
345.20 Longevity pay.
345.21 Vacation credit.
345.22 Administrative pay.
345.23 Holiday pay.
345.24 Inmate earnings statement.
345.25 Inmate accident compensation.
345.26 Funds due deceased inmates.

Authority: 18 U.S.C. 4126, 28 CFR 0.99, and by resolution of the Board of Directors of Federal Prison Industries, Inc.

Subpart A—[Reserved]

Subpart B—Federal Prison Industries, Inc.—Inmate Pay

§ 345.10 Purpose and scope.

It is the policy of Federal Prison Industries, Inc. (UNICOR) to provide work to inmates confined in a federal institution. This work is designed to allow the inmate the opportunity to acquire the knowledge, skill, and work habits which will be useful when released from the institution. There is no requirement that industries pay inmates for work in an industrial assignment. 18 U.S.C. 4126, however, provides for discretionary compensation to inmates working in industries. Under this authority, inmates of the same grade jobs, regardless of the basis of pay (hourly, group piece, or individual piece rates) shall receive approximately the same compensation. All pay rates under this part are established at the discretion of Federal Prison Industries, Inc. Any alteration or termination of the rates shall require the approval of the Corporation's Board of Directors. While the Warden is responsible for the local administration of Inmate Industrial Payroll regulations, no pay system is initiated or changed without prior approval of the Associate Commissioner of Federal Prison Industries, Inc.

§ 345.11 Definitions.

(a) *Federal Prison Industries, Inc.* (FPI), as used in this part has the same meaning as used in 18 U.S.C. 4121 et seq. For purposes of these rules, the term "UNICOR" is synonymous with Federal Prison Industries, Inc.

(b) *Full-time work assignment*—A weekly work schedule of 90% or more of the normal factory work schedule.

(c) *Part-time work assignment*—A weekly work schedule of less than 90% of the normal factory work schedule.

(d) *UNICOR work status*—UNICOR work status is defined as assignment to the industries detail. An inmate shall accrue vacation time, longevity service credit, and be eligible for holiday pay for the time assigned to UNICOR. An inmate in UNICOR work status may be on the job, on furlough, vacation, medical idle for UNICOR work-related injury, in administrative detention (for 30 days or less), or out on writ (for 30 days or less) without loss of benefits. Eligibility for UNICOR pay and benefits stops for time lost because of disciplinary segregation. An inmate returned to an institution because of a community treatment center (CTC) program failure or because of a violation of conditional release (mandatory or parole) is not entitled to credit for time spent in Industries prior to release.

§ 345.12 Assignment to UNICOR work status.

The Superintendent of Industries or designee shall request the assignment of an inmate to a UNICOR work position based upon UNICOR and institutional needs. An industrial assignment or placement on a waiting list for an industrial assignment is ordinarily made upon request, or with the participation, of the inmate.

(a) Once assigned, the Superintendent of Industries or designee has the authority to make specific job assignments, and to promote or demote inmates.

(b) A probationary period is not required for an industrial worker. Staff may promote an inmate to a higher grade work assignment when the inmate's abilities, qualifications, and work performance are consistent with good promotion practices and when a vacancy exists.

(c) The Superintendent of Industries may declare an inmate ineligible for any or all benefits connected with the inmate's UNICOR work assignment because of the inmate's unsatisfactory work performance for the month in which such actions occur. The Superintendent may not independently declare ineligibility as a result of inmate misconduct. Actions of this nature must be handled under disciplinary procedures. The Superintendent, however, may recommend such action to the discipline committee.

(d) The Superintendent of Industries may recommend to an inmate's unit team an inmate's dismissal from UNICOR. The Superintendent of Industries may not independently remove an inmate from UNICOR work status.

§ 345.13 Dictionary of occupational titles.

UNICOR staff shall select from the Department of Labor's Dictionary of Occupational Titles (DOT) the appropriate position title (with applicable work description) for each UNICOR inmate work assignment.

§ 345.14 Grade structure and standard hourly rate.

Inmate pay is based on the grade of the job performed. An inmate assigned to Federal Prison Industries, Inc., is classified in one of four grades, based upon job assignment and level of skill. Fourth grade is the base rate of compensation. Third, second and first grades are compensated at 50%, 100%, and 150% above the base grade, respectively.

§ 345.15 Individual and group piece rates.

(a) Piece rates based upon full-time production of a capable worker of average speed are established by the Warden, upon recommendation of the local Superintendent. Prior to submitting the individual or group piece rate plan to the Warden for approval, UNICOR staff shall submit the proposed rate to the applicable Division Manager for review and concurrence.

(b) New rates should be established, if appropriate, when new equipment, new processes, or other conditions significantly change labor requirements.

§ 345.16 Individual piece workers.

Two factors determine the amount of payment made to individual piece workers. The first is the number of units produced by the individual piece worker. The second is the rate of pay for each unit. For example, during a specific month, a piece rate worker produces 1,440 units with a predetermined piece rate of eight (8) cents per unit. The inmate worker's monthly pay would be $115.20.

§ 345.17 Wage fund—group piece workers.

The amount of the available "wage fund" is determined by multiplying the units of production completed by the group by the applicable rate or rates. The hours actually worked in the 1st, 2nd, and 3rd grade jobs shall be increased by 150%, 100%, and 50% respectively and then added to the hours worked in 4th grade jobs to determine basic hours. The total wage fund shall be divided by basic hours to determine the hourly rate for 4th grade jobs. Rates for other grade jobs shall be determined by increasing the 4th grade rate by the same percentages identified above. All decimals beyond the fourth place are dropped and any remaining balance is added to the wage fund for the next period.

Example: A group of workers on the plan produce 840 units during the month in 13,000 hours. The rate established through time study or estimate using the UNICOR Forms 57 and 58 is $10 per unit. The wage fund for the month is $8,400 (840 units times 10). Hours worked were: 1st grade—2,000; 2nd grade—3,000 hours; 3rd grade—2,000 hours; 4th grade—6,000 hours. Pay rates are determined as follows:

Job grade	Actual hours worked (see ex.)	Percent added to actual hours to compute basic hours
Step 1:		
1st	(2,000)	+150% (3,000)=(5,000)
2nd	(3,000)	+100% (3,000)=(6,000)
3rd	(2,000)	+50% (1,000)=(3,000)
4th	(6,000)	+None (0,000)=(6,000)
Total	(13,000)	(20,000)

Step 2: 4th grade rate=total wage fund divided by basic hours—In above example, this is $8,400 divided by 20,000 basic hours=.42 (42¢) as 4th grade rate.

Job grade	Hourly rate/group worker (see example)
Step 3:	
1st	4th grade rate plus 150% (.42+150% of .42=.42+.63=$1.05).
2nd	4th grade rate plus 100% (.42+100% of .42=.42+.42=$0.84).
3rd	4th grade rate plus 50% (.42+50% of .42=.42+.21=$0.63).
4th	4th grade rate plus 0% (.42+0% of .42=.42+.00=$0.42).

(a) If sufficient work is not available to provide individual and group piece workers hourly earnings equal to basic hourly rates, the Superintendent of Industries, through the Warden, may request authority from the Associate Commissioner, Federal Prison Industries to change from the group piece plan to an hourly pay plan.

(b) The wage fund may not be subsidized to bring wages up to the basic hourly rate if sufficient work is available even though individual and group piece workers hourly earnings are less than hourly workers in the same grade.

§ 345.18 Limitation of incentive pay plans.

(a) Except as provided in paragraphs (b) and (c) of this section on limitation of incentive pay plans, the maximum hourly amount for each pay grade under the incentive pay system may not exceed 120% of the standard hourly rate for the corresponding pay grade.

(b) The Superintendent of Industries may approve hourly rates under incentive plans to exceed 120% of the corresponding standard rates under unusual circumstances (for example, a sudden, significant increase in product demand) for a period not to exceed three consecutive months.

(c) Pay rates exceeding 120% of the corresponding standard rates in excess of three consecutive months require the approval of both the Warden and Product Division Manager. In making this determination, the following should be considered:

(1) Is there a low percentage of workers entitled to a wage in excess of 120% of regular hourly rates? If yes, this may be sufficient justification for a temporary exception to the 120% limitation. If most workers are entitled to this increased wage, consideration should be given to adjusting the established piece rate.

(2) Is there an increase in required productivity because of a sudden, significant increase in product demand or critical inmate shortages? If yes, this would justify a temporary exception to the 120% limitation. *Example:* Machine speed is increased beyond established norm during a period of low employment or high demand.

The Warden and Product Division Manager shall indicate in writing either their approval or denial of the request and the justification for this action. If approved, the effective hourly rate, and the time period of approval (may not exceed three additional consecutive months) shall be given.

§ 345.19 Overtime compensation.

An inmate is entitled to overtime pay at a rate of 1.5 times the hourly or unit rate for hourly, individual, and group piece workers when the total hours worked (includes administrative pay) exceed the industrial operation's regularly scheduled workday. For example, an industrial operation has a scheduled workday of 7.5 hours. The inmate's regularly scheduled workday consists of 5 hours. If the inmate works 10 hours, the inmate has earned 2.5 hours of overtime pay (hours worked by the inmate minus the industrial operation's regularly scheduled workday). **Note:** The 10 hours do not need to be continuous. The inmate, within the same workday, could have worked 2 shifts of 5 hours each.

(a) Hours worked on days other than the scheduled workweek (i.e., Saturday) shall be compensated at the overtime rate.

(b) For individual piece workers, overtime earnings are determined by the amount of total piece work earnings for the day divided by the total number of

hours worked that day. This hourly rate divided by 2 gives the overtime premium per hour for that piece worker. To determine the total overtime wages, add the sum of the overtime premium times the number of overtime hours worked to the piece work earnings during the overtime period.

Example: Assume a scheduled workday of 7 hours in this example. Piece worker works 10 hours (3 hours overtime) completing 70 units at 10¢ per unit. 55 of the units were completed during the regular shift, 15 during the overtime period. Overtime wages would be determined as follows:

STEP 1:

$$\frac{\text{Piece work earnings for day (70 units at 10¢/unit}}{\text{Total hours worked (10)}} = \text{(Rate/hour for total piece work earnings (70¢)}$$

STEP 2:

$$\frac{\text{Rate/hour for total piece work earnings (70¢)}}{2} = \text{Overtime premium per hour for that piece worker (35¢)}$$

STEP 3:

Overtime premium (35¢) × overtime hours worked (3)	$1.05
Plus	
Piece work units during overtime (15) × rate/unit (10¢)	$1.50
Total overtime wages	$2.55

An inmate worker on a standard pay plan during the regular workday who works overtime under an individual incentive pay plan shall receive piece work earnings plus half the standard hourly wage for the job being worked on overtime status.

(c) Overtime for workers in the group piece work plan is added to the wage fund after computation of the base rate for each grade. This is to insure that the amount of overtime paid to one individual will not in any way affect the basic hourly rate of the other workers.

§ 345.20 Longevity pay.

(a) An inmate earns longevity pay raises for those months in continuous UNICOR work status regardless of whether the work was continuous. The service may be in one or more institutions or factories, as long as the inmate is not excluded under paragraph (c) of this section on longevity pay.

(b) An inmate earns an additional hourly pay allowance for longevity of UNICOR work service as specified below. For purpose of longevity pay, a month includes any part of a month in which an inmate is in UNICOR work status.

Length of service	Longevity pay per hour
18 months	10 cents.
30 months	15 cents.
42 months	20 cents.

Longevity pay allowances shall be added after the wages for each actual hour in pay status have been properly computed. Example: An inmate with length of service of 19 months and earning $1.00 per hour. Overtime pay for this inmate would be computed as follows: 1.5 times the hourly rate (1.5×$1.00=$1.50), then add the ten cents longevity pay for a total wage of $1.60 per hour.

(c) UNICOR work status during service of a previous sentence may not be considered in determining longevity pay. For purpose of this section, a separate sentence or commitment which involves no break of time in custody makes the inmate in a UNICOR work assignment eligible for longevity pay. This eligibility does not apply to an inmate who is returned from a community treatment center as a program failure or who is returned for violation of a conditional release (parole or mandatory).

(d) An inmate removed from UNICOR for disciplinary reasons or poor work performance loses any longevity status previously achieved. The disciplinary reasons must be UNICOR related as determined by the IDC. Staff shall document an inmate's removal from UNICOR by memorandum and forward it for placement in the inmate central file. The memorandum shall include the date and reasons for termination. In the event of the inmate's reassignment to UNICOR, the inmate must start with a balance of zero months for the purpose of earning longevity benefits.

(e) An inmate who voluntarily resigns from UNICOR for any reason other than enrollment in a full-time educational, vocational training, apprenticeship, or chemical abuse program, loses all longevity status. To retain longevity status, an inmate who transfers must be assigned, or request an assignment to UNICOR within 90 days of arrival at a location which has a UNICOR operation or within 90 days of completion of the program which caused the resignation. Except as just specified, an inmate reassigned to UNICOR will start with a balance of zero months for the purpose of earning longevity benefits. Voluntary resignation does not include transfers, medical idles, those inmates out on writ, etc.

Note.—The actions described in paragraphs (d) and (e) of this section on longevity pay do not apply in determining length of service of actions which occurred prior to December 1, 1981. Example: An inmate who worked from January 1 thru June 30, 1981, resigns July 1, 1981, and is subsequently rehired March 1, 1982, has a six month credit toward eligibility for longevity pay. If either situation discussed in paragraphs (d) and (e) occurs again after December 1, 1981, all previous work time credits would be lost. The inmate would then start at a zero balance upon reassignment to UNICOR.

§ 345.21 Vacation credit.

(a) An inmate may be granted vacation credit when the inmate's work performance (quality, attendance, attentiveness, and adherence to industry operating regulations) justifies it. A recommendation for an inmate to receive vacation credit is made by the supervisor to the industries manager (factory/business manager), who shall approve the request if the specified standards are met.

(b) An inmate may earn vacation credit for each month or part of a month in which an inmate is in UNICOR work status. Vacation credit earned per month is determined by whether the inmate is a full-time or part-time worker and the number of months service the inmate has achieved in UNICOR work status.

	First year	Subsequent years
Full-time	⅓ day per month	1 day per month.
Part-time	¼ day per month	⅓ day per month.

(c) An inmate must take and/or be paid for vacation credit within sixty days after each annual eligibility date of the inmate's most recent date of assignment to UNICOR. An inmate who elects not to take vacation time must indicate this in writing. That inmate shall receive pay for the annual vacation credit in a lump sum on the regular monthly payroll. This amount is ordinarily paid within sixty days after the annual eligibility date of the inmate's most recent date of assignment to UNICOR. An inmate whose employment is terminated by release, reassignment, transfer, or other reasons, and who has unused vacation credit shall be paid for this credit on the monthly payroll. At the discretion of the Superintendent of Industries, an inmate may take accrued vacation for visits, participation in institutional programs, or other reasons. Industrial managers will schedule an inmate's vacation so that it is compatible with factory production and administrative support requirements.

(d) When the inmate takes and/or is paid for earned vacation, the total hours involved are multiplied by the inmate's regular hourly rate of compensation, including longevity pay, to arrive at the compensation payable.

(e) An inmate temporarily assigned to industries, such as on a construction crew, and who is placed on an industrial payroll may earn vacation credit. The inmate may take and/or receive pay for the vacation credit upon termination of the temporary assignment.

(f) An inmate earns vacation credit while confined to the hospital or quarters because of UNICOR work-related injury.

§ 345.22 Administrative pay.

An inmate who is excused from the job assignment may receive adminstrative pay *only* because of a general recall for an institution or a UNICOR staff meeting. The inmate is to be compensated on standard hourly pay but may not exceed an aggregate of three hours per month.

§ 345.23 Holiday pay.

(a) An inmate worker on industrial assignment shall receive pay at the standard hourly rate, plus longevity pay where applicable, for the following Federal holidays: (1) New Year's Day; (2) Washington's birthday; (3) Memorial Day; (4) Independence Day; (5) Labor Day; (6) Columbus Day; (7) Veterans' Day; (8) Thanksgiving Day; and (9) Christmas, provided the inmate is in UNICOR work status the workday before and the workday following the holiday.

(b) Full-time workers receive a full day's pay. Part-time workers will be paid a half-day's pay.

(c) Any other Federal holidays, approved by the Congress of the United States for all Federal workers and operations, shall qualify the worker for industrial holiday pay, under the same conditions as above, without amendment of these regulations.

§ 345.24 Inmate earnings statement.

Each inmate in UNICOR work status shall be notified of monthly earnings.

§ 345.25 Inmate accident compensation.

Lost-time wages paid to an inmate for the period during which the inmate is hospitalized or confined to quarters because of work-related injuries (including occupational disease or illness proximately caused by the inmate's work assignment) shall be made in accordance with the provisions of the Inmate Accident Compensation Program (see 28 CFR, Part 301).

§ 345.26 Funds due deceased inmates.

Funds due a deceased inmate for work performed and not yet paid shall be made to a legal representative of the inmate's estate or in accordance with the laws of descent and distribution of the state of domicile.

[FR Doc. 83-26841 Filed 9-29-83; 8:45 am]
BILLING CODE 4410-05-M

Bureau of Prisons

28 CFR Parts 570 and 571

Control, Custody, Care, Treatment, and Instruction of Inmates

AGENCY: Bureau of Prisons, Justice.

ACTION: Final rules.

SUMMARY: The Bureau of Prisons is publishing final amendments to its rules on (1) Furloughs, and (2) Pre-Release Program. Several amendments are made to the rule on furloughs. These include expanding the commuting area for a day furlough, adding a new reason for an inmate to receive a furlough, and allowing inmates scheduled for transfer to a community treatment center (CTC) the opportunity to select the means of transportation, provided the inmate agrees to accept certain financial responsibilities specified in the rule. The final rule also contains a standard list of conditions which the inmate must agree to meet while on furlough. The amended rule on the pre-release program expands the program responsibility section. The rule also contains a provision whereby an inmate who is not being released through a community treatment center may receive the assistance of the United States Probation Officer in establishing a release plan. These amendments are intended to clarify and/or improve the Bureau's furlough and pre-release programs.

EFFECTIVE DATE: November 1, 1983.

ADDRESS: Office of General Counsel, Bureau of Prisons, Room 760, 320 1st Street NW., Washington, D.C. 20534.

FOR FURTHER INFORMATION CONTACT: Mike Pearlman, Office of General Counsel, Bureau of Prisons, phone 202/724-3062.

SUPPLEMENTARY INFORMATION: The Bureau of Prisons is finalizing amendments to its rules on Furloughs and on Pre-Release Program. A final rule on the pre-release program was published in the **Federal Register** June 30, 1980 (at 45 FR 44234-35), on the furlough program July 1, 1981 (at 46 FR 34550 et seq.). Proposed amendments to each of these rules were published in the **Federal Register** June 1, 1983 (at 48 FR 24626 et seq.). The amendments address areas arising since publication of the final rules.

Proposed changes to the rule on furloughs included revising the definition of furlough, deleting the use of U.S. Parole Commission guidelines to determine an inmate's anticipated release date, allowing an inmate the opportunity to participate in special training courses or in institution work assignments, of 30 calendar days or less, when daily commuting from the institution is not feasible, adding psychiatric treatment as an additional basis for furlough, and establishing an eligibility for furlough requirement for an inmate who has been at the initially designated institution for less than 90 days. Two new paragraphs were proposed for the section on limitations of eligibility. Standard furlough conditions were also proposed. In addition to those areas listed above, the Bureau is including in its final rule two further amendments. The first, § 570.31(a)(1), expands the commuting area for a day furlough. The second amendment, § 570.33(c), authorizes an inmate scheduled for transfer to a community treatment center to select the method of travel provided certain conditions are met. Because these two amendments are considered less restrictive, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date are inapplicable.

Proposed amendments to the pre-release program rule included a statement that the person responsible for the pre-release program is to determine the pre-release needs of the inmate population, and a provision stating that an inmate who is not being released through a community treatment center (CTC) may ask staff to request the assistance of a United States Probation Officer in establishing a release plan.

Interested persons were invited to submit comments on the proposed rules. Members of the public may submit comments concerning the final rules by writing the previously cited address. These comments will be considered but will receive no response in the **Federal Register**.

The Bureau of Prisons has determined that these rules are not major rules for the purpose of E.O. 12291. The Bureau of Prisons has determined that E.O. 12291 does not apply to these rules since the rules involve agency management. After review of the law and regulations, the Director, Bureau of Prisons has certified

that these rules, for the purpose of the Regulatory Flexibility Act (Pub. L. 96-354), do not have a significant impact on a substantial number of small entities.

Summary of Changes—Furloughs

1. *Section 570.31*—Section 570.31(a)(1) increases the commuting area for a day furlough from 50 to 100 miles. This change allows a fuller use of day furloughs by those Bureau institutions in remote locations. A commenter asks for a specific definition of overnight furlough, stating that various institutions give different meaning to the term. The Bureau's definition of an overnight furlough is one that falls outside or beyond the criteria of a day furlough. While the commenter correctly states that the ordinary length of an overnight furlough is three to seven days, nothing prohibits, nor should there be anything to prohibit, the Warden from approving an inmate for a one day furlough. The determining factor is the individual situation. For this reason, we do not consider it practical to adopt a suggestion that a set number of days for an overnight furlough be specified in national policy.

A comment suggests racial bias exists in the decision-making process for furloughs and proposes some type of reprimand be established for such action. An inmate who believes he is not receiving fair consideration for a furlough or for the length of the furlough may file a grievance through the Administrative Remedy Procedure (Part 542, Subpart B). Staff found to be abusing the Bureau's furlough procedures are subject to disciplinary action.

2. *Section 570.32*—For clarity, the phrase "(including UNICOR work assignments)" is added to proposed, now final §§ 570.32(a)(9) and 570.33(b).

3. *Section 570.33*—Section 570.33(b) is clarified by adding the phrase "if it is for the primary benefit of the government" with respect to the goverment bearing the expense of a furlough for an inmate to participate in special training courses or in institutional work assignments. Section 570.33(c) is new. This section allows an inmate scheduled for transfer to a community treatment center (CTC) the opportunity to choose the method of travel, provided the inmate accepts certain finanical responsibilities. The rule states that where the distance from the transferring institution to the CTC is not over 150 miles, an inmate can select the means of travel provided the inmate pays all transportation costs. This provision allows an interested inmate to travel to a CTC by private automobile with his family. When the distance exceeds 150 miles, an inmate transferring to a CTC may choose to travel by plane rather than by public greund transportation (e.g., bus), provided the inmate agrees to pay the difference in costs between the air and public ground travel. The Bureau of Prisons will continue to transport to a CTC those inmates who do not wish to select their own method of travel. Regardless of the mode of travel, an inmate traveling to a CTC is expected to travel directly from the institution to the CTC. Based on new paragraph (c), existing § 570.33(a) is amended to read, "Except as provided in paragraphs (b) and (c) of this section".

4. *Section 570.34*—The extraneous phrase "by memorandum for placement" is deleted from § 570.34(e)(6).

5. *Section 570.36*—Several modifications are made to the furlough conditions. Condition number two is clarified by substituting the phrase "furlough destination" for "furlough". Condition number five is expanded to recognize that an inmate may receive prescribed medication while on furlough. The inmate is expected, upon return to the institution, to notify staff of this or any other health treatment received in the community. For clarity, condition number eleven substitutes the term "urinalysis" for "urine". The phrase "and/or other comparable test" is also added to this condition to fully recognize its intended scope.

6. *Section 570.37*—Section 570.37 (a)(1) and (a)(2) are redesignated § 570.37 (a) and (b). The first paragraph of § 570.37 is undesignated. The extraneous phrase "federal law" is deleted from this first paragraph. The intent of § 570.37 is unchanged.

List of Subjects in 28 CFR Parts 570 and 571

Prisoners.

Conclusion

Accordingly, pursuant to the rulemaking authority vested in the Attorney General in 5 U.S.C. 552(a) and delegated to the Director, Bureau of Prisons in 28 CFR 0.96(q), 28 CFR Chapter V is amended as set forth below.

Dated: September 27, 1983.

Norman A. Carlson,

Director.

Amend Subchapter D of 28 CFR, Chapter V as follows: In Subchapter D, Part 570, amend Subpart C, and in Part 571, amend Subpart B as follows.

SUBCHAPTER D—COMMUNITY PROGRAMS AND RELEASE

A. In Subchapter D, Part 570, Subpart C is amended as follows:

PART 570—COMMUNITY PROGRAMS

Subpart C—Furloughs

1. The authority citation for Part 570, Subpart C is as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 751, 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. In § 570.31, the introductory text of paragraph (a) and pareagraph (a) (i) are revised to read as follows:

§ 570.31 Definitions.

(a) A furlough is an authorized absence from an institution by an inmate who is not on a work/study release program nor under escort of a staff member, U.S. Marshal, or state or federal agents. The two types of furloughs are:

(1) *Day furlough*—A furlough within the geographic limits of the commuting area of the institution (approximately a 100-mile radius), which lasts 16 hours or less and ends before midnight.

* * * * *

3. In § 570.31, existing paragraph (b)(5) is removed and paragraphs (b)(3) and (b)(4) are revised to read as follows:

* * * * *

(b) * * *

* * * * *

(3) The inmate's presumptive parole date; or

(4) The inmate's effective parole date.

4. In § 570.32, revise paragraphs (a) (7) and (8), add paragraph (a)(9), and revise paragraph (b) introductory text to read as follows:

§ 570.32 Justification for furlough.

(a) * * *

(7) To comply with an official request to appear before a grand jury, or to comply with a request from a legislative body or regulatory or licensing agency;

(8) To appear in a criminal court proceeding, but only when the use of a furlough is requested or recommended by the applicable court or prosecuting attorney; or

(9) To participate in special training courses or in institution work assignments (including UNICOR work assignments), of 30 calendar days or less, when daily commuting from the institution is not feasible.

(b) The Warden may recommend a furlough for an inmate to obtain necessary medical, surgical, psychiatric, or dental treatment not otherwise available. In addition to the recommendation of the Warden, a furlough of this nature requires the recommendation of the Chief Medical Officer (Chief of Health Programs).

Approval for a furlough of this type occurs in one of the following ways:

* * * * *

5. § 570.33 is revised to read as follows:

§ 570.33 Expenses of furlough.

(a) Except as provided in paragraphs (b) and (c) of this section, the inmate or the inmate's family or other appropriate source approved by the Warden shall bear all expenses of a furlough, including transportation, food, lodging, and incidentals.

(b) The government may bear the expense of a furlough only when the purpose of the furlough is to obtain necessary medical, surgical, psychiatric, or dental treatment not otherwise available, or to transfer an inmate to another correctional institution (includes community treatment centers), or, if it is for the primary benefit of the government, to participate in special training courses or institutional work assignments (including UNICOR work assignments) as outlined in § 570.32(a)(9).

(c) The Warden may allow an inmate scheduled for transfer to a community treatment center (CTC) to choose the means of transportation to the CTC in the following situations:

(1) Where the distance from the transferring institution to the CTC is not over 150 miles, provided the inmate pays all transportation costs.

(2) Where the distance from the transferring institution to the CTC is over 150 miles and the inmate prefers to travel by plane rather than by public ground transportaiton (e.g., bus), provided the inmate pays the difference in cost between the air and public ground travel.

An inmate traveling under the provisions of paragraph (c) is expected to go directly from the institution to the CTC.

6. In § 570.34, paragraphs (e)(1)–(5) are redesignated as (e)(2)–(6) respectively and revised, and a new (e)(1) is added to read as follows:

§ 570.34 Eligibility requirements.

* * * * *

(e) * * *

(1) The Warden may approve only an emergency furlough (family crisis or other urgent situation) for an inmate who has been confined at the initially designated institution for less than 90 days.

(2) The Warden may approve only an emergency furlough for an inmate with more than two years remaining until the inmate's anticipated release date.

(3) The Warden may approve a day furlough for an inmate with two years or less remaining until the inmate's anticipated release date.

(4) The Warden may approve an overnight furlough within the institution's commuting area for an inmate with 18 months or less remaining until the inmate's anticipated release date.

(5) The Warden may approve an overnight furlough outside the institution's commuting area for an inmate with one year or less remaining until the inmate's anticipated release date. The Warden may ordinarily approve an overnight furlough not to exceed once each 90 days.

(6) If the Warden approves a furlough outside the above guidelines, the Warden shall document the reasons in the inmate's central file.

7. In § 570.35, paragraphs (d) and (e) are added to read as follows:

§ 570.35 Limitations on eligibility.

* * * * *

(d) The Bureau of Prisons does not have the authority to furlough U.S. Marshals prisoners in contract jails. Staff are to refer requests for such furloughs to the U.S. Marshals.

(e) Furlough for pretrial inmates will be arranged in accordance with the rule on pretrial inmates (see Part 551, Subpart J).

8. In § 570.36 remove the existing paragraph (d) and add a new paragraph (d) to read as follows:

§ 570.36 Procedures.

* * * * *

(d) Each inmate who is approved for a furlough must agree to abide by the specified conditions (Table 1) of the furlough.

Table 1—Conditions of Furlough

1. I will not violate the laws of any jurisdiction (federal, state, or local). I understand that I am subject to prosecution for escape if I fail to return to the institution at the designated time.

2. I will not leave the area of my furlough without permission, with the exception of traveling to the furlough destination, and returning to the institution.

3. While on furlough status, I understand that I remain in the custody of the U.S. Attorney General. I agree to conduct myself in a manner not to bring discredit to myself or to the Bureau of Prisons. I understand that I am subject to arrest and/or institution disciplinary action for violating any conditions(s) of my furlough.

4. I will not purchase, possess, use, consume, or administer any narcotic drugs, marijuana, intoxicants in any form, nor will I frequent any place where such articles are unlawfully sold, dispensed, used, or given away.

5. I will not use any medication that is not prescribed and given to me by the institution medical department for use or prescribed by a licensed physician while I am on furlough. I will not have any medical/dental/surgical/psychiatric treatment without the written permission of staff, except where an emergency arises and necessitates such treatment. I will notify institution staff of any prescribed medication or treatment received in the community upon my return to the institution.

6. I will not have in my possession any firearm or other dangerous weapon.

7. I will not get married, sign any legal papers, contracts, loan applications, or conduct any business without the written permission of staff.

8. I will not associate with persons having a criminal record or with those persons who I know are engaged in illegal occupations.

9. I agree to contact the institution (or United States Probation Officer) in the event of arrest, or any other serious difficulty or illness.

10. I will not drive a motor vehicle without the written permission of staff. I understand that I must have a valid driver's license and sufficient insurance to meet any applicable financial responsibility laws.

11. I will not return from furlough with any article I did not take out with me (for example, clothing, jewelry, or books). I understand that I may be thoroughly searched and given a urinalysis and/or breathalyzer and/or other comparable test upon my return to the institution. I understand that I will be held accountable for the results of the search and tests(s).

12. Special Instructions:

I have read, or had read to me, and I understand the above conditions concerning my furlough and agree to abide by them.

Inmate's Signature _____

Reg. No _____

Date _____

Signature/Printed Name of Staff Witness

9. Section 570.37 is revised to read as follows:

§ 570.37 Violation of furlough.

An inmate who absconds from furlough or fails to meet any of the conditions of the furlough is deemed to be an escapee under 18 U.S.C. 4082, 751.

(a) Staff shall process as an escapee an inmate who absconds from furlough.

(b) Staff may take disciplinary action against an inmate who fails to comply with any of the conditions of the furlough.

B. In Subchapter D, Part 571, Subpart B is amended as follows:

PART 571—RELEASE FROM CUSTODY

Subpart B—Pre-Release Program

1. The authority citation for Part 571, Subpart B is as follows:

Authority: 5 U.S.C. 301; 18 U.S.C. 4001, 4042, 4081, 4082, 5006–5024, 5039; 28 U.S.C. 509, 510; 28 CFR 0.95–0.99.

2. Section 571.11 is revised to read as follows:

§ 571.11 Program responsibility.

(a) The Warden shall delegate to a staff member the responsibility to:

(1) Establish outlines of inmate need areas;

(2) Determine the pre-release needs of the inmate population;

(3) Coordinate the pre-release program for the entire institution; and

(4) Contact and schedule volunteers from the local community to participate in the pre-release program.

3. In § 571.12, paragraphs (b) and (c) are revised and paragraph (e) is added to read as follows:

§ 571.12 General characteristics.

* * * * *

(b) Staff shall strongly encourage and support an inmate's participation in both unit and institution pre-release programs. Staff may require an inmate to participate in a specific number of pre-release sessions with other sessions on a voluntary basis. Staff shall document the inmate's participation in the pre-release program in the inmate's central file.

(c) To assist in the release process, the Warden may, in accordance with the Bureau of Prisons' rule on furloughs, grant an inmate a furlough for release preparation.

* * * * *

(e) An inmate who is not being released through a community treatment center (CTC) may ask staff to request the assistance of a United States Probation Officer in establishing a release plan. Bureau staff are to encourage the inmate to give at least one employment lead or contact. Where the inmate or the inmate's family has already identified employment, the case manager shall notify the U.S. Probation Officer so that the usual verification of release plans may be made. Where employment has not been identified, the case manager shall notify the U.S. Probation Officer of the employment need. This notification should ordinarily occur at least six weeks prior to the inmate's release.

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federal register

Friday
September 30, 1983

Part VIII

Environmental Protection Agency

General Regulation for Assistance Programs

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 30

[OA-FRL 2277-2]

General Regulation for Assistance Programs

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: On June 18, 1982, EPA proposed in the **Federal Register** (47 FR 26564) the General Regulation for Assistance Programs governing grants and cooperative agreements, with a request for comments. Today, we are publishing the final regulation implementing the requirements in the Federal Grant and Cooperative Agreement Act and using plain English, revised to reflect our responses to comments received. This final rule includes only those assistance requirements which are mandated by statute, or Office of Management and Budget (OMB) Circulars, or which are necessary for effective program management. The regulation applies to all EPA financial assistance programs listed in the 66.000 series in the *Catalog of Federal Domestic Assistance.*

DATE: This rule is effective for assistance agreements which EPA awards after September 30, 1983 except for (1) § 30.303(b) which will be effective for assistance agreements EPA awards after September 30, 1983, and (2) Subpart L which will be effective for assistance disputes filed after October 31, 1983, regardless of when EPA awarded the assistance agreement.

FOR FURTHER INFORMATION CONTACT: Richard A. Johnson, Grants Policy Specialist, Grants Policy and Procedures Branch, Grants Administration Division (PM-216), 401 M Street, S.W., Washington, D.C. 20460 (202) 382-5296.

SUPPLEMENTARY INFORMATION: On April 8, 1980, EPA published an "Advance Notice of Proposed Rulemaking" (ANPR) in the **Federal Register** (45 FR 23700), including a request for comments or recommended changes to our general regulation governing grants and cooperative agreements. We also announced our intent to modify the regulation to implement the requirements in the Federal Grant and Cooperative Agreement Act. At the same time, we implemented Executive Order 12044 by using plain English and reevaluated the need for certain procedural and regulatory requirements.

Subsequent to the ANPR, President Reagan issued Executive Order 12291. It requires all Federal departments and agencies to review and reduce the burden of their regulations. Consequently, we eliminated most EPA internal operating procedures and most of the detailed procedures that explained how recipients of EPA assistance comply with specific requirements. This final rule does not repeat or summarize requirements contained in other EPA regulations; it simply references them. It includes only items mandated by law, those required by OMB Circulars, and certain additional minimum requirements that EPA considers necessary for sound and effective financial assistance management.

Pub. L. 95-224, the Federal Grant and Cooperative Agreement Act of 1977, 41 U.S.C. 501 et seq., and OMB's study and implementing guidance stress the need for providing uniform and consistent requirements for all assistance programs. A fundamental element of uniform and consistent requirements is clear language and word usage. Therefore, throughout this rule, we use the terminology introduced in the Federal Grant and Cooperative Agreement Act; "assistance agreement" is substituted for "grant," and "recipient" is substituted for "grantee."

This rule incorporates provisions of OMB Circulars A-102 and A-110, which OMB intends to revise. OMB's review may result in major changes to the Circulars and require substantial changes to this rule.

The following table shows the relationship between the former Part 30 and this revised Part 30.

Former section	Former title	New section
30.100	Purpose	30.100.
30.101	Authority	30.101.
30.105	Applicability and scope	30.100.
30.110	Publication	Deleted.
30.115	Copies	Deleted.
30.120	Citation	Deleted.
30.125	Pubic comment	Deleted.
30.130	Grant information	30.302.
30.135	Definitions	30.200.
30.135-1	Administrator	Deleted.
30.135-2	Agency	Deleted.
30.135-3	Allowable costs	30.200.
30.135-4	Applicant	30.200.
30.135-5	Budget	Deleted.
30.135-6	Budget period	30.200.
30.135-7	Educational institution	Deleted.
30.135-8	Eligible costs	Deleted.
30.135-9	Federal assistance	Deleted.
30.135-10	Grant	Deleted.
30.135-11	Grant agreement	30.200.
30.135-12	Grant approving official	Deleted.
30.135-13	Grant award official	30.200.
30.135-14	Grantee	Deleted.
30.135-15	In-kind contribution	30.200.
30.135-16	Nonprofit organization	Deleted.
30.135-17	Project	30.200.
30.135-18	Project costs	30.200.
30.135-19	Project officer	30.200.
30.135-20	Project period	30.200.
30.135-21	Regional Administrator	Deleted.
30.135-22	Subagreement	30.200.
	Subpart A—Basic Policies	
30.200	Grant simplification goals and policy.	Deleted.
30.205	Role of EPA	30.100.
30.210	Role of the grantee	30.309.
30.215	Records of grant actions	30.500.
30.220	Consolidated grants	30.200.
30.225	Foreign grants	30.200.
30.225-1	Clearance requirements	Deleted.
30.225-2	Criteria for award	Deleted.
30.225-3	Allowability of costs	Deleted.
30.225-4	Payments	Deleted.
30.230	Grants administration review	Deleted.
30.235	Disclosure of information	30.304.
30.245	Fraud and other unlawful or corrupt practices.	30.610.
	Subpart B—Application and Award	
30.300	Preapplication procedures	Deleted.
30.305	A-95 procedures	Deleted.
30.305-1	Specific areas of clearinghouse evaluation.	Deleted.
30.305-2	Notification of intent (A-95, Part I).	Deleted.
30.305-3	Time limitations	Deleted.
30.305-4	EPA processing	Deleted.
30.305-5	Programs requiring state plans and jointly-funded projects (A-95, Part III).	Deleted.
30.305-6	Coordination of planning in multijurisdictional areas (A-95, Part IV).	Deleted.
30.305-7	Confidential information	Deleted.
30.305-8	Specific requirements for the Construction Grant Program.	Deleted.
30.310	Unsolicited proposal	30.302.
30.315	Application requirements	Deleted.
30.315-1	Signature	30.303.
30.315-2	Forms	Deleted.
30.315-3	Time of submission	Deleted.
30.315-4	Place of submission	Deleted.
30.320	Use and disclosure of information.	30.304.
30.325	Evaluation of application	Deleted.
30.330	Supplemental information	Deleted.
30.335	Criteria for award of grant	Deleted.
30.340	Responsible grantee	30.301.
30.340-1	General policy	Deleted.
30.340-2	Standards	30.301.
30.340-3	Determination of responsibility.	30.301.
30.345	Award of grant	30.305.
30.345-1	Amount and terms of grant	Deleted.
30.345-2	Federal share	Deleted.
30.345-3	Grant agreement	30.305.
30.345-4	Costs incurred prior to execution.	30.308.
30.345-5	Effect of grant award	30.309.
30.350	Limitation on award	30.601 and 30.613.
30.355	Continuation grants	30.306.

Subpart C—Other Federal Requirements

Former section	Former title	New section
30.400	General grant conditions	Deleted.
30.405	Statutory conditions	30.600.
30.405-1	National Environmental Policy Act.	30.600(a).
30.405-2	Uniform Relocation Assistance and Real Property Acquisition Policies Act.	30.600(i).
30.405-3	Civil Rights Act of 1964	30.600(e).
30.405-4	Federal Water Pollution Control Act Amendments of 1972, Section 13.	30.600(d).
30.405-5	Title IX of the Education Amendments of 1972.	30.600(h).
30.405-6	Hatch Act	30.600(k).
30.405-7	National Historic Preservation Act.	30.600(a).
30.405-8	Public Law 93-291	30.600(a).
30.405-9	Demonstration Cities and Metropolitan Development Act.	40 CFR 29.
30.405-10	Flood Disaster Protection Act.	30.600(b).
30.405-11	Clean Air Act, Section 306	30.600(c).
30.405-12	Federal Water Pollution Control Act, Section 508.	30.600(d).
30.410	Executive Orders	30.600.
30.410-1	Executive Order 11246	30.600(e).
30.410-2	Executive Order 11988	30.600 (a) & (b).
30.410-3	Executive Order 11514	30-600(a).
30.410-4	Executive Order 11738	30.600 (c) & (d).
30.410-5	Executive Order 11990	30.600(a).
30.415	Additional requirements—federally assisted construction.	30.603.
30.415-1	Davis-Bacon Act	30.603(a).
30.415-2	The Copeland Act	30.603(b).
30.415-3	The Contract Work Hours and Safety Standards Act.	30.603(c).
30.415-4	Convict labor	30.603(d).
30.420	Additional requirements—all EPA grants.	Deleted.
30.420-1	Prohibition against contingent fees.	30.611.
30.420-2	Officials not to benefit	30.613.
30.420-3	Prohibition against violating facilities.	30.600.
30.420-4	Conflict of interest	30.613.
30.420-5	Employment practices	Deleted.
30.420-6	Conservation and efficient use of energy.	Deleted.
30.425	Special conditions	30.309(b).
30.430	Noncompliance	30.900.

Subpart D—Patents, Data and Copyrights

30.500	General	30.1100.
30.502	Definitions	Deleted.
30.505	Required provision regarding patent and copyright infringement.	App. B.
30.510	Patents and inventions	30.1101.
30.515	Required patent provision	App. B.
30.520	Optional patent provision	Deleted.
30.525	Data and copyrights	App. C.
30.530	Required data and copyright provision.	Deleted.
30.540	Deviations	30.1104.

Subpart E—Administration and Performance of Grants

30.600	General	Deleted.
30.605	Access	30.502.
30.610	Rebudgeting of funds	700(e).
30.615	Payment	Deleted.
30.615-1	Method of payment	30.400.
30.615-2	Cash depositories	30.400.
30.615-3	Withholding of funds	30-902.
30.615-4	Assignment	30.405.
30.620	Grant related income	30.525.
30.620-1	Proceeds from sale of real or personal property.	30.525.
30.620-2	Royalties received from copyrights and patents.	30.525.
30.620-3	Interest earned on grant funds.	30.526.
30.625	Grantee publications and publicity.	30.515.
30.625-1	Publicity	Deleted.
30.625-2	Publications	30.515.
30.625-3	Signs	30.515.
30.630	Surveys and questionnaires	30.515.
30.635	Reports	30.515.
30.635-1	Interim progress reports	30.505.
30.635-2	Final report	30.505.
30.635-3	Financial reports	30.505.
30.635-4	Invention reports	30.505.
30.635-5	Property reports	30.505.
30.635-6	[Reserved]	
30.635-7	Compliance	Deleted.
30.640	Utilization of Government procurement sources.	30.538.
30.645	Force account work	30.520.

Subpart F—Project Costs

30.700	Use of funds	30.307.
30.705	Allowable costs	30.410.
30.705-1	Payment to consultants	40 CFR 33.
30.710	Federal cost principles	30.410.
30.715	Direct and indirect costs	30.412.
30.715-1	Direct costs	30.412.
30.715-2	Indirect costs	30.412.
30.720	Cost sharing	30.307.
30.725	Cost and price analysis	40 CFR 33.
30.725-1	Policy	40 CFR 33.
30.725-2	Price analysis	40 CFR 33.
30.725-3	Cost analysis	40 CFR 33.
30.725-4	Requirements	40 CFR 33.

Subpart G—Grantee Accountability

30.800	Financial management	30.510.
30.805	Records	30.500.
30.810	Property	30.531.
30.810-1	Definitions	30.200.
30.810-2	Purchase of property	30.530.
30.810-3	Property management standards.	30.531.
30.810-4	Title to property	30.530.
30.810-5	Real property	30.535.
30.810-6	Federally-owned nonexpendable personal property.	30.536.
30.810-7	Nonexpendable personal property acquired with Federal funds.	30.532.
30.810-8	Expendable personal property acquired with grant funds.	30.532.
30.810-9	Property reports	30.505.
30.815	Final settlement	30.802.
30.820	Audit	30.540.

Subpart H—Modification, Suspension and Termination

30.900	Project changes and grant modifications.	30.700.
30.900-1	Formal grant amendments	30.700.
30.900-2	Administrative grant changes.	Deleted.
30.900-3	Transfer of grants, change of name agreements.	30.700.
30.900-4	Grantee projects changes	30.705.
30.915	Suspension of grants—stop-work orders.	30.901.
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30.1100	Final Disputes decision	Subpart L.
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30.1120	Decision of the Administrator.	Subpart L.
30.1125	Questions of law	Deleted.
30.1130	Delegation of authority	Deleted.
30.1150	Appeal procedures	Deleted.
3Appendix A	General Grant Conditions	Deleted.
Appendix B	Patents and Inventions	Deleted.
Appendix C	Rights in Data and Copyrights.	App. C.

Response to Comments

In response to our request for comments on the proposed rule published in the **Federal Register** (47 FR 26564) on June 18, 1982, we received 19 letters and 2 telephone calls.

Format

This regulation uses a question/answer format designed to make it more readable and understandable and to lead a new applicant through the entire assistance process. In the preamble of the proposed rule, we requested comments on the readability of the rule. All who responded to the question believed the new format assisted them and was preferable to the previous regulation.

Definitions

Several commenters addressed the proposed definitions; the major comments are noted below.

"Allowable costs": One commenter was concerned that the proposed definition excluded costs incurred while performing tasks under a formal amendment. That person suggested that the phrase "and within the scope of work approved by the assistance agreement or formal amendment" be added to the definition. When a formal amendment is executed, it becomes part of the assistance agreement. Therefore, no change is necessary.

"Cooperative agreement and grant agreement": Another commenter wanted

the regulation to specify which programs award grant agreements and which award cooperative agreements. On October 30, 1979, EPA published (44 FR 62331) EPA Order 1000.19 which contains that information. We agree that Part 30 should contain that information and we have added it to the chart of EPA assistance programs in Appendix A.

"Program income": The definition which we proposed included income received from the sale of unneeded property and fees received on royalties. A commenter pointed out that this conflicted with OMB Circular A-102, Attachment E. Therefore, we modified the definition by eliminating the reference to unneeded property and made it clear that fees received on royalties are not program income unless the assistance agreement states that they will be. Unneeded property is handled under the property disposals requirements in § 30.532.

"Unsolicited proposal": A commenter indicated that, as proposed, this definition was inconsistent with § 30.302(c) (§ 30.302(b) in the final rule) which requires all applicants to complete a standard application before receiving an award. In the final rule, we have deleted the phrase "unsolicited proposals need not be submitted on an EPA standard application form" from the definition. An unsolicited proposal is a written request for review of a proposed project. EPA will review an unsolicited proposal in terms of EPA's needs and will determine whether the award should be either a contract or an assistance agreement. Before EPA will award an assistance agreement under this Part you must submit a standard application for the proposal.

Application Process

On July 14, 1982, President Reagan issued Executive Order 12372. That order directed the Director of the Office of Management and Budget (OMB) to revoke the intergovernmental review system governed by OMB Circular A-95 and to develop a new process and regulation to allow States to establish their own processes for State and local elected officials to review and coordinate proposed Federal financial assistance. Under the new system, a State may choose whether to have a consultation process and what Federal programs to cover with the process.

However, the Order directs Federal agencies to operate under the existing A-95 procedure until September 30, 1983. EPA's new regulation, 40 CFR Part 29 (48 FR 29288, June 24, 1983) implements the new process and will be effective for assistance awards made after September 30, 1983. In this final rule we have deleted all references to OMB Circular A-95. However, the A-95 requirements remain in effect for assistance agreements awarded before October 1, 1983. The A-95 requirements are found in 40 CFR Part 30, as revised through July 1, 1982, (§§ 30.305 through 30.305-8).

Section 30.305 requires recipients to sign and return EPA assistance agreements within three weeks of receiving them from EPA. One commenter thought the requirement to return the signed agreement was unnecessary paperwork which caused delays and suggested that the recipient's application should be sufficient to demonstrate their intent to accept an award. We believe the recipient's signed, formal and timely acceptance of an award is necessary to assure that money is not tied up unduly where recipients decide not to proceed with a project. Also, the requirement reduces the chance for misunderstandings because the recipient acknowledges and accepts all special conditions.

Section 30.306(d) permits EPA to reimburse recipients for allowable costs incurred between the end of a budget period and date of award for the next budget period. A commenter identified an inconsistency between this section and § 35.140(b) of our proposed Part 35, Subpart A, "State and Local Financial Assistance for Continuing Environmental Programs" regulation (47 FR 25912, June 15, 1982). While proposed Part 30 did not address submission of an application, the final Part 35, Subpart A, § 35.141 (47 FR 44946, October 12, 1982) requires that in order to be reimbursed for prior incurred cost, the applicant must submit a continuation application before the expiration of the prior budget period. We think this is necessary for good program management and have included it in this final rule.

Section 30.307 requires recipients to contribute at least five percent of total allowable project cost for each budget period. One commenter objected to the requirement, calling it burdensome and unnecessary. We disagree. The Department of Housing and Urban Development Independent Agencies Appropriation Act (Pub. L. 97-272), which governs EPA, requires recipients of research assistance for proposals not specifically solicited by EPA to cost share. Many EPA recipients fit this category. The extent of cost sharing EPA requires will be at least five percent, but will reflect the mutuality of interest of the recipient and EPA in the project. We do not believe the cost sharing requirement prevents institutions from participating in our programs.

Payment

Section 30.400 describes three alternative methods EPA may use to pay recipients. One commenter was concerned that EPA was limiting advance payments to the initial request with reimbursement thereafter. This was not our intent, so we have clarified that provision. When a recipient submits a "Request for Advance or Reimbursement" (SF-270), it indicates the amount of its expenditures to date and its cash needs for the coming period. EPA's advance payment will be sufficient to meet those future needs, provided the request is reasonable.

Section 30.405 prohibits assigning payment to anyone other than the recipient. A commenter pointed out that this conflicts with § 35.2025(b)(2) of EPA's Grants for Construction of Treatment Works regulation which permits States to assign their payments for advances of allowance to small communities. We have revised this final rule to reflect this exception.

Section 30.410 describes the cost principles applicable to different categories of recipients. A commenter asked which ones apply to "subrecipients" or "subcontractors." Regardless of whether the organization is the recipient of the award or performing services for the recipient, the nature of the organization is the sole criterion for determining applicable cost principles. For example, State governments must comply with OMB Circular A-87; educational institutions must comply with OMB Circulars A-21 and A-88. We have clarified this point.

Section 30.412 defines direct and indirect costs. One commenter believed our proposed definitions were inadequate and inconsistent with OMB's definitions. We accepted this suggestion to rely on the OMB's definitions.

Assistance Management

Section 30.501 requires recipients of construction grants to retain records for three years from the approval date of EPA's final payment. A commenter was concerned about the effect of this requirement on step 1 or step 2 wastewater treatment construction grants since audits are generally performed after the completion of the step 3 grant. We developed this final rule in conjunction with the new construction grant regulation. Under that regulation and in accordance with Pub. L. 97-117, EPA no longer awards step 1 or step 2 construction grants. Step 1 or Step 2 grants awarded before the effective date of this regulation are subject to the previous Part 30.

Section 30.502 establishes EPA's right of access to the recipient's and contractor's project records. As proposed, this provision did not include delegated States under the wastewater treatment construction grants program. We have revised this rule to include delegated States.

Section 30.505(b) requires recipients to submit a financial status report (FSR) within 90 days after the end of each budget period. Several commenters indicated that the FSR is seldom final because it often includes unliquidated obligations. Since a final FSR must show that all obligations are liquidated, we clarified the final rule to state that a FSR is required within 90 days after the end of each budget period and a final FSR is required immediately after all obligations are liquidated. We added a provision to allow the Award Official to disallow unliquidated obligations if they are not expended within a reasonable time after the 90 day period.

Section 30.505(d) requires recipients to submit an annual inventory of all *Federally owned* property used on the project. Several commenters objected that this requirement exceeds the requirements for property management in OMB Circular A–102. This section applies only to property owned by a Federal agency, and such reports are required by the Circular and the lease agreements. Title to property which recipients purchase with assistance funds vests in the recipient and is governed by § 30.530.

Section 30.518 requires that recipients of EPA assistance comply with EPA Order 2200.4 (December 28, 1981) which establishes a peer and administrative review process for scientific, informational, and educational documents attributable to EPA. The Agency peer and administrative review gives EPA the opportunity to evaluate a document for scientific and informational credibility and to determine an estimated cost for its production and distribution.

Numerous commenters expressed concern that the Agency review requirements violate the principle of academic freedom and would preclude their universities from accepting research awards. EPA now recognizes that the proposed regulation did not adequately clarify the intent of the Agency Order. Our intent is not to become substantially involved in the development of a report, nor is it to mold the final conclusions to fit our policies. Rather, the sole intent of the Order is to insure the high quality, completeness, and accuracy of documents EPA publishes.

Several commenters requested the option to publish research results in their own monographs or laboratory research series or other non-refereed journals before submission of the report to EPA. Under EPA's peer and administrative review process, EPA must decide whether to publish a report as an EPA document or to allow independent publication of the report. The only exception EPA can make is independent publication in a refereed journal because the journal's peer review process replaces an EPA peer review. If EPA decides not to release the report to the public as an EPA publication, the recipient may independently publish the report with the appropriate disclaimer.

Other commenters stated that the Agency's peer and administrative review conflicts with the Federal Grant and Cooperative Agreement Act of 1977, because it represents substantial Federal involvement in the development and delivery of technical reports under research grants. EPA disagrees. The peer review process takes place at the conclusion of a project, not while it is underway. EPA has the right to review and evaluate research results and to make suggestions which EPA feels would enhance the credibility of the report. Recipients do not have to incorporate these suggestions.

Finally, other commenters were concerned that their final reports would not be accepted or assistance agreements closed out until EPA peer reviewers determined their reports were acceptable. Again, the purpose of the Order is to protect the technical and scientific quality of public materials published by EPA. As soon as a decision is reached as to whether the report will be published as an EPA report, the assistance agreements may be closed out. Appropriate time will be included in schedules for future grant and cooperative agreements to permit the conduct of review within the project period.

(Recipients should be aware that EPA considers printing by the National Technical Information Service to be a cost-effective method of publishing EPA documents.)

Section 30.530 governs recipients' purchase of property. Several commenters argued that some provisions of this section exceed the requirements in OMB Circular A–110. In response we revised § 30.530 to be consistent with A–110. In accordance with Section 7(b) of Pub. L. 95–224 (41 U.S.C. 506), generally EPA will not restrict the use or disposition of personal property purchased by non-profit institutions of higher education, or by non-profit organizations whose primary purpose is the conduct of scientific research, if the property is for the conduct of basic or applied research. However, consistent with A–110, EPA reserves the right to transfer the title to non-expendable personal property with a unit acquisition cost of $1,000 or more to the Federal Government or a third party by establishing that right in the assistance agreement or otherwise establishing that right in writing.

Other commenters questioned the need for the award official's approval of purchases of property or equipment costing $10,000 or more, as required in § 30.530(a). We believe that requirement is needed to assure that property or equipment purchased with EPA assistance is both necessary for the project and not available from other sources. To avoid delays, award officials may approve equipment purchases at the time of the award, provided the items and estimated costs are specifically identified in the assistance agreement.

Section 30.531 establishes property management standards for non-expendable personal property. These standards apply to all organizations governed by OMB Circular A–102. In the final rule, we made it clear that they do not apply to certain organizations governed by OMB Circular A–110 unless EPA reserves the right to transfer such property in the assistance agreement.

Section 30.538 prohibits recipients from using excess Government property. One commenter recommended that EPA eliminate this section since he knew of no such statutory prohibition. While there is no statutory prohibition, Section 3 of Pub. L. 94–519 generally requires Federal agencies to pay the United States Treasury 25% of the original acquisition cost of excess Government property whenever such property is transferred to an eligible recipient. Because of the cost to EPA of complying with the 25% payment requirement, it is EPA's policy to prohibit EPA recipients from using excess Government property.

Section 30.540 describes audit requirements. Several commenters requested that we distinguish between audit requirements for A–102 organizations and A–110 organizations. The final rule includes separate provisions for these two groups. A–102 organizations must comply with Attachment P, which requires a recipient to conduct an organization-wide audit once every two years to evaluate the fiscal integrity of its financial system and to determine its compliance with the terms and conditions of the

assistance agreement. A-110 organizations must comply with the provisions of OMB Circular A-88, which requires all Federal agencies to rely on audits performed by agencies assigned audit cognizance for the recipient.

Assistance Agreement Changes

Sections 30.700 and 30.705 identify the types of changes which require prior EPA approval by formal amendment and those which recipients may make without prior EPA approval. Former Part 30 required recipients to get prior EPA approval on budget changes in excess of 10% or $10,000 of the project budget. The proposed rule did not include these dollar amount restrictions. Several commenters questioned the wisdom of this deletion. We believe the former Part 30 requirements were too stringent and did not provide recipients with sufficient flexibility to manage their projects. Further, the small benefit to EPA provided by this requirement does not justify the costs of processing change requests and related project delays.

Interest Charges

Section 30.802(a) in the proposed rule stated that "final settlement is not complete until all claims, audits, appeals, and litigations are resolved." If the recipient owes EPA funds as a result of any of these actions, it must reimburse the Federal government that amount before the project is settled. We have restructured this section for clarity. § 30.802(b) requires the recipient to pay interest on any amount owed EPA if the recipient fails to pay within 30 days of the date of the award official's determination (see Subpart L).

One commenter questioned EPA's authority to charge interest on overdue debts. Since April 30, 1979, EPA has had the responsibility to assess interest on all debts (Federal Claims Collection Standards, 4 CFR 102.12). In addition, provisions in two EPA appropriations acts (Pub. L. 96-526, § 416, 1980, and Pub. L. 96-304, section 306, 1980) and Office of Management and Budget Circular A-50 require EPA to charge interest on outstanding debts. The Agency implemented this requirement administratively in October 1981. Thus, rather than exceeding authority, EPA actually has been slow in carrying out its responsibility.

We have revised § 30.802, however, to comply with the Federal Debt Collection Act of 1982 (October 25, 1982) which amended the Federal Claims Collection Act of 1966. The 1982 Act directs Federal agencies to assess interest, penalties, and handling charges on all debts, except for the debts of State and local governments. We will continue to charge State and local governments interest on overdue debts. The General Accounting Office (GAO) in an August 23, 1983, Comptroller General Decision (B-212222, "Debt Collection Administrative Offset and Interest against State and local governments"), stated that although the Debt Collection Act does not apply to State and local governments, the Act does not prohibit Federal agencies from collecting interest charges on the overdue debts of State and local governments. The GAO decision concluded that to the extent that there is authority other than sections 10 and 11 of the Debt Collection Act of 1982 (whether the authority is founded in statute or common law), Federal agencies are authorized to use administrative offset and to assess interest against State and local governments in order to collect debts owed to the United States. The Federal Claims Collection Standards (4 CFR 102.12) and OMB Circular A-50 allows EPA to use administrative offset on debts owed by State and local governments. EPA's authority to collect interest on overdue debts owed by State and local governments to the United States is contained in the Federal Claims Collection Standards, Treasury Fiscal Requirements Manual 6-8000, OMB Circular A-50, Pub. L. 96-526, and Pub. L. 96-304. Accordingly, § 30.802(c) exempts State and local governments from penalty and handling charges, but makes it clear that these types of recipients will be charged interest charges on all overdue debts.

The same commenter also argued that the effect of the interest rule will be "to chill the use of the grant appeal process". We disagree. Once the award official determines that funds are owed to EPA, this is a legitimate debt, subject to interest charges. The interest requirements do not restrict the use of the appeals process.

Before the award official makes a proposed determination, the recipient is given an opportunity to review the proposed findings and present any facts in its favor to alter the decision. Consequently, interest does not begin to accrue until *after* the recipient has an opportunity to rebut the findings. Additionally, since interest does not accrue until 30 days after the award official's proposed decision, the recipient can avoid interest altogether by immediately paying the amount owed in the award official's decision and then appealing.

Non-Compliance Actions

Section 30.900 describes the alternative actions EPA may take when a recipient fails to comply with the terms and conditions of its assistance agreement. Several commenters questioned the use of "stop work order" and "withholding of payment" actions. They argued that while a "stop work order" is required by the Defense Acquisition Regulations it is not authorized by OMB Circulars A-102 or A-110. We disagree. OMB Circulars A-102, Attachment L, and A-110, Attachment L require Federal agencies to establish procedures to follow when recipients fail to comply with terms and conditions of an agreement. Both Circulars permit Federal agencies, upon reasonable notice to the recipient, to suspend the award, withhold further payments or prohibit the recipient from incurring additional costs. It is EPA policy that full and prompt payment be made to recipients for eligible project costs. However, when recipients are not complying with their assistance agreements, EPA has the responsibility to take corrective actions.

Appeals

One commenter was concerned about the lack of access of the Audit Resolution Board decisions. These decisions are available upon request. You may receive copies of decisions by contacting:

Chairman, EPA Audit Resolution Board, 401 M Street, SW., Washington, D.C. 20460

Section 30.1235 lists EPA decisions that a recipient may not appeal. Several commenters wanted to know why "advanced wastewater treatment decisions of the Administrator" and "policy decisions of the EPA Audit Resolution Board" cannot be appealed. They are not appealable because both decisions are made at high administrative levels in EPA Headquarters. In the first case, the decision is made by the Administrator, and in the second case, the Audit Resolution Board is acting under a delegation from the Administrator. The Audit Resolution Board consists of the Assistant Administrator for Administration, the Associate Administrator for the Office of Legal and Enforcement Counsel, the Assistant Administrator from the affected program office and a Regional Administrator.

Financial Assistance Disputes Procedures. Subpart L sets forth new procedures for resolving assistance disputes between EPA officials and assistance recipients or applicants. Under the existing appeal process, disputes over final decisions in EPA assistance programs ultimately were resolved by the EPA Board of Assistance Appeals (the Board) at EPA

Headquarters. The Board was established by the Agency in 1979 (see 40 CFR Part 30, Subpart J, and the appeal procedures published at 44 FR 46770 August 8, 1979). The existing Board process, which operates outside the Agency's policy and rulemaking system administered by program managers, has made assistance disputes resolution extremely adversarial. Based on this experience, EPA has developed a new administrative review process in Subpart L which it believes is a better system to resolve EPA's assistance disputes. The new process complements other Agency efforts to improve the management of EPA's assistance programs and gives the Agency's program managers full control over and responsibility for the fair and efficient resolution of assistance disputes.

The new process will:

1. Encourage cooperation between the Agency's officials and those applying for and receiving assistance;

2. Develop a good administrative record to support the Agency's final decisions;

3. Provide applicants and recipients high-level review of Agency decisions and a forum for resolving disputes informally, expeditiously, and inexpensively.

4. Provide applicants and recipients a written decision explaining the basis for the position.

Fair and consistent dispute resolution remains a central principle of administering EPA's assistance programs. The procedures in Subpart L continue to give recipients and applicants the right to request a high level review of decisions concerning issues arising under the EPA assistance programs. Under these procedures, disputes over Regional decisions are subject to review by the Regional Administrator and possible further administrative review by the Assistant Administrator of the program office responsible for the assistance program. Decisions concerning assistance programs administered by EPA Headquarters are subject to review by the Assistant Administrator of the appropriate program office. In cases where the Regional Administrator or the Assistant Administrator rendered the initial decision, the request for review will be regarded as a request for reconsideration of that decision.

This new process should be more efficient than the Board system because it is a relatively simple, expeditious, and inexpensive means to resolve disputes. It eliminates the need for the routine involvement of Headquarters personnel in every assistance appeal. For consistency in deciding appeals, the Headquarters award official and Regional Administrators will be able to consult with the Office of General Counsel and Headquarters program offices. Further, potential access to the Assistant Administrators will help assure consistency.

We have determined that it is appropriate to make Subpart L effective for all new appeals filed after October 31, 1983, regardless of when EPA awarded the financial assistance. Delaying implementation until November 1, 1983, will give EPA Headquarters and Regional program offices the opportunity to prepare for their increased responsibilities in disputes resolution. The EPA Board of Assistance Appeals will resolve appeals docketed before October 1, 983.

Quality Assurance

EPA's policy is that all environmentally related measurements and data collected and used in EPA assistance programs be scientifically sound, defensible, and of known, acceptable, documented quality. On March 12, 1982, OMB cleared the paperwork requirements of EPA's quality assurance (QA) program. Therefore, we are including the quality assurance requirements in the final rule.

We have added five definitions to § 30.200: "Environmentally related measurements," "quality assurance narrative statement," "quality assurance program plan," "quality assurance project plan," and "standard operating procedure."

Effective with assistance agreements awarded for fiscal year 1984, recipients will need to implement a QA program consistent with EPA's QA policy if their projects involve environmentally related measurements. Recipients must submit with their application a QA plan which meets EPA's requirements in § 30.503.

If you are applying for non-research financial assistance you must submit a QA plan (either a program plan or a project plan), acceptable to the award official, for all programs involving environmentally related measurements (see § 30.302). If you are applying for research financial assistance (either a grant or a cooperative agreement), you must submit a narrative statement on quality assurance, acceptable to the award official with your application.

Section 30.503 explains the required contents of a QA plan. The program or project plan should also comply with the guidelines in the following documents:

1. "Guidelines and Specifications for Preparing Quality Assurance Program Plans," QAMS-004/80 (EPA-600/8-83-024; NTIS PB 83-219667).

2. "Interim Guidelines and Specifications for Preparing Quality Assurance Project Plans," QAMS-005/80 (EPA-600/4-83-004; NTIS PB83-170514).

These documents may be obtained by writing to:

National Technical Information Service, 5885 Port Royal Road, Springfield, Virginia 22161

We received several questions on whether the QA policy applies to recipients of wastewater treatment construction grants under Title II of the Clean Water Act. If a construction grant agreement specifically requires the recipient to gather environmentally related data, the recipient must comply with the requirements in § 30.302.

Improper Use of Assistance Funds

On April 26, 1982, the Director of the Office of Management and Budget instructed all Federal agencies to examine existing award procedures to ensure that assistance funds were not being used to influence legislation or appropriations pending before Congress or used for partisan or political advocacy purposes. After reviewing our current practices, we have determined we need to make recipients more aware of this restriction on the use of assistance funds. In the final rule, we have added these restrictions (see § 30.601).

Regulation Development

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and, therefore, subject to the regulatory impact analysis requirements of the Order. We have determined that this regulation is not "major" as it will not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. There will be no major increase in costs or prices for consumers, individuals, industries, or Federal, State, or local governments. The rule was submitted to the Office of Management and Budget for review as required by Executive Order 12291.

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq., the information provisions in this rule have been approved by the Office of Management and Budget [OMB Clearance Nos. 2000-006, 2000-0403, 2010-0003, 2010-0004, and 2010-0005.]

Dated: September 22, 1983.

List of Subjects in 40 CFR Part 30

Administrative practice and procedure, Environmental protection, Grant programs—environmental protection, Inventions and patents,

Copy-right, Reporting and recordkeeping requirements.

Alvin L. Alm,

Acting Administrator.

For the reasons set forth in the preamble, EPA is revising 40 CFR Part 30 to read as follows:

PART 30—GENERAL REGULATION FOR ASSISTANCE PROGRAMS

Subpart A—What is the purpose and scope of this regulation?

Sec. 30.100 What is the purpose of this regulation?
Sec. 30.101 What is the scope of this regulation?
Sec. 30.102 What laws authorize EPA to issue this regulation?

Subpart B—What definitions apply to this regulation?

Sec. 30.200 What definitions apply to this regulation?

Subpart C—How do I apply for and receive assistance?

Sec. 30.300 What activities does EPA fund?
Sec. 30.301 To whom does EPA award assistance?
Sec. 30.302 How do I apply for assistance?
Sec. 30.303 What steps must I take when filing a standard application?
Sec. 30.304 Is the information I submit to EPA confidential?
Sec. 30.305 How do I find out if EPA approved or disapproved my application?
Sec. 30.306 How long will I have to complete my project?
Sec. 30.307 How much must I contribute to the funding of my project?
Sec. 30.308 When may I begin incurring costs?
Sec. 30.309 What is the effect of accepting an assistance agreement?

Subpart D—How does EPA pay me?

Sec. 30.400 How does EPA make payments?
Sec. 30.405 Can I assign my payments to anyone else?
Sec. 30.410 How does EPA determine allowable costs?
Sec. 30.412 How are costs categorized?

Subpart E—How do I manage my award?

Sec. 30.500 What records must I maintain?
Sec. 30.501 How long must I keep these records?
Sec. 30.502 To whom must my contractors and I show these records?
Sec. 30.503 What type of quality assurance practices am I required to have?
Sec. 30.505 What reports must I submit?
Sec. 30.510 What type of financial management system must I maintain?
Sec. 30.515 What restrictions on signs, surveys, and questionnaires must I observe?
Sec. 30.518 What are the procedures of publishing scientific, informational, and educational documents?
Sec. 30.520 When may I use my own employees ("force account")?
Sec. 30.525 How should I treat program income?
Sec. 30.526 How do I treat interest earned on EPA funds?
Sec. 30.530 May I purchase personal property using EPA assistance funds?
30.531 What property management standards must I follow for nonexpendable personal property purchased with an EPA award?
30.532 How do I dispose of personal property?
30.535 May I purchase real property with EPA awarded funds?
30.536 How do I manage Federally-owned property?
30.537 Are contractors required to comply with EPA property policies?
30.538 May I use General Services Administration (GSA) supplies and services?
30.540 Who will audit my project?

Subpart F—What Other Federal Requirements Must I Comply With?

30.600 What Federal laws and policies affect my award?
30.601 Are there restrictions on the use of assistance funds for advocacy purposes?
30.603 What additional Federal laws apply to EPA assisted construction projects?
30.610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?
30.611 Can I hire a person or agency to solicit EPA assistance for me?
30.612 May an EPA employee act as my representative?
30.613 What is EPA's policy on conflict of interest?
30.615 May I employ a former EPA employee and still receive assistance?

Subpart G—Can an Assistance Agreement be Changed?

30.700 What changes to my assistance agreement require a formal amendment?
30.705 What changes can I make to my assistance agreement without a formal amendment?
30.710 Can I terminate a part or all of my assistance agreement?

Subpart H—How do I Close out my Project?

30.800 What records and reports must I keep after I complete my project?
30.802 Under what conditions will I owe money to EPA?

Subpart I—What Measures may EPA Take for Non-compliance?

30.900 What are the sanctions for non-compliance?
30.901 What are the consequences of a stop-work order?
30.902 What are the consequences of withholding payments?
30.903 What are the consequences of termination for cause?
30.904 What are the consequences of annulment?
30.905 May I appeal a termination, or annulment?
30.906 What are the consequences of suspension or debarment?

Subpart J—Can I get an Exception ("Deviation") From These Regulations?

30.1001 Will EPA grant any exceptions to these regulations?
30.1002 Who may request a deviation?
30.1003 What information must I include in a deviation request?
30.1004 Who approves or disapproves a deviation request?
30.1005 May I appeal a deviation decision?

Subpart K—What Policies Apply to Patents, Data, and Copyrights?

30.1100 What assistance agreements are subject to EPA patent rules?
30.1101 What Federal patent laws or policies govern my assistance agreement?
30.1102 What are my invention rights and my reporting requirements if my award is other than an award under section 6914 of RCRA?
30.1103 What are my invention rights and obligations if I am a profitmaking firm with an award under section 6914 of RCRA?
30.1104 Can I get a waiver from section 6981(c) of RCRA?
30.1105 Do the patent rules apply to subagreements?
30.1108 Does EPA require any type of licensing of background patents that I own?
30.1112 Are there any other patent clauses or conditions that apply to my award?
30.1130 What rights in data and copyrights does EPA acquire?

Subpart L—How are Disputes Between EPA Officials and me Resolved?

30.1200 What happens if an EPA official and I disagree about an assistance agreement requirement?
30.1205 If I file a request for review, with whom must I file?
30.1210 What must I include in my request for review or reconsideration?
30.1215 What are my rights after I file a request for review or reconsideration?
30.1220 If the Assistant Administrator confirms the proposed decision of the Headquarters disputes decision official, may I seek further administrative review?
30.1225 If the Regional Administrator confirms the proposed decision of the Regional disputes decision official, may I seek further administrative review at EPA Headquarters?
30.1230—Will I be charged interest if I owe money to EPA?
30.1235 Are there any EPA decisions which may not be reviewed under this subpart?

Appendix A—EPA Programs.
Appendix B—Patents and Copyrights Clauses.
Appendix C—Rights in Data and Copyrights.
Appendix D—Part 30 Reporting Requirements.

Authority: 33 U.S.C. 1251 et seq.; 42 U.S.C. 7401 et seq.; 42 U.S.C. 6901 et seq.; 7 U.S.C. 300f et seq.; 7 U.S.C. 136 et seq.; 15 U.S.C. 2601 et seq.; 42 U.S.C. 9601 et seq.

Subpart A—What Is the Purpose and Scope of This Regulation?

§ 30.100 What is the purpose of this regulation?

(a) The U.S. Environmental Protection Agency (EPA) is responsible for protecting and enhancing the quality of the environment. To achieve these objectives, EPA may award assistance in the form of grants, cooperative agreements, or fellowships to support: (1) State and local pollution control programs; (2) research, demonstration, or training projects; and (3) other projects that advance EPA's mission.

This regulation tells how to apply for and manage an EPA project, describes EPA involvement in the process, and identifies recipients' responsibilities. Other EPA assistance regulations supplement these. They are found in 40 CFR Part 32 (Debarment), Part 33 (Procurement Under Assistance Agreements), Part 35 (State and Local Assistance), Part 40 (Research and Demonstration), Part 45 (Training) and Part 46 (Fellowships).

(c) This regulation incorporates the requirements of Office of Management and Budget (OMB) Circulars and EPA Orders.

(d) Recipients must provide the reporting information required in this part to be eligible for EPA assistance awards.

[Note.—The OMB clearances required by the Paperwork Reduction Act are identified in Appendix D to this part.]

§ 30.101 What is the scope of this regulation?

This regulation covers financial assistance awards made as grants or cooperative agreements under requirements of the Federal Grant and Cooperative Agreement Act (P.L. 95–224). It does not cover direct EPA contracts under which EPA acquires property or services for its use.

§ 30.102 What laws authorize EPA to issue this regulation?

Reorganization Plan Number 3 of 1970 and the following statutes authorize the Administrator of EPA to issue this regulation.

(a) The Clean Water Act, as amended (33 U.S.C. 1251 et seq.);

(b) The Clean Air Act, as amended (42 U.S.C. 7401 et seq.);

(c) The Solid Waste Disposal Act, as amended (42 U.S.C. 6901 et seq.);

(d) The Safe Drinking Water Act, as amended (42 U.S.C. 300f et seq.);

(e) The Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 136 et seq.);

(f) The Toxic Substances Control Act (15 U.S.C. 2601 et seq.); and

(g) The Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601 et seq.).

SUBPART B—WHAT DEFINITIONS APPLY TO THIS REGULATION?

§ 30.200 What definitions apply to this regulation?

"Allowable costs." Those project costs that are: eligible, reasonable, necessary, and allocable to the project; permitted by the appropriate Federal cost principles, and approved by EPA in the assistance agreement.

"Applicant." Any entity that files an application or unsolicited proposal for EPA financial assistance under this subchapter.

"Assistance agreement." The legal instrument EPA uses to transfer money, property, services, or anything of value to a recipient to accomplish a public purpose. It is either a grant or a cooperative agreement and will specify: budget and project periods; the Federal share of eligible project costs; a description of the work to be accomplished; and any special conditions.

"Award official." The EPA official with the authority to execute assistance agreements and to take other actions authorized by this subchapter and by EPA Orders.

"Budget period." The length of time EPA specifies in an assistance agreement during which the recipient may expend or obligate Federal funds.

"Consolidated assistance." An assistance agreement awarded under more than one EPA program authority or funded together with one or more other Federal agencies. Applicants for consolidated assistance submit only one application.

"Continuation award." An assistance agreement after the initial award, for a project which has more than one budget period in its approved project period (see § 30.306).

"Contractor." Any party to whom a recipient awards a subagreement.

"Cooperative agreement." An assistance agreement in which substantial EPA involvement is anticipated during the performance of the project (does not include fellowships).

"Cost sharing." The portion of allowable project costs that a recipient contributes toward completing its project (i.e., non-Federal share, matching share).

"Environmentally related measurements." Any data collection activity or investigation involving the assessment of chemical, physical, or biological factors in the environment which affect human health or the quality of life. The following are examples of environmentally related measurements: (a) A determination of pollutant concentrations from sources or in the ambient environment, including studies of pollutant transport and fate; (b) A determination of the effects of pollutants on human health and on the environment; (c) A determination of the risk/benefit of pollutants in the enviroment; (d) A determination of the quality of environmental data used in economic studies; and (e) A determination of the environmental impact of cultural and natural processes.

"Expendable personal property." All tangible personal property other than nonexpendable personal property.

"Force account work." The use of the recipient's own employees or equipment for construction, construction-related activities (including A & E services), or for repair or improvement to a facility.

"Foreign grants." An EPA award of assistance when all or part of the project is performed in a foreign country by (a) a U.S. recipient, (b) a foreign recipient, or (c) an international organization.

"Formal amendment." A written modification of an assistance agreement signed by both the authorized representative of the recipient and the award official.

"Grant agreement." An assistance agreement that does not substantially involve EPA in the project and where the recipient has the authority and capability to complete all elements of the program (does not include fellowships).

"In-kind contribution." The value of a non-cash contribution to meet a recipient's cost sharing requirements. An in-kind contribution may consist of charges for real property and equipment or the value of goods and services directly benefiting the EPA funded project.

"Nonexpendable personal property." Personal property with a useful life of at least two years and an acquisition cost of $500 or more.

"Personal property." Property other than real property. It may be tangible (having physical existence), such as equipment and supplies, or intangible (having no physical existence), such as patents, inventions, and copyrights.

"Program income." Gross income the recipient earns during its project period from charges for the project. This may include income from service fees, sale of commodities, trade-in allowances, or usage or rental fees. Fees from royalities

are program income only if the assistance agreement so states. Revenue generated under the governing powers of a State or local government which could have been generated without an award is not considered program income. Such revenues include fines or penalties levied under judicial or penal power and used as a means to enforce laws. (Revenue from wastewater treatment construction grant projects under Title II of the Clean Water Act, as amended, is not program income. It must be used for operation and maintenance costs of the recipient's wastewater facilities.)

"Project." The activities or tasks EPA identifies in the assistance agreement.

"Project costs." All costs the recipient incurs in carrying out the project. EPA considers all allowable project costs to include the Federal share.

"Project officer." The EPA official designated in the assistance agreement as EPA's program contact with the recipient. Project officers are responsible for monitoring the project.

"Project period." The length of time EPA specifies in the assistance agreement for completion of all project work. It may be composed of more than one budget period.

"Quality assurance narrative statement." A description of how precision, accuracy, representativeness, completeness, and compatibility will be assessed, and which is sufficiently detailed to allow an unambiguous determination of the quality assurance practices to be followed throughout a research project.

"Quality assurance program plan." A formal document which describes an orderly assembly of management policies, objectives, principles, organizational responsibilities, and procedures by which an agency or laboratory specifies how it intends to:

(a) Produce data of documented quality, and

(b) Provide for the preparation of quality assurance project plans and standard operating procedures.

"Quality assurance project plan." An organization's written procedures which delineate how it produces quality data for a specific project or measurement method.

"Real property." Land, including land improvements, and structures and appurtenances, excluding movable machinery and equipment.

"Recipient." Any entity which has been awarded and accepted an EPA assistance agreement.

"Standard operating procedure." A document which describes in detail an operation, analysis, or action which is commonly accepted as the preferred method for performing certain routine or repetitive tasks.

"Subagreement." A written agreement between an EPA recipient and another party (other than another public agency) and any lower tier agreement for services, supplies, or construction necessary to complete the project. Subagreements include contracts and subcontracts for personal and professional services, agreements with consultants, and purchase orders.

"Violating facility." Any facility that is owned, leased, or supervised by an applicant, recipient, contractor, or subcontractor that EPA lists under 40 CFR Part 15 as not in compliance with Federal, State, or local requirements under the Clean Air Act or Clean Water Act. A facility includes any building, plant, installation, structure, mine, vessel, or other floating craft.

"Unsolicited proposal." An informal written offer to perform EPA funded work for which EPA did not publish a solicitation.

Subpart C—How Do I Apply For and Receive Assistance?

§ 30.300 What activities does EPA fund?

EPA awards assistance to support various activities that protect the environment and reduce or control pollution. EPA groups these activities into the following types of assistance programs:

(a) State and local pollution control;

(b) Construction of wastewater treatment works;

(c) Research;

(d) Demonstration;

(e) Training;

(f) Fellowships;

(g) Special investigations, surveys or studies; and

(h) Consolidated assistance.

§ 30.301 To whom does EPA award assistance?

(a) EPA awards assistance only to applicants which are eligible under applicable statutes and regulations and which have the ability to meet the following criteria:

(1) Financial resources, technical qualifications, experience, organization, and facilities adequate to carry out the project, or a demonstrated ability to obtain these;

(2) Resources to meet the project completion schedule contained in the assistance agreement;

(3) A satisfactory performance record for completion of projects and subagreements;

(4) Accounting and auditing procedures adequate to control property, funds, and assets, as required in Subpart E of this part;

(5) Procurement standards that comply with Part 33 of this Subchapter;

(6) Property management systems for acquiring, maintaining, safeguarding, and disposing of property, as required in Subpart E of this part; and

(7) Demonstrated compliance or willingness to comply with the civil rights, equal employment opportunity, labor law, and other statutory requirements under Subpart F of this part.

(b) EPA considers your submission of an assistance application as your assurance that you can and will meet these standards. EPA may conduct a preaward audit or other review to determine your capabilities.

(c) EPA must notify you in writing if it finds you unable to meet these standards. The written notice will state the reasons for the finding. You may appeal EPA's findings under the disputes procedures in Subpart L.

(d) Individuals, agencies, or organizations voluntarily excluded, suspended, or debarred under 40 CFR Part 32 are ineligible to receive assistance.

§ 30.302 How do I apply for assistance?

(a) You must submit a standard application to apply for EPA assistance.

(b) Before you file an application to perform unsolicited work, you may submit an unsolicited proposal. EPA will apprise you of your proposal's potential for funding.

(c) You can get program information and an application kit with instructions from the EPA grants office which is responsible for administering that program. Regional EPA grants offices provide and review applications and award assistance for State and local pollution control projects. State water pollution control agencies provide and review applications for grants for the construction of wastewater treatment facilities. EPA Headquarters provides and reviews applications for and awards research, demonstration, fellowships, and training assistance.

(d)(1) For assistance agreements awarded for Fiscal Year 1984, you must develop and implement a quality assurance program acceptable to the award official if your proposal involves any environmental related measurements or data generation. Except as noted in paragraphs (d) (2) and (3) of this section, your application for financial assistance must include a quality assurance plan which meets the requirements in § 30.503. If you already have an EPA approved quality

assurance plan, you need only reference that plan in your application, provided the plan covers the project in your application.

(2) The recipient of an assistance award under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, must submit a schedule for developing a quality assurance project plan within 30 days of receiving an assistance award. Recipients may not begin field or laboratory work until the award official approves the recipient's assurance project plan.

(3) The recipient of a wastewater treatment construction grant awarded under Title II of the Clean Water Act must comply with § 30.503 only if a grant condition specifically requires the recipient to gather environmental related data. If a quality assurance program is required, recipients must submit a schedule for developing a quality assurance project plan within 30 days of assistance award. Recipients must not begin field or laboratory work until the award official approves the recipient's quality assurance project plan.

§ 30.303 What steps must I take when filing a standard application?

(a) Before you file an application, you must complete the forms according to the instructions. At least one copy of the completed application must have an original signature of the person authorized to obligate you or your organization to the terms and conditions of EPA's regulations and assistance agreement.

(b) You must:

(1) Comply with your State's intergovernmental review process, if it established one under Executive Order 12372. See 40 CFR Part 29 (48 FR 29288, June 24, 1983).

(2) Comply with the areawide review requirements of Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, as amended (42 U.S.C. 3334) if your project will be located in a metropolitan area. EPA programs that are subject to areawide review are listed in 48 FR 29304, June 24, 1983, and marked with an asterisk (*).

§ 30.304 Is the information I submit to EPA confidential?

(a) Generally, the information is not confidential. When EPA receives your assistance application or unsolicited proposal the information you submit becomes part of the Agency's records. As such, it is subject to EPA's disclosure of information policy (40 CFR Part 2) which is based on the provisions of the Freedom of Information Act (5 U.S.C. 552) and on the provision for patents and rights in data and copyrights under Subpart K of this part.

(b) If you submit data, documents, or parts of documents which you consider to be confidential, you should clearly identify them with the words "trade secret," "proprietary," or "business confidential." For further instructions on assertion of confidentiality claims, see 40 CFR Part 2, Subpart B.

§ 30.305 How do I find out if EPA approved or disapproved my application?

(a) If EPA approves your application, the award official will prepare and sign an assistance agreement and send it to you for signature. Your authorized representative must either sign and return the agreement to EPA within three calendar weeks after you receive it or request EPA to extend the time for acceptance. If you do not sign or request an extension within the three week period, the assistance agreement is null and void.

(b) If EPA disapproves your application, it will promptly notify you in writing. You may appeal EPA's disapproval under Subpart L.

(c) Sometimes, EPA will defer your application. You will be notified in writing of this decision.

§ 30.306 How long will I have to complete my project?

(a) Your assistance agreement will state the length of your approved budget period(s) and project period. Subject to statutory provisions, your approved project period may include more than one budget period. In this case, you must submit a continuation application to EPA to request funding for each budget period after the initial one. EPA make continuation awards subject to availability of funds and Agency priorities. (Assistance awards under 40 CFR Part 35, Subpart A, do not have project periods, but recipients of such award may receive continuation awards.)

(b) The continuation application must include:

(1) A detailed progress report for the current budget period;

(2) A preliminary financial statement for the current budget period that includes estimates of the amount you expect to spend by the end of the current budget period and the amount of any uncommitted funds which you propose to carry over beyond the term of the current budget period;

(3) A budget for the new budget period;

(4) A detailed work plan revised to account for your actual accomplishments during the current budget period;

(5) An annual invention report; and

(6) Any other reports that the assistance agreement may require.

(c) If approved by the award official, you may carry over unexpended prior year funds: (1) In lieu of new funds; (2) to complete work started in prior years; or (3) to supplement the new award. You must meet all program and cost sharing requirements in each budget period to carry over funds.

(d) If EPA executes a continuation agreement, EPA will reimburse you for allowable costs you incur between the end of a budget period and date of award for the next budget period provided you submit a continuation application before the expiration of the prior budget period.

§ 30.307 How much must I contribute to the funding of my project?

(a) The amount of cost sharing you must contribute depends upon the statutory and regulatory cost sharing provisions that apply to your specific assistance project (see 40 CFR Parts 35 and 40). You must contribute at least a 5 percent share of the total allowable project costs for each budget period *unless;*

(1) A lesser amount is specified in the respective statute or regulation applicable to your project; or

(2) The assistance agreement is for a remedial planning action under the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

(b) You may satisfy the requirement for cost sharing with cash or, when not prohibited by statute or regulations, with in-kind contributions. Your contribution may not be paid with Federal funds or with property or services received under another assistance agreement, unless authorized by statute. Additionally, your contributions must be:

(1) Negotiated before and specified in your assistance agreement;

(2) Verifiable from your records;

(3) Used exclusively for a single project; and

(4) Properly allocable to and allowable under the project.

(c) All project expenditures by the recipient shall be deemed to include the Federal share.

§ 30.308 When may I begin incurring costs?

Except as permitted in § 30.306(d) or other EPA regulations, the award official and you must sign the EPA assistance agreement before you incur costs.

§ 30.309 What is the effect of accepting an assistance agreement?

(a) When the award official signs the assistance agreement, EPA will obligate Federal funds for the amount stated in your assistance agreement for the purposes of the award. EPA is not obligated to provide Federal funds for any costs incurred by you in excess of the Federal share of your approved budget. (See Subpart G of this part.)

(b) The award of an assistance agreement constitutes a public trust. By signing and accepting an assistance agreement, you become responsible for complying with all terms and conditions of your assistance agreement, including any special conditions necessary to assure compliance with EPA policies and objectives, this subchapter, and any other applicable statute or regulation. You must efficiently and effectively manage your project, successfully complete the project according to the schedule, and meet all monitoring and reporting requirements. You may not delegate or transfer this responsibility.

Subpart D—How Does EPA Pay Me?

§ 30.400 How does EPA make payments?

(a) EPA will promptly pay you for allowable costs you incur in accordance with EPA regulations and your assistance agreement. If at any time, EPA determines you received payment for unallowable cost or received an over-payment, you are required to reimburse EPA. (See § 30.802.)

(b) Your assistance agreement will specify one of the following ways for EPA to pay you. You will receive the appropriate forms and instructions with your assistance agreement.

(1) *By letter of credit.* EPA will pay you by the letter of credit method, it you meet the Treasury Department's criteria contained in Treasury Circular No. 1075, as revised. You must establish a separate bank account when payments under a letter of credit are made on a "check-paid" basis.

(2) *By advance.* If you do not qualify for a letter of credit, EPA may pay you by the advance payment method. You must negotiate the amount of your initial advance with the award official. The negotiated amount should not exceed the cash you will need for the first three months of operation. You must request the initial advance on Standard Form 270 (SF 270, "Request for Advance or Reimbursement") which will be included in your award package. EPA will issue a check for the first three months or one check each month (at EPA's option) to pay the advance. After your initial advance, you must submit an SF 270 at least quarterly, but not more often than monthly, indicating the amount of your expenditures to date and your request for funds for the coming period.

(3) *By reimbursement.* If you do not meet letter of credit requirements or receive advance payments, EPA will pay you by reimbursement. Also, EPA generally will pay you under the reimbursement method if you are receiving assistance under EPA's wastewater treatment construction grants program (see 40 CFR Part 35, Subpart I). When EPA pays by this method, you will be reimbursed for costs which you have incurred and are currently and legally obligated to pay.

§ 30.405 Can I assign my payment to anyone else?

Except as provided for in 40 CFR 35.2025(b)(2) of EPA's wastewater treatment construction grants regulation, you cannot assign your right to receive payments under your assistance agreement. EPA will make payments only to the payee identified in the assistance agreement.

§ 30.410 How does EPA determine allowable costs?

To be allowable, costs must meet applicable statutory provisions and Federal cost principles. EPA uses the following cost principles in determining allowable costs for all EPA assistance agreements and subagreements under them, except as otherwise provided by statute or this subchapter. Regardless of whether the organization is the recipient of the award or is performing services for the recipient, the nature of the organization is the sole criterion for determining applicable cost principles.

(a) *State and local governments* must use OMB Circular A–87 to determine allowable costs;

(b) *Educational institutions* must use: (1) OMB Circular A–21 cost principles for research and development, training, and other educational services under grants, cooperative agreements, and subagreements, and (2) OMB Circular A–88 which provides principles for coordinating the establishment of indirect cost rates and the auditing of grants, cooperative agreements, and subagreements;

(c) *Other nonprofit institutions* must use OMB Circular A–122;

(d) *Profitmaking organizations* must use Federal procurement regulations (41 CFR Ch. I, Subpart 1–15.2 and, if appropriate, 1–15.4); and

(e) *Hospitals* must use 45 CFR Part 74, Appendix E.

§ 30.412 How are costs categorized?

(a) Costs are categorized as being either a direct cost if they support a specific project only or as an indirect cost as described in the applicable cost principles (see § 30.410). To receive payment for indirect costs, you must have negotiated an indirect cost rate with your cognizant Federal Agency and your assistance agreement must provide for the use of that rate.

(b) You may request a special indirect cost rate, if (1) your project is conducted at an off-site location; or (2) your project is a large, one-time project and its costs would distort the normal direct cost base used in computing the indirect cost rate.

Subpart E—How Do I Manage My Award?

§ 30.500 What records must I maintain?

(a) You must maintain official records for each assistance award you receive and identify them with EPA assistance identification numbers. These records must contain the following information:

(1) Amount received and expended for the project, including all Federal and cost sharing funds;

(2) Program income;

(3) Total cost of the project (both direct and indirect costs);

(4) Property purchased under the award or used as part of your in-kind contribution;

(5) Time records and other supporting data; and

(6) Documentation of compliance with applicable statutes and regulations.

(b) Your contractor must maintain books, documents, papers, and records pertinent to the project.

§ 30.501 How long must I keep these records?

(a) Generally you and your contractor must keep all records for three years from the end of the project. Except for real property and nonexpendable personal property records, the beginning date of the three year period depends on the type of project you are conducting, as follows:

(1) For research, demonstration, and training programs, the submission date of a final Financial Status Report (SF–269);

(2) For State and local assistance programs, the submission date of the final Financial Status Report (SF–269); or

(3) For construction awards, the approval date of EPA's final payment for the project.

(b) You must keep your records on real property and nonexpendable personal property for three years from the date of final disposition.

(c) If EPA terminates your award, you must keep all records for three years from the termination date, except as provided in paragraph (b) of this section.

(d) If litigation, a claim, an appeal, or an audit is begun before the end of the three year period, you must keep all records until the three years have passed or until the litigation, appeal, claim, or audit is completed and resolved, whichever is longer.

§ 30.502 To whom must my contractor and I show these records?

You and your contractor must allow the project officer and any authorized representative of EPA, including the Office of Inspector General, the Comptroller General of the United States, the Department of Labor, or a representative of delegated States under the wastewater treatment construction grants program, to inspect, copy, and audit records pertinent to the project. Access to records is not limited to the required retention periods. You and your contractor must allow access to records at any reasonable time for as long as the records are kept.

§ 30.503 What type of quality assurance practices am I required to have?

(a) If your project involves environmentally related measurements or data generation, you must develop and implement quality assurance practices consisting of policies, procedures, specifications, standards, and documentation which will produce data of quality adequate to meet project objectives and will minimize loss of data due to out-of-control conditions or malfunctions.

(b) Your quality assurance practices must assure the reliability of monitoring and measurement data and integrate quality planning, quality assessment, and quality improvement efforts.

(c) As required in § 30.302(d), you must develop and implement a quality assurance program which is acceptable to the award official in order to receive an EPA assistance award. All applications for financial assistance must include a document as specified in paragraphs (d), (e), or (f) of this section.

(d) If your application is for research financial assistance it must include a quality assurance narrative statement which either addresses the following areas or provides justification why any of these areas do not apply to the proposal:

(1) The intended use of the data and the associated acceptance criteria for data quality (precision, accuracy, representativeness, completeness, comparability);

(2) Project requirements for precision, accuracy, representativeness, completeness, comparability, and how these will be determined;

(3) Procedures for selection of samples or sampling sites and collection or preparation of samples;

(4) Procedures for sample handling, identification, preservation, transportation, and storage;

(5) Description of measurement methods or test precedures with a statement of performance characteristics if methods are non-standard;

(6) Standard quality assurance/quality control procedures (e.g., American Society for Testing Materials, American Public Health Association standard procedures) to be followed. Non-standard procedures must be documented; and

(7) Data reduction and reporting procedures, including description of statistical analyses to be used.

(e) If you are a State or local government (except for recipients of wastewater construction grants under Title II of the Clean Water Act, as amended, or assistance awards under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980), you must have a quality assurance program plan acceptable to the award official. (For assistance in preparing a program plan, see "Guidelines and Specifications for Preparing Quality Assurance Program Plans" QAMS-004/80. This document (EPA-600/8-83-024; NTIS PB 83-219667) may be obtained from the National Technical Information Service, 5885 Port Royal Road, Springfield, Virginia 22161.) The program plan must address the following areas:

(1) Name of principal investigator(s) and quality assurance officer;

(2) Background, purpose, and scope of the quality assurance plan;

(3) Quality assurance policy statement;

(4) Quality assurance management plan;

(5) Personnel qualifications;

(6) Facilities, equipment, and services;

(7) Data generation and general quality assurance requirements;

(8) Data processing, e.g., reduction, validation, reporting;

(9) Data quality assessment;

(10) Corrective action for out-of-control situations;

(11) Development of individual quality assurance project plans and standard operating procedures, if required in the program plan; and

(12) Implementation requirements and schedule.

(f) All other applicants for financial assistance must submit with their application (see § 30. 302(d)) a quality assurance project plan acceptable to the award official. (For assistance in preparing a quality assurance project plan see "Interim Guidelines and Specifications for Preparing Quality Assurance Projects Plans" QAMS-005/80. This document (EPA-600/4-83-004; NTIS PB 83-170514) may be obtained from the National Technical Information Service, 5885 Port Royal Road, Springfield, Virginia 22161.) The project plan must address the following items:

(1) Title of project and name of principal investigator(s);

(2) Table of contents of project plan;

(3) Project description;

(4) Project organization and responsibilities;

(5) Quality assurance objectives and criteria for determining precision, accuracy, completeness, representativeness, and compatability of data;

(6) Sampling procedures;

(7) Sample custody;

(8) Calibration procedures and frequency and traceability of standards;

(9) Analytical procedures;

(10) Data reduction, validation, and reporting;

(11) Internal quality control checks;

(12) Performance and system audits;

(13) Preventive maintenance;

(14) Specific standard operating procedures used to assess data precision, accuracy, representativeness, and comparability;

(15) Corrective action for out-of-control situations; and

(16) Quality assurance reporting procedures.

(g) Recipients of an assistance award under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund), must comply with the quality assurance project plan requirements in paragraph (f) in this section.

(h) If required (see § 30.302(d)(3)), a recipient of a wastewater treatment construction grant under Title II of the Clean Water Act, as amended, must comply with the quality assurance project plan requirements in paragraph (f) in this section.

§ 30.505 What reports must I submit?

(a) *Interim and final progress reports.* You must submit interim and final progress reports if the assistance agreement or EPA regulations require them. See 40 CFR Parts 35, 40, and 45 for specific requirements. EPA or its authorized representatives may inspect

your project at any reasonable time to review its progress.

(b) *Financial reports.* (1) You must submit a Financial Status Report (SF 269) within 90 days after each budget period within 90 days after the end of your project completion or termination. If either the Financial Status Report (FSR) you submit after the budget period or the FSR you submit after your project is completed or terminated includes unliquidated obligations, you must submit a final FSR immediately after those obligations are liquidated. If you do not submit a final FSR within a reasonable time after the 90 day period, the award official may disallow the unliquidated obligations.

(2) Under the wastewater treatment construction grants program, your final "Outlay Report and Request for Reimbursement for Construction Programs" (SF 271) will serve as the financial report.

(3) Recipients of fellowship assistance agreements do not have to submit FSR's.

(c) *Invention reports.* You must report all inventions (see Subpart K for details). You must submit a final invention statement to the award official within 90 days after completion of a project. If you have a continuation award, you must submit an annual invention statement with your continuation application. Also, if you change your project manager on a research project, you must submit an invention report at that time to the award official.

(d) *Report on Federally-Owned Property.* You must submit an annual inventory of all Federally-owned property used on your project. At the end of the project period, or when you no longer need the property, you must submit a final inventory which states the present condition of each item and requests disposition instructions.

§ 30.510 What type of financial management system must I maintain?

You must maintain a financial management system that consistently applies accepted accounting principles and practices and at least includes:

(a) An accurate, current, and complete accounting of all financial transactions for your project;

(b) Records, together with supporting documents showing the source and application of all project funds, including assistance awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income;

(c) Control over, and accountability for, all project funds, property, and other assets, and an assurance that you used these solely for their authorized purpose;

(d) A comparison of actual costs versus budgeted object class amounts;

(e) Procedures to ensure prompt disbursement of Federal funds after you receive them;

(f) Procedures for determining allowable, allocable, and reasonable costs;

(g) Audits at least every other year on an organization-wide basis (see § 30.540); and

(h) A systematic method to resolve audit findings and recommendations.

§ 30.515 What restrictions on signs, surveys, and questionnaires must I observe?

(a) *Signs.* You must place a visible project identification sign at a construction site. The sign must give project information and credit EPA for funding. Your project officer will give you specifications for sign design, content, and placement. The cost of making and erecting the sign is an allowable cost.

(b) *Surveys and questionnaires.* If your survey or questionnaire states that information is being collected for the Federal Government, you must request written approval from EPA to use Agency funds to cover the costs of data collection. To assure compliance with the Paperwork Reduction Act of 1980, Pub. L. 96–511 (44 U.S.C. 3501 et seq.), the project officer can grant approval only with the agreement of the EPA Headquarters reports management officer. You must also receive the project officer's approval to list EPA as a recipient of the survey information.

§ 30.518 What are the procedures for publishing scientific, informational, and educational documents?

(a) EPA encourages publication of the results of its assistance agreements.

(b) You must comply with EPA's peer and administrative review process if you intend to release to the public informational materials, reports, and other products produced under an EPA assistance agreement.

(1) Except for articles published under paragraph (d) of this section, you must submit three copies of the documents to your project officer for EPA review. EPA will evaluate the documents and will provide you with written, suggested changes, if any.

(2) You should make every effort to accommodate suggestions arising from the EPA review process while preparing a revised draft. You should alert EPA reviewers to suggestions you cannot accommodate and to changes initiated by you in the revised draft.

(3) If an agreement is reached that the material is appropriate for release as an EPA publication, the following statement must be included in the document:

> The information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). It has been subjected to the Agency's peer and administrative review and has been approved for publication as an EPA document. Mention of trade names or commercial products does not constitute endorsement or recommendation for use.

(c) If agreement cannot be reached that the material is appropriate for release as an EPA publication, you may independently publish and distribute the document for your own use and at your own expense provided you include the following statement in the document:

> Although the information in this document has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient), it may not necessarily reflect the views of the Agency and no official endorsement should be inferred.

(d) EPA also encourages independent publication of reports in referred journals at any time. You must submit a copy of the article to your project officer when you send it for publication. Following publication, three copies of the article should be submitted to the project officer. The article must include the following statement:

> Although the research described in this article has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient), it has not been subjected to the Agency's peer and administrative review and therefore may not necessarily reflect the views of the Agency and no official endoresement should be inferred.

(e) Documents that are not to be released to the public as EPA publications but are part of a recipient's regular pollution control activities are not subject to the EPA peer and administrative review process, e.g., State pollution control agency-published newsletters and operation and maintenance manuals under the wasterwater treatment construction grants program. However, EPA encourages you to establish a similar reveiw process before publishing any documents at your own expense. You may publish such documents only if you include the following statement:

> This project has been funded wholly or in part by the United States Environmental Protection Agency under assistance agreement (number) to (recipient). The contents of this document do not necessarily

reflect the views and policies of the Environmental Protection Agency, nor does mention of trade names or commercial products constitute endorsement or recommendation for use.

§ 30.520 When may I use my own employees ("force account")?

If costs will exceed $25,000, you must get prior written authorization from your project officer to use your own employees or equipment for construction, construction-related activities, or for repairs or improvements to a facility ("force account"). You must demonstrate that (a) your employees can competently and more economically complete the work than contractors or (b) an emergency circumstance makes the use of "force account" necessary.

§ 30.525 How should I treat program income?

(a) You may use program income to fund additional eligible project activities, or if approved by the award official, to meet your non-Federal share of project costs.

(b) If you do not use the program income to fund additional eligible activities or you are not permitted to use program income to meet your non-Federal share of project costs, EPA will subtract the income from the total allowable project cost to determine the net cost on which the Federal share will be based.

(c) Unless the assistance agreement provides otherwise, you do not owe EPA any of the royalties you earn on copyrights or patents produced under the assistance agreement. (See Subpart K of this part for EPA's rights regarding copyrights and patents.)

(d) You must keep complete records showing all receipts and expenditures related to program income.

§30.526 How do I treat interest earned on EPA funds?

If you earn interest on an EPA advance, you must return it to EPA unless you are:

(a) A State, or State agency as defined under section 203 of the Intergovernmental Cooperation Act of 1968, (42 U.S.C. 4213), or

(b) A tribal organization as defined under sections 102, 103, or 104 of the Indian Self Determination Act (25 U.S.C. 450f, 450g, and 450h).

§30.530 May I purchase personal property using EPA assistance funds?

(a) *Nonprofit institutions of higher education and nonprofit organizations whose primary purpose is the conduct of scientific research.* You may purchase personal property for the conduct of basic or applied research if authorized to do so in your assistance agreement. Before you purchase property or equipment with a unit acquisition cost of $10,000 or more, you must receive the award official's approval. Title will be vested in you but may be limited as provided in paragraph (a)(1) of this section.

(1) If EPA determines that it is in the best interest of the Agency, EPA may reserve the right to transfer the title for personal property having a unit acquisition cost of $1,000 or more to the Federal Government or a third party, within 120 days after project completion. EPA must identify such property in the assistance agreement, or otherwise notify you in writing that EPA reserves the right to transfer the title.

(2) If EPA does not reserve the right to transfer the title, you have no other obligations or accountability to EPA.

(b) *Other recipients.* You may purchase personal property with EPA assistance funds if authorized to do so in your assistance agreement. Before you purchase personal property with a unit cost of $10,000 or more, you must receive the award official's approval. Title will be vested in you, subject to the following conditions:

(1) You must use the property in the EPA assisted project for which it was acquired as long as needed, whether or not the project continues to be supported with EPA funds;

(2) You must assure that EPA's interest (the percentage of EPA's participation in the total award) is adequately reflected and protected in compliance with all recordation or registration requirements of the Uniform Commercial Code or other applicable local laws on all nonexpendable personal property with a unit acquisition cost of $10,000 or more;

(3) You must follow the property management standards in § 30.531;

(4) You must follow the disposition requirements in § 30.532; and

(5) EPA reserves the right to transfer the title for nonexpendable personal property having a unit acquisition cost of $1,000 or more to the Federal Government or a third party, within 120 days after project completion. EPA must identify such property in the assistance agreement.

§ 30.531 What property management standards must I follow for nonexpendable personal property purchased with an EPA award?

Nonprofit institutions of higher education and nonprofit organizations whose primary purpose is to conduct scientific research are exempt from the following standards. All other recipients must comply with the following property management standards. Recipients may use their own property management system if the system meets the following minimum standards.

(a) Maintain accurate records reflecting:

(1) A description of the property;

(2) Manufacturer's serial number, model number, or other identification number;

(3) Source of the property, including assistance identification number;

(4) Whether title is vested in the recipient or the Federal Government;

(5) Unit acquisition date and cost;

(6) The percentage of the Federal share of the cost;

(7) Location, use, and condition of property and the date the information was recorded; and

(8) Ultimate disposition data, including sales price or the method used to determine the price, or the method used to determine current fair market value where a recipient compensates EPA for its share under § 30.532 of this part.

(b) Conduct a physical inventory of property, and reconcile the results with the property records, at least once every two years. Your inventory must verify the current use and continued need for the property.

(c) Maintain a control system to prevent loss, damage, or theft. (You must thoroughly investigate and document any loss, damage, or theft of nonexpendable personal property.)

(d) Maintain adequate maintenance procedures that ensure the property is in good condition and that instruments used for precision measurements are periodically calibrated.

(e) Maintain proper sales procedures which provide for competition resulting in the highest possible return.

(f) Maintain identification of Federally-owned property.

§ 30.532 How do I dispose of personal property?

When personal property is no longer needed for the original project, you may use it on other EPA projects. If you do not have other EPA projects, you may use it on other Federal projects. If you wish to use the property on other than Federally sponsored activities, you must comply with the following requirements:

(a) Generally, if you purchased nonexpendable personal property for less than $1,000 per unit, you may either keep it or sell it and keep the proceeds. However, if you are a profitmaking organization, you may keep nonexpendable personal property only if you reimburse EPA for its proportionate

share of the current fair market value of the property.

(b) If EPA does not reserve the right to transfer title under § 30.530(a)(1), EPA is still entitled to compensation on nonexpendable personal property you purchased for more than $1,000 (see § 30.530(b)(5)). You may keep it, provided you compensate EPA for its proportionate share of the current fair market value. If you do not want to keep the property, your project officer will give you instructions for disposition.

(c) If, at the end of you project, your have expendable personal property with a total aggregate fair market value exceeding $1,000, you may use the property on other Federally sponsored projects. If you do not use the property on other Federally sponsored projects you must keep it or sell it, but in either case you must compensate EPA for its proportionate share of the current fair market value.

§ 30.535 May I purchase real property with EPA awarded funds?

You may purchase real property subject to the following conditions:

(a) The award official must approve the purchase.

(b) Except as provided in paragraph (e) of this section, you must use the real property only for the purpose for which it was purchased under the assistance award.

(c) You comply with the requirements in 40 CFR Part 4.

(d) You must also comply with 40 CFR Part 35, Subpart I, if your award is a wastewater treatment construction grant.

(e) You must assure that EPA's interest is adequately reflected and protected in compliance with all recordation or registration requirements of applicable local laws on real property.

(f) When it is no longer needed for the original project:

(1) You must get approval from EPA to use the property for other Federally supported projects or progams; or

(2) You must contact EPA for instructions on how to dispose of the property. EPA may:

(i) Permit you to retain title to the property provided you compensate EPA for its share or

(ii) Direct you to sell the property and to compensate EPA for its share, less your expenses; or

(iii) Direct you to transfer the title of the property to the Federal Government and then compensate you based on your percentage of participation in the original cost of the project, which will be applied to the current fair market value of the property.

§ 30.536 How do I manage Federally-owned property?

You must negotiate the use of Federally-owned property with the award official and comply with your lease agreement and § 30.505(d). You must inform the project officer of the availability of the property when the property is no longer needed for the assistance project or when you have completed the project. EPA will give you instructions on where to return the property.

§ 30.537 Are contractors required to comply with EPA property policies?

Generally, contractors are not required to comply with EPA property policies. However, if your contractors acquired personal property with EPA funds, and the subagreement states that ownership vests in you or EPA, the contractor must comply with EPA property policies.

§ 30.538 May I use General Services Administration (GSA) supplies and services?

You may not use GSA sources of supplies and services, or excess Government property. Excess Government property consists of property under the control of any Federal agency that is not required for its needs.

§ 30.540 Who will audit my project?

(a) *General.* EPA may perform pre-award or interim audits, as well as a final audit of your project. If EPA audits your project, EPA will rely to the extent practicable on your audits conducted under § 30.510(g) (if done in accordance with applicable audit standards) instead of reauditing the same records.

(b) *State and local governments.* State and local governments must comply with the audit requirements in OMB Circular A–102, Attachment P and other appropriate documents. Under Attachment P, you must conduct an audit at least once every two years to evaluate the fiscal integrity of your financial transactions and reports and to determine compliance with the terms of your assistance agreement. You should conduct the audit on an organization-wide basis. You must submit a copy of the audit to your cognizant Federal agency. EPA will keep audit cognizance over subagreements under the wastewater treatment construction grants program.

(c) *Other recipients.* The award official may request a final audit after the submission of, or the due date of, the final Financial Status Report (see § 30.505(b)). Where your organization has a cognizant Federal audit agency, EPA will refer these audits to your organization's cognizant Federal audit agency. Where OMB has not established a cognizant Federal audit agency, EPA staff may perform or arrange for the audit to be performed.

Subpart F—What Other Federal Requirements Must I Comply With?

§ 30.600 What Federal laws and policies affect my award?

You must comply with all applicable Federal laws.

(a) *National Environmental Policy Act.* You must comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) as amended and other related environmental laws and executive orders that require you to assess the environmental impact of your project. See 40 CFR Part 6 for specific requirements.

(b) *Flood Disaster Protection Act.* If your project involves construction or property acquisition in a special flood hazard area, you must comply with the Flood Disaster Protection Act of 1973 (Pub. L. 93–234, December 13, 1973). If your project is located in a community participating in the National Flood Insurance Program (42 U.S.C. 4001–4128), the Act requires you to purchase flood insurance as a condition of receiving EPA assistance. If the community is not participating in the National Flood Insurance Program and the special flood hazard area has been designated by the Federal Insurance Administration of the Federal Emergency Management Agency for at least one year, EPA will not award assistance for your project until the community enters the program and flood insurance is purchased. See 44 CFR Parts 59 through 79 for specific requirements.

(c) *Clean Air Act.* Section 306 of the Clean Air Act, (42 U.S.C. 7606), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you (with certain exceptions) if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a clause in all subagreements that requires the recipients of those subagreements that requires the recipients of those subagreements to comply with the requirements of 40 CFR Part 15 (see 40 CFR 33.1020).

(d) *Federal Water Pollution Control Act.* Section 508 of the Federal Water Pollution Control Act, (33 U.S.C. 1368), as amended, and Executive Order 11738 prohibit EPA from awarding assistance to you (with certain exceptions) if you intend to use any facility on EPA's List of Violating Facilities to complete work on your agreement. You must include a

clause in all subagreements to comply with the requirements of 40 CFR Part 15 (see 40 CFR 33.1020). Section 13 of the 1972 Amendments to the Act prohibits sex discrimination under any program or activity receiving assistance under the Act. See 40 CFR Part 12 for specific requirements.

(e) *Civil Rights Act.* You must comply with Sec. 602, Title VI of the Civil Rights Act of 1964, (42 U.S.C. 2000d), and related nondiscrimination laws and Executive Order 11246. These authorities prohibit you from excluding any person from participating in, denying them the benefits of, or discriminating against them on the basis of race, color, or national origin under any program or activity involving Federal financial assistance. See 40 CFR Parts 7, 8, and 12 for specific requirements.

(f) *Rehabilitation Act.* You must comply with Sec. 504 of the Rehabilitation Act of 1973, (29 U.S.C. 794), as amended, which prohibits discrimination on the basis of handicap in Federally assisted programs.

(g) *Age Discrimination Act.* You must comply with the provisions of the Age Discrimination Act of 1975, (42 U.S.C. 6101 et seq.), which prohibit discrimination on the basis of age in Federally assisted programs.

(h) *Title IX of the Education Amendments of 1972.* You must comply with Title IX of the Education Amendments of 1972, (20 U.S.C. 1681 et seq.) which prohibits sex discrimination in Federally assisted education programs.

(i) *Uniform Relocation Assistance and Real Property Acquisition Policies Act.* You must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. 4601 et seq.), if your project involves acquiring an interest in real property and/or any displacement of persons, businesses, or farm operations. See 40 CFR Part 4 for specific requirements.

(j) *The Indian Self-Determination and Education Assistance Act.* You must comply with the Indian Self-Determination and Education Assistance Act of 1975 (P.L. 93-638). If your project will benefit Indians, the Act requires you to give Indians preference in training and employment opportunities and in the award of subagreements.

(k) *The Hatch Act.* If you are a State or local government recipient, you must ensure compliance with the Hatch Act, (5 U.S.C. 1501 et seq.), as amended. The Act requires State and local government employees to comply with the restrictions on political activities imposed by the Act if their principal employment activities are funded wholly or in part by Federal assistance. See 5 CFR Part 151 for specific prohibitions and exemptions.

(l) *Safe Drinking Water Act.* Section 1424(e) of the Safe Drinking Water Act (42 U.S.C. 300h-3(e)), prohibits EPA from awarding assistance to you if EPA determines that your project may contaminate a sole source aquifer which will result in a significant hazard to public health. See CFR Part 149.

§ 30.601 Are there restrictions on the use of assistance funds for advocacy purposes?

You may not use assistance funds for:

(a) Lobbying or influencing legislation before Congress;

(b) Partisan or political advocacy purposes; or

(c) An activity whose objective could affect or influence the outcome of an EPA regulatory or adjudicatory proceeding.

§ 30.603 What additional Federal laws apply to EPA assisted construction projects?

If you receive EPA assistance for a project involving construction, you must ensure compliance with the following additional requirements:

(a) *The Davis-Bacon Act.* The Davis-Bacon Act (40 U.S.C. 276a et seq.) as amended, and implementing regulations of the Department of Labor under 29 CFR Part 5 require you to ensure that on construction subagreements in excess of $2,000, your contractors and subcontractors pay wages to laborers and mechanics at least equal to the minimum wages specified by the Secretary of Labor if required in the program statute.

(b) *The Copeland Act.* The Copeland (Anti-Kickback) Act, and the regulations of the Department of Labor under 29 CFR Part 3 prohibit your contractors and subcontractors from inducing any person involved in your project to give up any part of the compensation to which that person is entitled under an employment contract.

(c) *The Contract Work Hours and Safety Standards Act.* The Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.) and the regulations of the Department of Labor under 29 CFR Part 5 require your contractors and subcontractors to pay wages to laborers and mechanics on the basis of an eight hour work day and 40 hour work week and to pay at least time-and-a-half for work performed in excess of these time limitations. Also, the Act prohibits your contractors and subcontractors from requiring laborers and mechanics to work in hazardous, unsanitary, or dangerous conditions (see 29 CFR Part 1926).

(d) *Convict labor.* You may not use convict labor unless the convicts are on work release, parole, or probation (see 18 U.S.C. 436).

§ 30.610 What are my responsibilities for preventing and detecting fraud and other corrupt practices?

(a) You bear the primary responsibility for preventing, detecting, and prosecuting corrupt practices under your assistance agreement.

(b) If you become aware of allegations, evidence, or the appearance of corrupt practices, you must:

(1) Immediately inform the EPA project officer and the EPA Office of Inspector General; and

(2) Promptly pursue available State and local legal and administrative remedies.

§ 30.611 Can I hire a person or agency to solicit EPA assistance for me?

Yes, but you may not reimburse with EPA assistance funds any person, corporation, partnership, agency, or other entity which solicits or secures EPA assistance for you in exchange for a commission, a percentage fee, a brokerage fee, or a contingent fee.

§ 30.612 May an EPA employee act as my representative?

(a) An EPA employee may not represent you as an agent or attorney in any proceeding before EPA or any other Federal agency in which the United States is a party or has a direct or substantial interest unless:

(1) You are a State or local government agency;

(2) The EPA employee is on detail to the agency under the Intergovernmental Personnel Act (5 U.S.C. 3371-3376); and

(3) The representation takes place in the context of carrying out programs for which EPA and your agency have a joint responsibility under the environmental statutes.

(b) Except as provided for in paragraph (a) of this section, an EPA employee must not act as an agent or attorney for a recipient or for a contractor or subcontractor of a recipient in any claim against the United States.

§ 30.613 What is EPA's policy on conflict of interest?

EPA's policy is to prevent personal or organizational conflict of interest, or the appearance of such conflict of interest in the award and administration of EPA assistance, including subagreements.

(For restrictions on EPA employees, see 40 CFR Part 3.)

(a) An official or employee of a recipient may not participate in any activity relating to EPA assistance if any of the following persons or organizations, to the official's or employee's knowledge, has a financial interest in the activity:

(1) The official or employee himself;

(2) The official or employee's spouse or minor child;

(3) A partner of the official or employee;

(4) An organization (other than a public agency) in which the official or employee serves as an officer, director, trustee, partner, or employee; or

(5) Any person or organization with whom the official or employee is negotiating or has any arrangement concerning prospective employment.

(b) Officials and employees of recipients must avoid any action which might result in, or create the appearance of:

(1) Using official position for private gain;

(2) Giving preferential treatment to any person;

(3) Losing independence or impartiality;

(4) Making an official decision outside official channels; or

(5) Undermining public confidence in the integrity of EPA programs.

§ 30.615 May I employ a former EPA employee and still receive assistance?

You may hire a former EPA employee and still receive assistance provided the former employee complies with the restrictions on post-employment activities established by 18 U.S.C. 207. These restrictions are explained in regulations issued by the Office of Personnel Management under 5 CFR Part 737 and EPA regulations under 40 CFR Part 3.

Subpart G—Can An Assistance Agreement Be Changed?

§ 30.700 What changes to my assistance agreement require a formal amendment?

You must receive from the award official a formal amendment before implementing:

(a) A transfer of an award to another recipient;

(b) Changes in the objectives of the project;

(c) Changes in the assistance amount;

(d) Substantial changes within the scope of the project; or

(e) A rebudgeting of the following:

(1) Amounts budgeted for either construction or non-construction activities if transferred from one activity to the other;

(2) Amounts budgeted for indirect costs to absorb increases in direct costs; or

(3) Amounts budgeted for training allowances if transferred to other cost categories.

§ 30.705 What changes can I make to my assistance agreement without a formal amendment?

Minor changes in the project work that are consistent with the objective of the project and within the scope of the assistance agreement do not require the execution of a formal amendment before the recipient's implementation of the change. However, such changes do not obligate EPA to provide Federal funds for any costs incurred by you in excess of the assistance amount, unless approved in advance under § 30.700.

§ 30.710 Can I terminate a part or all of my assistance agreement?

(a) You and EPA may terminate a part or all of your assistance agreement, when both parties agree that the continuation of the project will not produce beneficial results. You and the award official must agree on the conditions of the termination, the effective date, and in the case of partial termination, the portion to be terminated. EPA may unilaterally terminate for cause your assistance agreement under § 30.903 of this part.

(b) EPA will pay you the Federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

Subpart H—How Do I Close Out My Project?

§ 30.800 What records and reports must I keep after I complete my project?

You and your contractors must keep all books, records, documents, and other evidence (including accounting procedures and practices and subagreement documents) that track the progress of your project in accordance with the requirements under § 30.501.

§ 30.802 Under what conditions will I owe money to EPA?

(a) If the award official determines that you owe funds, you must reimburse the Federal government that amount. EPA will take appropriate legal and administrative action to collect the amount you owe the Agency if reimbursement is not made in a timely manner. EPA may offset the debt against other funds payable to you under an EPA or other Federal agency assistance agreement if not explicitly prohibited by another statute.

(b) EPA will charge you interest and penalty if you fail to pay within 30 days from the date of the Agency's final decision. (see Subpart L). The interest rate will be the rate established by the Secretary of Treasury in accordance with the Treasury Fiscal Requirements Manual 6–8020.20. The rates are published quarterly in the **Federal Register**. EPA will also charge you a penalty charge of 6 percent of the debt and will charge you its cost to handle and process the debt.

(c) The penalty and handling charges in this section do not apply to State and local governments, but the interest charges do apply.

Subpart I—What Measures May EPA Take for Non-Compliance?

§ 30.900 What are the sanctions for non-compliance?

If you do not comply with all of the terms and conditions of your assistance agreement, the award official may apply any of the following sanctions:

(a) Issue a stop-work order;

(b) Withold payment;

(c) Suspend or terminate your assistance agreement for cause;

(d) Annul your assistance agreement;

(e) Debar or suspend you as an eligible recipient;

(f) Take other appropriate administrative action; or

(g) Institute judicial proceedings.

§ 30.901 What are the consequences of a stop-work order?

(a) A stop-work order requires you to immediately stop the work or activities described in the order and to take all reasonable steps to minimize costs incurred on the work. The award official will issue the order in writing. The order will be in effect for forty-five days after you receive it unless cancelled or extended by mutual agreement between you and EPA. If the problem cannot be resolved during the stop-work period and EPA is likely to terminate or annul the agreement, the award official will so inform you.

(b) If the stop-work order is cancelled and it caused any increase in the cost of and/or the time for completing the project, you may request an adjustment in the project period, budget period, or assistance amount. You must submit a request for adjustment to the project officer within sixty days after the stop-work order ended.

§ 30.902 What are the consequences of withholding payments?

(a) The award official may withhold payments when you fail to comply with the tasks, reporting requirements, or

conditions of your assistance agreement. The award official will provide you reasonable notice in writing before withholding payment.

(b) The award official may withhold only the amount necessary to assure compliance with your assistance agreement.

(c) The award official may withhold payment to the extent you are indebted to the United States, unless the collection of the indebtedness will impair the accomplishment of the project and the continuation of the project is in the best interest of the United States.

§ 30.903 What are the consequences of termination for cause?

(a) The award official may unilaterally terminate your agreement in whole or in part at any time before the date of completion, whenever he determines that you have failed to comply with the conditions of your agreement. The award official will provide you an opportunity for consultation before issuing a notice of termination.

(b) If EPA terminates your agreement, the award official will notify you in writing of his determination, the reasons for the termination, and the effective date. Upon receiving the termination notice, you must stop work immediately. EPA will not reimburse you for any new commitments you make after you receive the termination notice.

(c) EPA will pay you the Federal share of allowable costs incurred up to the date of termination and allowable costs related to commitments you made prior to termination that you cannot cancel.

§ 30.904 What are the consequences of annulment?

(a) The award official may unilaterally annul in whole or in part your assistance agreement in any of the following cases:

(1) You have made no substantial progress on the project without good cause;

(2) You obtained an assistance agreement by fraud or misrepresentation;

(3) You are found to practice corrupt administrative procedures;

(4) You have inordinately delayed project completion without good cause; or

(5) You have failed to meet the project purpose to the extent that the fundamental purpose stated in the assistance agreement is frustrated.

(b) If EPA intends to issue an annulment, the award official will inform you of the annulment in writing. The award official will provide you an opportunity for consultation before issuing a notice of annulment. If your assistance agreement is annulled, you must return all funds received for the project including those already expended. EPA may pursue other available remedies under Federal, State, and local laws.

§ 30.905 May I appeal a termination, or annulment?

You may appeal EPA's decision to terminate or annul an assistance agreement. Within thirty days after the notice of termination or annulment is issued, you must file a written request for appeal to the appropriate Assistant or Regional Administrator. Your appeal must follow the procedures under Subpart L of this part.

§ 30.906 What are the consequences of suspension of debarment?

EPA may suspend or debar you in accordance with 40 CFR Part 32. You may not receive assistance or a subagreement if your name or organization appears on EPA's Master List of Debarred and Suspended Firms and Individuals.

Subpart J—Can I Get An Exception ("Deviation") From These Regulations?

§ 30.1001 Will EPA grant any exceptions to these regulations?

(a) On a case-by-case basis, EPA will consider requests for exceptions to these regulations.

(b) EPA may issue a "deviation" from any of its assistance related regulations, except for those that implement statutory and executive order requirements.

(c) The award official may "waive" certain requirements of this subchapter for foreign grants. All provisions waived will be stated in the assistance agreement.

§ 30.1002 Who may request a deviation?

You, your project officer, or an EPA program office may request a deviation from EPA regulations. If you are the initiator, you must send your written request to your project officer if the request is for a Headquarters program or to the Regional Administrator for a Regionally administered program, who will then forward the request to the Director, Grants Administration Division, with a recommendation for approval or disapproval.

§ 30.1003 What information must I include in a deviation request?

Your request must include the following information:

(a) Your name, the assistance identification number, date of award, and the dollar value of the application or award;

(b) The section of the regulation from which you need a deviation;

(c) A complete description of what the deviation will do and a justification of why the deviation is necessary; and

(d) A statement of whether the same or a similar deviation has been previously requested. If such a request has been made previously, explain why it was made and the outcome.

§ 30.1004 Who approves or disapproves a deviation request?

(a) The Director, Grants Administration Division (GAD), approves or disapproves your deviation request. Assistant Administrators in the affected program areas must review and concur on deviations affecting a class of applicants or recipients.

(b) If EPA approves the deviation before an award, the revised requirement will be included in your assistance agreement. Approval of a deviation before an award does not guarantee an award.

§ 30.1005 May I appeal a deviation decision?

You may not appeal a deviation decision under the procedures in Subpart L of this part. However, you may request the Director of the Grants Administration Division to reconsider his decision.

Subpart K—What Policies Apply to Patents, Data, and Copyrights?

§ 30.1100 What assistance agreements are subject to EPA patent rules?

Except for wastewater treatment construction grants awarded under Title II of the Clean Water Act, as amended, all EPA assistance agreements involving experimentation, development, special investigations, surveys, studies, or research are subject to the EPA patent rules.

§ 30.1101 What Federal patent laws or policies govern my assistance agreement?

The nature of your organization will determine which laws and policies govern your assistance agreement:

(a) Small business firms and nonprofit organizations, including educational institutions, are entitled to the benefits of, and must comply with, Pub. L. 96-517 (35 U.S.C. Chapter 38).

(b) A profitmaking firm that is not defined as a small business firm, and whose assistance agreement is funded under section 6914 of the Resource Conservation and Recovery Act

(RCRA), must comply with section 6981(c) of RCRA. See Federal Procurement Regulations, 41 CFR Part 1-9, specifically 1-9.107-5(a) for the required patent rights clause.

(c) If you are neither a small business firm nor a profitmaking firm with an award under section 6914 of RCRA, you are subject to the guidelines in the President's Memorandum on Government Patent Policy issued on February 18, 1983 (Weekly Compilation of Presidential Documents, vol. 19, no. 7, page 252), and, therefore, must comply with Pub. L. 96-517, 35 U.S.C. Chapter 38.

§ 30.1102 What are my invention rights and my reporting requirements if my award is other than an award under section 6914 of RCRA?

You must report all inventions to EPA and decide whether you wish to retain domestic and/or foreign rights to your invention. You must notify EPA of your decision within the time period specified in the patent rights clause included in your assistance agreement. If you do not decide to retain rights to your invention within the time specified, EPA may acquire title from you. If you retain title, EPA acquires a royalty-free, irrevocable license to use the invention throughout the world by, and on behalf of, the Federal Government.

§ 30.1103 What are my invention rights and obligations if I am a profitmaking firm with an award under section 6914 of RCRA?

If you are not a small business and your assistance agreement does not indicate otherwise, you must comply with the patent rights clause, entitled "Patent Rights Acquisition by the Government" [41 CFR 1-9.107-5(a)], which implements section 6981(c) of RCRA. Under this section, EPA normally obtains title to your invention.

§ 30.1104 Can I get a waiver from section 6981(c) of RCRA?

On a case by case basis, you may ask EPA for a deviation from section 6981(c) of RCRA. You must follow the procedures in Subpart J.

§ 30.1106 Do the patent rules apply to subagreements?

(a) Yes, if the subagreements involve experimentation, development, special investigations, surveys, studies, or research, you must include the appropriate patent rights clause in the subagreement. All business firms and nonprofit organizations awarded subagreements are entitled to the benefits and must comply with Public Law 96-517 and the President's Memorandum on Government Patent Policy of February 13, 1983, except that a party to a subagreement awarded under section 6914 of RCRA which is a profitmaking firm not defined as a small business firm, is subject to § 30.1101(b).

(b) Subagreements must be in compliance with the "Patent and data and copyright clause" in 40 CFR Part 33, and generally must contain the same patent rights clause as contained in your assistance agreement.

§ 30.1108 Does EPA require any type of licensing of background patents that I own?

Generally, EPA does not require such licensing. However, in awards subject to Pub. L. 96-517 the Administrator may approve such a requirement under exceptional circumstances.

§ 30.1112 Are there any other patent clauses or conditions that apply to my award?

Your award is subject to both the Notice and Assistance Clause and the Authorization and Consent Clause in Appendix B to this part.

§ 30.1130 What rights in data and copyrights does EPA acquire?

All assistance agreements and subagreements are subject to Appendix C. As set forth in Appendix C, the Federal Government has an unrestricted right to use any data or information generated using assistance funds or specified to be delivered to EPA in the assistance agreement. The Federal Government has a royalty-free, irrevocable license to use any copyrighted data in any manner for Federal Government purposes.

Subpart L—How Are Disputes Between EPA Officials and Me Resolved?

§ 30.1200 What happens if an EPA official and I disagree about an assistance agreement requirement?

(a) Disagreements should be resolved at the lowest level possible.

(b) If you can not reach an agreement, the EPA disputes decision official will provide you with a written final decision. The EPA disputes decision official is the individual designated by the award official to resolve disputes concerning your assistance agreement.

(c) The disputes decison official decision will constitute final agency action unless you file a request for review by registered mail, return receipt requested, within 30 calendar days of the date of the decision.

§ 30.1205 If I file a request for review, with whom must I file?

(a) For final decisions issued by an EPA disputes decision official at Headquarters, you must file your request with the Assistant Administrator responsible for the assistance program.

(b) For final decisions issued by a Regional disputes decision official, you must file your request for review with the Regional Administrator. If the Regional Administrator issued the final decision, you must request the Regional Administrator to reconsider that decision.

§ 30.1210 What must I include in my request for review or reconsideration?

Your request must include:

(a) A copy of the EPA disputes decision official's final decision;

(b) A statement of the amount in dispute;

(c) A description of the issues involved; and

(d) A concise statement of your objections to the final decision.

§ 30.1215 What are my rights after I file a request for review or reconsideration?

(a) You may be represented by counsel and may submit documentary evidence and briefs for inclusion in a written record;

(b) You are entitled to an informal conference with EPA officials; and

(c) You are entitled to a written decision from the appropriate Regional or Assistant Administrator.

§ 30.1220 If the Assistant Administrator confirms the final decision of the Headquarters disputes decision official, may I seek further administrative review?

A decision by the Assistant Administrator to confirm the final decision of a Headquarters disputes decision official will constitute the final Agency action.

§ 30.1225 If the Regional Administrator confirms the final decision of the Regional disputes decision official, may I seek further administrative review at EPA Headquarters?

(a) A determination by the Regional Administrator to confirm the Regional disputes decision official's decision will constitute the final Agency action. However, you may file a petition for discretionary review by the Assistant Administrator responsible for the assistance program within 30 calendar days of the Regional Administrator's decision. Your petition must be sent to the Assistant Administrator by registered mail, return receipt requested, and must include:

(1) A copy of the Regional Administrator's decision; and

(2) A concise statement of the reasons why you believe the decision is erroneous.

(b) If the Assistant Administrator decides not to review the Regional Administrator's decision, the Assistant Administrator will advise you in writing that the Regional Administrator's decision remains the final Agency action.

(c) If the Assistant Administrator decides to review the Regional Administrator's decision, the review will generally be limited to the written record on which the Regional Administrator's decision was based. The Assistant Administrator may allow you to submit briefs in support of your petition for review and may provide you an opportunity for an informal conference in order to clarify factual or legal issues. After reviewing the Regional Administrator's decision, the Assistant Administrator will issue a written decision which will then become the final Agency action.

§ 30.1230 Will I be charged interest if I owe money to EPA?

(a) Interest will accrue on any amounts of money due and payable to EPA from the date of the final Agency action. If you are not a State or local government, you will also be charged a penalty of 6 percent of the amount due, and you will be charged the cost to handle and process the debt. (See § 30.802). Only full payment of the debt within 30 days from the date of the final Agency action will prevent EPA from charging the interest, penalty, and handling charges on the amount outstanding.

(b) State and local government recipients are not subject to the penalty and handling charges in this section, but are subject to the interest charges.

§ 30.1235 Are there any EPA decisions which may not be reviewed under this subpart?

You may not appeal:

(a) Disapprovals of deviations under Subpart J;

(b) Bid protest decisions under Part 33;

(c) National Environmental Policy Act decisions under Part 6;

(d) Advanced wastewater treatment decisions of the Administrator; and

(e) Policy decisions of the EPA Audit Resolution Board.

Appendix A—EPA Programs

The following chart identifies EPA's assistance programs and the types of awards (grants or cooperative agreements) that EPA will award under these programs.

Catalog of Federal domestic assistance No.	Title	Funding mechanism
66.001	Air Pollution Control Program	(1)
66.003	Air Pollution Control Manpower Training	(1)
66.006	Air Pollution Control—Technical Training	(1)
	Air Pollution Control Fellowships	(4)
66.418	Construction Grants for Wastewater Treatment Works	(2)
66.419	Water Pollution Control—State and Interstate Program	(1)
66.420	Water Pollution Control—State and Local Manpower Program Development	(2)
	Water Pollution Control Fellowships	(4)
66.428	Water Pollution Control—Professional Training	(2)
66.432	State Public Water System Supervision Program	(2)
66.433	State Underground Water Source Protection Program	(2)
66.435	Water Pollution Control—Lake Restoration Cooperative Agreements	(3)
66.438	Construction Management Assistance	(1)
66.451	Hazardous Waste Management Financial Assistance to States	(1)
66.454	Water Quality Management Planning	(1)
	Safe Drinking Water Professional Training	(4)
	Safe Drinking Water Occupational Training	(4)
	Safe Drinking Water Fellowships	(4)
66.500	Environmental Protection—Consolidated Research	(3)
66.501	Air Pollution Control Research	(3)
66.502	Pesticides Control Research	(3)
66.504	Solid Waste Disposal Research	(3)
66.505	Water Pollution Control—Research, Development, and Demonstration	(3)
66.506	Safe Drinking Water Research and Demonstration	(3)
66.507	Toxic Substances Research	(3)
66.600	Environmental Protection Consolidated Grants—Program Support	(2)
66.603	Loan Guarantees for Construction of Treatment Works	(4)
66.700	Pesticides Enforcement Program Grants	(1)
	State Inventories of Uncontrolled Hazardous Waste Sites	(2)
66.802	Hazardous Substance Response Trust Fund (Superfund)	(1)

[1] Cooperative Agreement.
[2] Grant Agreement.
[3] Either.
[4] Loan or Fellowship.

Appendix B—Patents and Copyrights Clauses

Notice and Assistance Clause

(a) The recipient must report to the project officer, promptly and in reasonable written detail, each known notice or claim of patent or copyright infringement on this agreement.

(b) In the event of any claim or suit against the Government, on account of any alleged patent or copyright infringement arising out of the performance of this agreement or out of the use of any supplies furnished or work or services performed hereunder, the recipient must furnish to the Government, when requested by the project officer, all evidence and information in possession of the recipient pertaining to such suit or claim. Such evidence and information must be furnished at the expense of the Government except where the recipient has agreed to indemnify the Government.

(c) The recipient must include in each subagreement (including any lower tier subagreement) in excess of $10,000 a clause substantially similar to the foregoing provisions.

Authorization and Consent Clause

EPA gives its authorization and consent for all use and manufacture of any invention described in and covered by a patent held by the United States in the performance of an assistance agreement and any subagreement.

Appendix C—Rights in Data and Copyrights

(a) The term "subject data" as used in this clause includes writing, technical reports, sound recordings, magnetic recordings, computer programs, computerized data bases, data bases in hard copy, pictorial reproductions, plans, drawings, including engineering or manufacturing drawings, specifications, or other graphical representations, and works of any similar nature (whether or not copyrighted) which an applicant submits or which EPA specifies to be delivered under this assistance agreement or which a recipient develops or produces and EPA pays for under this assistance agreement. The term does not include financial reports, cost analyses, and other information incidental to assistance agreement administration.

(b) Except as may otherwise be provided in this assistance agreement, when publications, films, or similar materials are developed directly or indirectly from a project supported by EPA, the author is free to arrange for copyright without approval. However such materials shall be subject to the provisions of 40 CFR 30.518. The recipient agrees to and does hereby grant to the Government, and to its officers, agents, and employees acting within the scope of their official duties, a royalty-free, nonexclusive, and irrevocable license throughout the world for Government purposes to publish, translate, reproduce, deliver, perform, dispose of and to authorize others so to do, all subject data, or copyrightable material based on such data, covered by copyright now or in the future.

(c) The recipient shall not include in the subject data any copyrighted matter without the written approval of the project officer, unless he provides the Government with the written permission of the copyright owner for the Government to use the copyrighted matter in the manner provided in paragraph (b) above.

(d) Nothing contained in this Appendix shall imply a license to the Government under any patent or be construed as affecting the scope of any license or other rights otherwise granted to the Government under any patent.

(e) Unless otherwise limited below, the Government may, without additional compensation to the recipient, duplicate, use, and disclose in any manner and for any purpose whatsoever, and have others so do, all subject data.

(f) Notwithstanding any provisions of this assistance agreement concerning inspection and acceptance, the Government shall have the right at any time to modify, remove, obliterate, or ignore any marking restricting disclosure of subject data if the marking is not authorized by the terms of this assistance agreement.

(g) Data need not be furnished for standard commercial items or services which are normally sold, or have been sold, or offered to the public commercially by any supplier and which are incorporated as component parts in or to be used with the product or process being developed or investigated under this assistance agreement, if in lieu thereof identification of source and characteristics (including performance specifications, when necessary) sufficient to enable the Government to procure the part or practice the process, or acquire an adequate substitute, are furnished.

(h) In addition to any data specified elsewhere in this assistance agreement to be furnished to EPA, the recipient shall retain and, upon written request of the project officer at any time during project performance or within two years after project performance is completed, deliver any subject data not previously delivered.

Appendix D.—Part 30 Reporting Requirements

Application for EPA assistance and application related forms	OMB clearance No.
(1) EPA Form 5700-12 "Application for Federal Assistance (Research, Training & Demonstration)." (See § 30.302)	[1] 2010-0004
(2) EPA Form 5700-20A "EPA Assistance Agreement/Amendment." (See § 30.302)	[1] 2010-0004
(3) EPA Form 5700-20B "Assistance Amendment (Optional)." (See § 30.302)	[1] 2010-0004
(4) EPA Form 5700-30 "Preapplication for Federal Assistance (Optional)." (See § 30.302)	[1] 2010-0004
(5) EPA Form 5700-31 "Application for Federal Assistance (Short Form)." (See § 30.302)	2010-0005
(6) EPA Form 5700-32 "Application for Federal Assistance (Construction)." (See § 30.302)	2010-0003
(7) EPA Form 5700-33 "Application for Federal Assistance (Nonconstruction Programs)." (See § 30.302)	[1] 2010-0004
(8) EPA Fellowship Forms:	
(a) EPA Form 5770-2 "Fellowship Application" (See § 30.302)	[1] 2010-0004
(b) EPA Form 5770-3 "Fellowship Facilities and Commitment Statement" (See § 30.302)	[1] 2010-0004
(c) EPA Form 5770-4 "Fellowship Applicant Qualifications Inquiry" (See § 30.302)	[1] 2010-0004
(d) EPA Form 5770-5 "Agency Fellowship Certification" (See § 30.302)	[1] 2010-0004
(e) EPA Form 5770-6 "Fellowship Amendment" (See § 30.302)	[1] 2010-0004
(f) EPA Form 5770-7 "Fellowship Activation Notice" (See § 30.302)	[1] 2010-0004
(g) EPA Form 5770-8 "Fellowship Agreement" (See § 30.302)	[1] 2010-0004
(h) EPA Form 5770-9 "EPA Fellowship Termination Notice" (See § 30.302)	[1] 2010-0004
(9) SF-269 "Financial Status Report." (See § 30.505)	[1] 2010-0004
(10) SF-270 "Request for Advance or Reimbursement" (See § 30.400)	[1] 2010-0004
(11) SF-271 "Outlay Report and Request for Reimbursement for Construction Programs" (See § 30.505)	[1] 2010-0004
(12) SF-272 "Federal Cash Transactions Report" (See § 30.400)	[1] 2010-0004
B. Other Reporting Requirements and Processes	
(1) Establish a separate bank account if the recipient uses the letter of credit method of payment	[1] 2010-0004
(2) Establish official records for each assistance award and keep them for specified periods of time	[1] 2010-0004
(3) Develop and implement quality assurance practices to meet project objectives and minimize loss of data due to out-of-control conditions or malfunctions	2000-0403
(4) Submit interim and final progress reports	[1] 2010-0004
(5) Report all inventions developed with EPA assistance funds	[2]
(6) Report on all Federally-owned property used on a project	[1] 2010-0004
(7) Maintain a financial management system that consistently applies accepted accounting principles and practices	[1] 2010-0004
(9) Comply with EPA peer and administrative review requirements	[2]
(10) Obtain EPA's written authorization to use the recipient's own employees or equipment for construction, construction-related activities, or for repairs or improvements to a facility ("force account")	[1] 2010-0004
(11) Obtain EPA's approval before purchasing property or equipment with a unit acquisition cost of $10,000 or more	[1] 2010-0004
(12) Comply with certain property management standards	[1] 2010-0004
(13) Comply with EPA requirements when disposing of property with a purchase price of $1,000 or more	[1] 2010-0004
(14) Obtain EPA approval for the purchase of real property	[1] 2010-0004
(15) Comply with EPA requirements for management of Federally-owned property	[1] 2010-0004
(16) Request EPA approval to deviate from EPA regulations	[1] 2010-0004
(17) Follow certain procedures to appeal an award official's written final decision on a dispute over the requirements in an assistance agreement	[1] 2010-0004

[1] OMB Clearance Number 2010-0004 was submitted to OMB for a time extension on September 19, 1983. We will publish OMB's extension in the FEDERAL REGISTER.
[2] Will be submitted to OMB.
[3] No clearance required.

[FR Doc. 83-26458 Filed 9-30-83; 8:45 am]
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Friday
September 30, 1983

Part IX

Federal Communications Commission

Amendment of the Commission's Rules and Conforming Amendments to Annual Report Forms O and R With Respect to Accounting for Carriers' Nonregulated Activity; Final Rule

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 34 and 35

[CC Docket No. 82-678; FCC 83-398]

Amendment of the Commission's Rules and Conforming Amendments to Annual Report Forms O and R With Respect to Accounting for Carriers' Nonregulated Activity

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends Parts 34 and 35 of the Federal Communications Commission's Rules and Regulations regarding the accounting for radiotelegraph, wire-telegraph, and ocean-cable carriers' nonregulated activity. These changes are designed to keep separate those revenues and costs associated with the carrier's regulated activities from those revenues and costs associated with the carrier's nonregulated activities, and implement the Commission's decision that the carriers shall account for their nonregulated activities in separate books of account if they do not conduct these activities through a separate subsidiary. This order will also make conforming changes to Annual Report Forms O and R, resulting from amending Parts 34 and 35.

EFFECTIVE DATE: October 28, 1983.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Gerald P. Vaughan, Accounting and Audits Division, Common Carrier Bureau, Federal Communications Commission, Washington, D.C. 20554, Telephone No. (202) 634-1861.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 34

Radiotelegraph carriers, Radiotelegraph, Uniform system of accounts.

List of Subjects in 47 CFR Part 35

Wire-telegraph and ocean-cable carriers, Wire-telegraph and ocean-cable, Uniform system of accounts.

Report and Order

Adopted: September 9, 1983.
Released: September 21, 1983.

By the Commission.

In the Matter of Amendment of Part 34, Uniform System of Accounts for Radiotelegraph Carriers, and Part 35, Uniform System of Accounts for Wire-Telegraph and Ocean-Cable Carriers of the Commission's Rules and Regulations and conforming amendments to Annual Reports Form O for Wire-Telegraph and Ocean-Cable Carriers and Form R for Radiotelegraph Carriers with respect to accounting for carriers' nonregulated activity.

I. Introduction

1. In a Notice of Proposed Rulemaking (NPRM) released on October 4, 1982, 47 FR 44781, the Commission proposed to revise the accounting rules contained in Part 34, "Uniform System of Accounts for Radiotelegraph Carriers," [1] (47 CFR Part 34) and Part 35, "Uniform System of Accounts for Wire-Telegraph and Ocean-Cable Carriers," [2] (47 CFR Part 35) to establish provisions to account for carriers' nonregulated activities in separate books of account. We also proposed to make conforming amendments to Annual Report Forms O and R, and we solicited comments on the need to prescribe allocation procedures for common costs. These changes were proposed to implement the Commission's decision that the carriers shall account for their nonregulated activities in separate books of account if they do not conduct these activities through a separate subsidiary. The Commission made this decision in Docket 20828, *Second Computer Inquiry (Computer II)* [3] and in Docket 21005, the *Interface of International Telex Service With the Telex and TWX Service*, 86 FCC 2d 411 (1981).

2. Based on an analysis of the comments received in this proceeding, we have decided to adopt, with some minor revisions, the accounting changes proposed in our NPRM. We have also decided to make the conforming amendments to Forms O and R by revising two schedules and eliminating one schedule. Finally, we have decided not to prescribe any specific methods for allocating common costs between regulated and nonregulated activities, but we are requiring carriers to develop and submit their own procedures to allocate these costs.

[1] Includes ITT World Communications Inc. (ITT), RCA Communications, Inc. (RCA), United States Liberia Radio Corporation (U.S. Liberia), and TRT Telecommunications Corporation (TRT).

[2] Includes FTC Communications, Inc. (FTC), Western Union International Caribbean, Inc., Western Union International, Inc. (WUI), and Western Union Telegraph Company (WU).

[3] Amendment of § 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), 77 FCC 2d 384 (1980) (Final Decision), *reconsideration*, 84 FCC 2d 50 (1980), *Further reconsideration*, 88 FCC 2d 512 (1981), *aff'd sub nom.* CCIA v. FCC, 693 F. 2d 198 (D.C. Cir. 1982), *cert. denied*, Nos. 82-1331 and 82-1332 (U.S. May 16, 1983).

II. Background

3. In *Computer II*, we required all new carrier-provided customer-premises equipment to be detariffed and to be excluded from the rate base of all carriers no later than January 1, 1983. In addition, we required that AT&T's nonregulated services be provided through a separate subsidiary. All other carriers were required to account for their nonregulated operations in separate books of account.

4. While the detariffing of private line investment relative to the International Record Carriers (IRCs) and WU's domestic telex CPE is covered under *Computer II* we concluded in our decision in Docket 21005 that the detariffing of all customer-premises telex equipment would be in the public interest. Moreover, we noted that the IRCs tariffed all their carrier-provided telex terminal equipment at the federal level which permitted its detariffing without raising separations issues. Therefore, we ordered the IRCs to detariff this equipment (new and embedded) on or before March 1, 1982. We also required the IRCs to maintain separate books to account for their offering of telex terminal equipment.

5. Our present accounting system does not contain accounts that will accommodate the "separate books of account" concept that we ordered in *Computer II* and Docket 21005. Therefore, some new accounts are required to record the results of the carriers' nonregulated operations. This proceeding was established to fulfill this requirement by amending Parts 34 and 35 of our Rules to reflect these new accounts.

III. Proposed Revisions

6. Our objectives in this proceeding as stated in the NPRM were:

A. To assure data are available for regulatory purposes that are not distorted by nonregulated activities;

B. To establish specific accounts in the regulated accounting system (Parts 34 and 35) to identify account balances associated with nonregulated activities;

C. To allow maximum latitude for carriers in establishing their own accounting systems for nonregulated activities;

D. To identify the accounts affected by deregulation and provide appropriate instructions for transfer of amounts from the Commission's prescribed accounts in Parts 34 and 35 to the accounts of the nonregulated activities;

E. To provide for recording transactions which are joint in nature and any necessary allocations between

the regulated entity and its nonregulated activities; and

F. To monitor the scope of the nonregulated activities and any potential for adverse impact on regulated services that may occur.

7. To meet these objectives, we proposed to amend Parts 34 and 35 of the FCC Rules and Regulations by:

A. Prescribing accounts 1625, "Nonregulated investments," and 5111, "Income from nonregulated investments," to account for the carriers' nonregulated activity; and

B. Eliminating accounts 1610, "Miscellaneous physical property," 1615, "Allowance for depreciation; miscellaneous physical property," 5110, "Income from Miscellaneous physical property," and 5115, "Income from merchandising, jobbing and contracting," so as to remove accounts that record revenues and costs that will now be reflected on the carriers' separate books for nonregulated activities.

8. Under our proposed accounting revisions, investment in the new account 1625 would include deregulated CPE that for regulated purposes was recorded in account 41, "Equipment on customers' premises," for carriers subject to Part 34 and account 51, "Equipment furnished customers," for carriers subject to Part 35. This new account would also include the depreciation reserve for deregulated CPE that for regulatory purposes was carried in account 1515, "Allowance for depreciation; radiotelegraph plant," for carriers subject to Part 34 and account 1515, "Allowance for depreciation; wire-telegraph and ocean-cable plant," for carriers subject to Part 35. In addition, this account would include investment and the related reserve formerly carried in account 1610, "Miscellaneous physical property," and account 1615, "Allowance for depreciation; miscellaneous physical property." Account 1625 would also record the investment of deregulated CPE in stock that for regulatory purposes has been included in account 1795, "Material and supplies." The latter three accounts are common to both Parts 34 and 35.

9. We also proposed that account 1625 serve as a receivable/payable account to record transactions settled on a current basis including the nonregulated portion of expenses common to both the regulated and nonregulated activity that were initially recorded by the carrier in its regulated accounts. Offsetting credits would be recorded to reduce the appropriate regulated expense accounts for the proportionate share of nonregulated expenses.

10. Further, we proposed that account 1625 record, on a monthly basis, the net income or loss derived from the carriers' nonregulated activity. The offset to this entry would be to account 5111, "Income from nonregulated investments," which we proposed to reflect the net income or loss of nonregulated activities. In addition, we proposed to require the carriers to subdivide account 1625 in such a fashion so as to identify permanent investment, transactions settled on a current basis, and income or losses from current operations. Moreover, we proposed that all revenues, investment and expenses which can be directly identified as nonregulatory, that is, not used in any regulatory capacity, should be recorded on the carriers' nonregulated separate books of account.

11. Our Rules, 47 CFR 34.31–2(d) and 47 CFR 35.31–2(c), currently require customer installation charges that exceed $100 to be amortized over the life of the related plant in place. At such time that CPE used in private wire service becomes detariffed, we proposed to require carriers to transfer the unamortized portion of installation revenue to account 1625, to properly reflect this revenue on the nonregulated separate books of account.

12. We also requested comments on what allocation methods should be used to separate common costs between the regulated and nonregulated activities. As a starting point, we suggested using procedures and principles for assigning costs to services as contained in the *Cost Allocation Manual for International Communications Carriers—September 1970* (IRC Cost Manual).

13. Finally, we requested comments on what new schedules, if any, are needed in Annual Report Forms O and R to analyze accounts 1625 and 5111, and we listed existing schedules of these forms that will be affected by our proposed changes in the accounts. The proposed changes in the schedules were:

A. Schedule 100, Comparative Balance Sheet—Asset Side, by deleting accounts 1610 and 1615, and adding account 1625;

B. Schedule 110, Miscellaneous Physical Property And Allowance For Depreciation—Miscellaneous Physical Property (Accounts 1610 and 1615), by deleting entire schedule;

C. Schedule 300, Income And Earned Surplus Statement, by deleting accounts 5110 and 5115 and adding account 5111; and

D. Schedule 361, Income From Miscellaneous Physical Property And Income From Merchandising, Jobbing, And Contracting (Accounts 5110 and 5115), by deleting entire schedule.

IV. Summary of Comments

14. Interested parties were invited to file comments on our proposal on or before November 8, 1982 and reply comments on or before November 23, 1982. On November 5, 1982, these dates were extended to November 22, and December 7, 1982, respectively, as a result of RCA's request for additional time.[4] On December 2, 1982, the response date for reply comments was extended an additional week to December 14, 1982 at WU's request.[5] Comments and reply comments were received from ITT World Communications Inc. (ITT); RCA Global Communications, Inc., (RCA); TRT Telecommunications Corporation (TRT);[6] Western Union International, Inc., (WUI); The Western Union Telegraph Company (WU); North American Telephone Association (NATA); and Trans-Lux Corporation (Trans-Lux). Reply comments only were received from the Independent Data Communications Manufacturing Association, Inc., (IDCMA).

Comments on Separate Books of Account for Nonregulated Activity

15. In their comments, WU and Trans-Lux support our proposal to implement the required separate books of account for all nonregulated activity. TRT also favors our proposal but it argues that this concept should only apply to CPE since petitions for reconsideration have been filed in *Computer II* with respect to the detariffing of "enhanced" services in relation to international record carriers. TRT argues that it is not possible to define enhanced services because they are integrated into the same plant and personnel that are required by the IRCs to provide the services which are defined as "basic" in *Computer II*.

16. WUI shares TRT's concern about enhanced services. It states that it is premature to adopt separate accounting procedures with respect to the IRCs until the Commission determines which services are considered to be basic and which services are considered to be enhanced. WUI argues that *Computer II* can lawfully apply only to those services which are part of the domestic component of an international service offering.

17. ITT, RCA and WUI argue that the separate books concept, as proposed in our NPRM, does not agree with Generally Accepted Accounting Principles (GAAP) because, according to

[4] CC Docket No. 82-678, 47 FR 53082.

[5] CC Docket No. 82-678, 47 FR 55974.

[6] Reply comments from TRT were filed late by one day; however, they were accepted by the FCC.

them, the accounting proposals set forth are a hybrid of the equity method and the cost method of accounting.[7] Further, RCA argues that the equity accounting technique is inconsistent with past Commission policy prohibiting the use of the equity method and that the use of a hybrid of accounting principles would make it difficult for outside auditors to audit and certify the company's financial position. ITT also argues that the proposed accounting is inconsistent with the position the Commission staff took in Docket 78–196 which proposed that Part 31 (Uniform System of Accounts for Class A and Class B Telephone Companies) be revised along lines that emphasize technology instead of business groups. On the other hand, NATA states that there is no reason why the Commission's proposed method of resolving this problem must conform to traditional accounting labels.

18. ITT and RCA also state that the establishment of a separate division with a separate set of books is akin to establishing a separate subsidiary which is a change in the Commission's order in *Computer II*. ITT also states that because the NPRM contained no explanation of these changes, the NPRM is legally deficient and fails to meet the standards established under the Administrative Procedure Act, 5 U.S.C. 550 *et seq.* WU, NATA, Trans-Lux, and IDCMA state that there is nothing in the NPRM requiring the IRCs to establish a separate subsidiary with a separate set of books for nonregulated activity.

19. WUI suggests some specific accounting revisions to implement the accounting changes required to maintain separate books of account for nonregulated activity. First, WUI suggests that we include language in § 35.1–7(b) that if the fair market value of plant transferred to nonregulated activity is less than net book cost, the difference should be credited to account 1625 and charged to account 6120. Second, WUI suggests in view of the above change, that additional language be added to our proposed § 35.5111(b) that when nonregulatory net income or loss is recorded in account 5111, "Income from nonregulated investments," an appropriate offsetting entry in account 1625, "Nonregulated investments," would be made. Third, WUI would include the reporting of gains or losses from sale of nonregulated property in account 5111 instead of accounts 6110, "Extraordinary current income credits," and 6120, "Extraordinary current income charges," as originally proposed in our Notice.

20. Trans-Lux, while not proposing any specific changes to Parts 34 and 35 of our Rules, suggests that carriers be required to maintain a separate set of books for each component of the nonregulated activities category instead of grouping all nonregulated activities in one account. Trans-Lux believes that this is the only route to follow to insure that there is no cross-subsidization between regulated and nonregulated activities. Trans-Lux further points out that if the IRCs cannot make a separate accounting system work, the Commission is responsible under the Record Carrier Competition Act (RCA), Pub. L. 97–130, (Dec. 29, 1981), to enforce a permanent structural solution. Finally, Trans-Lux states that the cost to develop an appropriate accounting system is a small price to pay in view of the distortion and inefficiencies created by a system in which competing market sectors are subsidized by a regulated monopoly sector.

21. In their reply comments, ITT, RCA, and WUI argue that Trans-Lux's approach to a separate set of books should be completely rejected. ITT argues that Trans-Lux's comments are of no value, because they are totally unspecific in terms of any detailed accounting changes. RCA states that there are already ample resources to protect the public, that Trans-Lux fails to define what it means by "separate books for each component," and that Trans-Lux's approach is an attempt to reverse administrative and FCC policy to reduce unwarranted regulatory paperwork. WUI, while not being specific, states Trans-Lux's comments are unsubstantiated and baseless.

Comments on Procedures to Allocate Common Costs Between Regulated and Nonregulated Operations

22. Although most of the commenting parties believe that some type of standard should be developed to allocate common costs between regulated and nonregulated operations, none of them favor the use or the IRC Cost Manual for that purpose. ITT states that the IRC Cost Manual is not a starting point to develop allocation procedures since new computer programs would have to be developed at great expense to isolate regulated and nonregulated costs. WUI and TRT state that the IRC Cost Manual is obsolete. RCA states that extensive studies would have to be made before carriers could use the manual and questions whether the cost involved would be warranted by the results obtained. WU argues that the IRC Cost Manual can not be applied to it without substantial revision because it is not designed to reflect WU's operations. Also, WU doubts that we can achieve the goal of prescribing uniform allocation procedures for all carriers because there are substantial differences in the nature of the systems and services of the record carriers.

23. Several carriers suggest alternatives to the IRC Cost Manual. WUI suggests that all carriers use its cost manual which it states has been reviewed by the Commission's auditors and modified where necessary. NATA makes no mention of the IRC Cost Manual but presents its own version of allocation procedures to be followed for costs related to customer-premise equipment. Under NATA's plan, a separate division would be physically created for merchandising CPE; using separate staffs to handle order processing, sales/marketing and installation/maintenance TRT argues that no manual should be prescribed because each carrier has its own distinct reporting procedures and company structure. Instead, TRT suggests that each carrier work with the Commission's staff to develop allocation and accounting procedures tailored to individual carrier needs.

24. The most detailed alternative to the IRC Cost Manual is suggested by WU. WU's proposal would allow carriers to establish their own allocation procedures under the Commission's surveillance. Its proposal is as follows:

A. Submission of an allocation manual by the carriers to the Commission within 60 days of issuance of a final ruling in this proceeding;

B. Unless notified otherwise by the Commission within 90 days of its objections to specific provisions, the manual would become the basis of allocation between regulated and nonregulated services;

C. If objection is raised, the carrier would have the opportunity to respond to the Commission after which the Commission would determine whether and to what extent the proposed manual should be modified;

D. Provision for amending manual under procedures similar to steps A, B, and C, above; and

E. Requirement that each carrier's books reflect the allocation rules prescribed in its effective manual.

25. Several carriers express opposition to the proposed alternatives. RCA criticizes NATA's cost accounting methodology stating that such a plan would lead to duplication of effort,

[7] The equity method and the cost method are alternative methods of accounting for investments in separate subsidiaries. Under the cost method, earnings of the subsidiary are not recognized by the parent until paid in dividends; under the equity method the earnings of the subsidiary are recognized by the parent when earned.

customer frustration and financial diseconomies. WUI states that WU's allocation proposal need not apply to them since they have already gone through such a procedure. ITT criticizes NATA's allocation procedures as being more adaptable to telephone carriers than record carriers and states that WU's approach is strictly self-serving. ITT also argues that, in the case of sales and billing costs, no allocation procedures are known at this time that will properly segregate these costs.

Comments on Revisions to Annual Report Forms O and R

26. Only WUI comments on our proposed changes in the Annual Report Forms O and R. WUI believes that no separate schedule is needed for account 5111, "Income from nonregulated investments," but suggests that account 1625, "Nonregulated investments," should have a separate schedule showing: (1) Permanent investment, (2) balance of intercompany transactions, and (3) income or loss from current operations.

V. Discussion

Separate Books to Account for Nonregulated Activity

27. In the NPRM, we proposed an accounting mechanism for the carriers to account for all investment, revenues and expenses from nonregulated activities in separate books of account. The carriers' regulated books would reflect only the net investment and net income or loss of nonregulated activities in new below-the-line accounts.

28. As noted above, the primary objective of our proposal was to be sure that this Commission has data available for regulatory purposes that are not distorted by nonregulated activities. We also want to avoid any potential for nonregulated activities having an adverse impact on a carrier's regulated operations.

29. In the NPRM, we noted that the concept we are trying to achieve is the establishment of a separate accounting division for nonregulated activity when a separate legal entity is not established. Some parties argue that this requirement would be a change in our decisions in *Computer II* and Docket No. 21005 because it would require carriers to establish a separate physical entity with a separate corporate structure and separate employees. Further, ITT argues that because our proposal is a change in prior Commission decisions and because the public has not had an opportunity to comment on the changes, our proposal fails to meet the standards established under the Administrative Procedure Act.

30. Based on a review of the comments, it appears that some of the parties misunderstand our proposal for accounting for the carriers' nonregulated operations. When services are shared between a carrier's regulated and nonregulated operations, the Commission must have data available that will enable it to be sure that the ratepayers are not bearing any of the carrier's nonregulated cost. In this proceeding we are prescribing accounting procedures that will give carriers some flexibility in supplying this Commission with these data. Basically, for accounting purposes only, we envision the carriers' regulated and nonregulated operations to be similar to a company that has a home office with separate branch operations where the branch operations (nonregulated) are accounted for separately with the results reflected in special accounts on home office (regulated) books.

31. Some carriers argue that our accounting changes follow the equity method of accounting, and they claim that this is contrary to the Commission's rules which require the cost method of accounting for investments in subsidiaries. However, the cost method, under which earnings of a subsidiary are not recognized until paid in dividends, is only appropriate when a separate corporate entity has been established. Because we are not requiring record carriers to establish separate subsidiaries for their nonregulated operations, the arguments concerning equity accounting are clearly without merit. In fact, we already have accounting procedures in place in §§ 34.1620 and 35.1620 ("Investments in affiliates") of our Rules to cover activity of separate corporate entities. Finally, our proposed procedures follow GAAP and, therefore, should alleviate the concerns of those parties that argue that our proposal was not in compliance with GAAP and thus would be difficult for outside auditors to certify. However, we wish to emphasize that a carrier's accounting for nonregulated operations must comply with the overall concept of separating regulated cost from nonregulated cost.

32. ITT argues that our proposed accounting is inconsistent with the position of the Commission in Docket 78-196, *Revision of the Uniform System of Accounts and Financial Reporting Requirements for Telephone Companies (Parts 31, 33, 42, and 43 of the FCC Rules*, 88 FCC 2d 83 (1981), which found that Part 31 of our Rules and Regulations should be revised along technology, rather than business, lines. ITT is incorrect. The revised uniform system of accounts resulting from Docket 78-196 will incorporate accounting provisions for nonregulated activities of telephone carriers which are conceptually equivalent to those contained herein for record carriers. Further, in order to minimize any substantive inconsistencies in accounting treatment for transactions as between record and telephone carriers which might otherwise arise in the interim, we have proposed similar accounting changes in the existing Part 31, in Docket 81-893, *Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry)*, FCC 83-181, released June 21, 1983.

33. Several carriers have raised the question of what accounting this Commission should follow pending a determination as to what services constitute enhanced services. The question of enhanced services is not at issue in this proceeding. However, the objective of this proceding is to establish the accounting requirements for record carriers' nonregulated operations. The issue of what is a regulated service and what is not a regulated service has been addressed in various other proceedings.[8] If a carrier has filed a petition for reconsideration of a decision in this area, we will address the merits of that petition in that proceeding. However, these issues are clearly outside the scope of this proceeding, and we feel that they should not have any impact on the accounting procedures adopted in this proceeding.

34. WUI suggests that we add specific language to § 35.1-7(b), "Transfers of plant," that all losses on the transfer of plant to nonregulated operations be charged to account 6120, "Extraordinary current income charges." It argues that this amendment is required because the proposed account 1625, "Nonregulated investments," will only reflect the cost of the plant transferred while the accumulated depreciation will remain in the regulated accounts. We intended from the outset to transfer the reserve to nonregulated operations. Good accounting requires that the reserve allowance for depreciation relative to the plant transferred follow the investment. Nonetheless, as noted in our

[8] Other proceeding include, Interconnection Arrangements Between and Among Domestic and International Record Carriers: Store-and-Forward and Telex/TWX Conversion, CC Docket No. 82-122, 48 FR 12372, March 24, 1983; and Western Union Telegraph Company—Application for Authority Pursuant to section 214, File No. I-T-C-82-258, released March 14, 1983.

NPRM, we are not addressing the value to be assigned to plant transferred from regulated operations to nonregulated operations in this proceeding. The value for plant transferred from regulated to nonregulated activity, whether at net book cost or some other value is being addressed in Docket 81-893, 89 FCC 2d 694 (1982). Therefore, we find WUI's first proposal is outside the scope of this proceeding. However, in the accounting for any gain or loss that may result from the sale or transfer of regulated plant to nonregulated operations, we believe that as a matter of policy gains or losses resulting from the transfer of regulated plant to nonregulated operations should accrue to the ratepayers. Therefore, we are amending Parts 34 and 35 of our Rules to recognize gains or losses on sale or transfer of plant to nonregulated operations.

35. WUI also suggests that in § 35.5111(b), "income from nonregulated investments," we specifically state that when net income or loss from nonregulated activity is recorded in account 5111, "Income from nonregulated investments," there should be a corresponding debit or credit to account 1625, "Nonregulated investments." We believe that the additional language for account 5111 will clarify our accounting instructions. We also feel that this amendment should be applied to account 5111 in Part 34 to make our accounting for the record carrier industry consistent. Therefore, we have amended §§ 34.5111(b) and 35.5111(b) to include the language proposed in WUI's second proposal.

36. Finally, WUI suggests that the gain or loss from the sale of nonregulated property be recorded in account 5111, "Income from nonregulated investments," instead of accounts 6110, "Extraordinary income credits," or 6120, "Extraordinary income charges," as we proposed. We agree with WUI that all transactions affecting nonregulated operations including the sale of plant used in nonregulated operations should be reflected in account 5111 as part of the overall earnings or loss of the nonregulated operations. Further as noted above, we feel WUI's proposal should be applied to Part 34 to make our accounting for all record carriers consistent. Therefore, all reference to sale of nonregulated plant in Sections 34.6199, "Other extraordinary income credits," 34.6299, "Other extraordinary income charges," 35.6110, "Extraordinary current income credits," and 35.6120, "Extraordinary current income charges," as proposed in our Notice, will be eliminated.

37. In our NPRM, we proposed to eliminate accounts for miscellaneous physical property and its associated depreciation reserve because this plant and its related reserve would be transferred to the carriers' nonregulated books. No comments were received from any of the parties on this proposal. Further, this plant investment and related depreciation reserve which are carried in accounts 1610 and 1615, respectively, will now be recorded in account 1625, "Nonregulated investments." Therefore, accounts 1610 and 1615 are no longer necessary and will be deleted from Parts 34 and 35.

38. Trans-Lux argues that the carriers should be required to maintain a separate set of books for each component of their nonregulated operations. However, our concern in this proceeding is to ensure that the carriers' nonregulated operations do not impact their regulated operations. We are not concerned with the profitability of each component of the carriers' nonregulated operations. Therefore, the collection of this information would be of little value to this Commission and in our view would place an unnecessary burden on the carriers.

39. Under our proposal, account 1625 would be segregated into three subaccounts to identify: (1) Plant investment, (2) receivable/payable activity settled on a current basis and (3) the net income or loss from nonregulated activity. We feel that good accounting requires that when one account records three distinct elements, it must be subdivided into three subaccounts. Further, the subaccounts will facilitate our auditing of the transfer of costs between the regulated and nonregulated activity. Finally, none of the parties in their responses objected to our proposal to subaccount 1625. Therefore, we are adopting our proposal and will require each carrier to maintain account 1625 in subaccounts to readily identify the three elements enumerated above.

40. Our Rules, 47 CFR 34.31-2(d) and 47 CFR 35.31-2(c), currently require customer installation charges that exceed $100 to be amortized over the life of the related plant in place. We proposed that, if embedded CPE used in private wire service is detariffed in Docket 81-893, the unamortized portion of the installation revenue should be transferred to account 1625. This transfer will match the unamortized portion of installation cost with embedded plant when it is transferred to nonregulated operations. None of the respondents objected to this proposal. Therefore, if in Docket 81-893 we require carriers to transfer embedded CPE used in private wire service to nonregulated operations, the carriers also must transfer the unamortized portion of the related installation charges to account 1625.

41. In addition to the accounting revisions mentioned above, other changes to Parts 34 and 35 are necessary. These changes for the most part represent additional cross-reference notes or the inclusion or exclusion of descriptive narratives resulting from the addition, deletion or revision of these accounts. The complete set of revisions to Parts 34 and 35 can be seen in Appendixes A and B, respectively.

Allocating Common Costs Between Regulated and Nonregulated Operations

42. In our NPRM, we sought comments on what allocation methods should be used to separate common costs between the carriers' regulated and the nonregulated activities. We suggested that the *Cost Allocations Manual for International Communications Carriers—September 1970* (IRC Cost Manual) may be a reasonable starting point to establish procedures for allocating common cost between regulated and nonregulated activities. However, all of the comments that address the IRC Cost Manual argue that the manual is either obsolete or needs extensive revisions to meet the Commission's needs. We agree in general with these comments as they would apply in this situation. Therefore, we will not use the IRC Cost Manual.

43. NATA and WUI each proposed a set of procedures that they suggest all carriers use to allocate their common cost. WUI suggests that all carriers use its allocation procedures that have previously been reviewed by the Commission's audit staff and revised where required. NATA's proposed procedures would have carriers identify and assign CPE cost to a separate division that would be established to handle CPE sales.

44. We feel that the uniform allocation procedures proposed by WUI and NATA would create several problems for the carriers. As noted by TRT, each carrier has its own distinct operating characteristics and some carriers may have difficulty implementing these uniform procedures. Further, the development and implementation of revisions to the procedures would create some mechanical problems such as: who would propose the changes, what if a carrier did not agree with the change and who would decide on the timing of the change. However, these findings do not alter our belief that the allocation,

recording, and reporting of all carriers' common costs should be performed in a uniform manner wherever possible. Our review of the record compiled in this proceeding and comments submitted in CC Docket No. 81-893 (Procedures for Implementing the Detariffing of Customer Premises Equipment and Enhanced Services (Second Computer Inquiry)) (Adopted April 27, 1983, Released June 21, 1983) (48 FR 36167) leads us to conclude that it would be premature to attempt a final resolution of the cost allocation procedures at this time. The problems associated with the prescription of procedures such as those proposed by NATA and WUI appear to be pervasive in the industry. As a consequence, it is likely that the prescription of uniform procedures based on the record in this proceeding would have to be revised in the near future. We do not believe that this is an effective use of either our or the carriers' resources. Therefore, we will issue, in the near future, a Notice of Proposed Rulemaking to investigate and possibly establish uniform principles to be followed by all carriers when allocating common cost and accounting for and reporting the results of these allocations.

45. TRT and WU argue that since each carrier has its own unique operating practices, it would be impossible for the Commission to prescribe uniform allocation procedures that would fit all carriers' operations. Because of this, those carriers suggest that each carrier develop its own allocation procedures. TRT suggests that each carrier work informally with the Commission's staff to develop allocation procedures tailored to each carrier's operations. WU's plan follows a formalized framework wherein each carrier would submit an allocation manual to the Commission within 60 days of the issuance of a final ruling in this proceeding. Unless notified otherwise by this Commission within 90 days of any objection, the manual would become the basis of allocation procedures. If objections are raised, the carriers would have the opportunity to respond to the Commission to determine whether and to what extent the manual should be modified. Finally, provision for amending the manual would follow procedures similar to the above.

46. In view of the difficulties inherent in prescribing uniform allocation procedures based upon the WUI and NATA proposals, we believe it is appropriate to accept as an interim measure the principle of individual allocation procedures proposed by TRT and WU. In TRT's proposal, the initial onus would be on the staff to develop allocation factors along with the carriers' staff. We believe at this time that this is not an efficient use of Commission resources. On the other hand, WU's proposal would shift the responsibility of allocating costs to the carriers, subject to Commission review. We believe that the latter proposal is the most reasonable for all carriers to implement while meeting the needs of the Commission. WU's proposal has several advantages. It has the advantage that each carrier will develop its own allocation procedures and thus these procedures will fit that carrier's operations. Also many carriers may in fact have cost allocation systems in place that may be appropriate to our needs. Further, each carrier can modify its system as the need arises, thus eliminating problems of uniform revisions that may not fit all carriers. Finally, having each carrier submit its own allocation procedures tailored to its resources and needs should alleviate the concerns of those carriers who argue that using allocation procedures developed for an industry-wide cost allocation manual would be a time-consuming and costly process. Therefore, we have decided to adopt WU's suggestion with some modifications, as discussed below.

47. In WU's proposal, carriers would be required to file an allocation manual within 60 days of issuance of a final ruling in this proceeding. While some carriers may already have allocation procedures developed and can easily meet the 60 day time limit for filing; other carriers may not have sufficient allocation procedures developed and will require more than the 60 days to develop proper procedures. Therefore, we have decided to allow 90 days from the date that this Order is published in the **Federal Register** for carriers to submit cost allocation procedures to this Commission. Further, we are amending §§ 34.03-17 and 35.03-17 (Apportioning amounts among accounts including amounts between regulated and nonregulated operations) to reflect the steps to be followed for approval of allocation procedures for those carriers who have either established separate corporate entities to engage in nonregulated activity or use the home office/branch concept of accounting and recording nonregulated activity in separate books of account.

48. WU also proposes that the Commission notify the carriers within 90 days if it objects to specific provisions of the carriers' allocation procedures. We have no problem in allowing a carrier to implement their allocation procedures 90 days after their submission, provided Commission Staff has not notified the carrier otherwise. In those instances where the staff feels that some provisions of the carrier's procedures are unacceptable, the staff should work with the carrier to revise the procedures. In the case of ITT, it argued that no allocation procedures are known at this time that will properly allocate certain costs such as sales and billing. However, it is not uncommon for companies, both regulated and nonregulated, to allocate these types of costs to various products or services. If an agreement on procedures cannot be reached, or if a carrier's submission is totally unacceptable, we direct the Chief of the Commmon Carrier Bureau to make recommendations to the Commission on what steps are necessary to segregate common activities and common plant including, if necessary, the prohibition of shared activities.

49. Carriers may revise their cost allocation procedures at any time they feel that conditions warrant a change. However, carriers must file all revisions to their procedures 90 days prior to the implementation of the change. Our policy on these revisions will be the same as that applied to the initial submission of allocation procedures as outlined above.

50. WU's proposal does not describe the detail in which the procedures will be presented in the allocations manual. Therefore, we wish to emphasize that all procedures submitted must contain a detailed description by account of how each regulated plant and expense account that has common costs will be allocated between the regulated and nonregulated operations.

51. Finally, we initially planned to have the results of each carrier's allocation procedures reflected in the carrier's books and in their Annual Report Forms O and R. Because the format for recording and reporting regulated plant may be affected by our choice of allocation procedures, we do not believe that it is appropriate, at this time, to modify the annual reports to disclose the results of allocating jointly used plant between regulated and nonregulated operations. In the interim, for accounting purposes, carriers will reflect on their regulated books for plant in regulated service that plant which is used solely for regulated service as well as that plant which is used jointly for regulated and nonregulated services. Plant that is used solely for nonregulated operations will be reflected on the carriers' nonregulated books. Finally, if there are questions during this period concerning what

portions of a carrier's plant and depreciation reserve are related to nonregulated operations, the carriers' supporting records will be expected to reflect these amounts and conform to those allocation procedures submitted to the Commission.

52. Carriers' expenses do not pose the same reporting problems that are evident in the plant accounts. Expense accounts are closed out each year, thus fluctuations in their assignment are easier to address. Therefore, Annual Report Forms O or R will reflect only expenses that are related to regulated operation. The nonregulated portion of a carrier's expenses will be recorded in its nonregulated books and reflected on the regulated books in the new accounts 1625 and 5111.

Revisions to Annual Report Forms O and R

53. In conjunction with the accounting changes to Parts 34 and 35, we proposed to make conforming amendments to some existing schedules of Annual Report Forms O and R to reflect the addition or deletion of prescribed accounts. While no comments were submitted by any of the parties, we believe that the conforming amendments to Forms O and R are necessary to recognize the changes in Parts 34 and 35 that we are adopting in this Order. Schedule 110 which we had proposed to delete has already been deleted under CC Docket 82-475, 47 FR 58270. Therefore in this proceeding, we are deleting Schedule 361 and we are amending Schedules 100 and 300 to reflect the accounting changes to Parts 34 and 35. Appendixes C and D to this order contain samples of all revised schedules in our Annual Report Forms O and R.

54. We also sought comment as to what new schedules, if any, were needed in Forms O and R to analyze accounts 1625 and 5111. Only one party, WUI, filed comments on our proposal. WUI proposed that an additional schedule be added to Form O to show the beginning and ending balances for Account 1625 in three categories. However, with our plan to release a Notice of Proposed Rulemaking to address changes in the Forms O and R concerning the carriers' nonregulated operations, we will wait and consider WUI's proposal in that NPRM.

55. Carriers subject to Parts 34 and 35 of our Rules and Regulations are also required, under § 43.31 of our Rules and Regulations, to file monthly financial reports. These reports, FCC Form 903, "Monthly Report of Revenues, Expenses and Other Items" (Radiotelegraph and Ocean-Cable), and FCC Form 905, "Monthly Report of Revenues, Expenses and Other Items" (Wire-Telegraph), contain some of the same data that is includible in the Annual Report Forms O and R. In order to keep the monthly and annual reports consistent, we are revising the Forms 903 and 905 to reflect the changes made in the Forms O and R. The changes in Forms 903 and 905 will be effective with the carriers' January 1984 reports.

56. In Docket No. 19986, *Amendment of FCC Forms 903 and 905*, 39 FR 31904 (released August 30, 1974), we converted Forms 903 and 905 to a computer format. In Appendix A of that Order, we published the instructions the carriers are to follow in preparing the computer punch cards for data required on Forms 903 and 905. Revised pages to these instructions are included in Appendix E.

VI. Regulatory Flexibility Act

57. In compliance with the provisions of section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we believe the above discussion sets forth the purpose of these amendments. Further, we certify that these accounting changes can be readily implemented by all carriers subject to Parts 34 and 35 without significant economic impact.

VII. Ordering Clauses

58. Accordingly, it is ordered, pursuant to section 4(i), 219 and 220 of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 219 and 220 that Parts 34 and 35 are hereby amended as set forth in Appendixes A and B, respectively, effective October 28, 1983.

59. It is further ordered, That each carrier subject to Parts 34 and 35 of our Rules and Regulations shall submit cost allocation procedures, as described in this Order, to this Commission within 90 days from the date this Order is published in the **Federal Register.**

60. It is further ordered, That the Forms O and R are hereby revised as set forth in this Order and Appendixes C and D, respectively, effective with the Form O and R Reports for calendar year 1983.

61. It is further ordered, That FCC Forms 903 and 905 instructions and format are hereby revised as set forth in this Order and Appendix E effective with the Form 903 and 905 Reports for January 1984.

62. It is further ordered, That Docket No. 82-678 is hereby terminated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 34—[AMENDED]

Part 34, Uniform System of Accounts for Radiotelegraph Carriers is amended as follows:

1. Section 34.02-1, "Restrictive use of certain terms," is amended by revising the definition for "operated plant" to read as follows:

§ 34.02-1 Restrictive use of certain terms.

* * * * *

"Operated plant" means physical plant used solely for regulated "radiotelegraph service" or in common with nonregulated operations together with associated intangible items.

* * * * *

2. Section 34.03-17, "Apportioning amounts among accounts," the section heading is revised and paragraph (d) is added to read as follows:

§ 34.03-17 Apportioning amounts among accounts including amounts between regulated and nonregulated operations.

* * * * *

(d) All subject carriers must submit detailed allocation procedures by account to be used to separate those costs incurred by the carrier that are common to both the carrier's operations and its affiliate's operations or in common to both the carrier's regulated and nonregulated operations. These procedures and any revisions must be filed with the Commission 90 days prior to their implementation. Unless notified within 90 days by the Commission of its objections, the procedures will become the basis for the allocation of common costs between regulated and nonregulated activity. (See §§ 34.1625 and 34.1749.)

§ 34.10-99 [Amended.]

3. Section 34.10-99, "Contemplated form of balance sheet," under the "Investments and Funds" category is amended to add account 1625, "Nonregulated investments," and remove accounts 1610, "Miscellaneous physical property," and 1615, "Allowance for depreciation; miscellaneous physical property."

§ 34.1610 [Removed]

4. Section 34.1610, "Miscellaneous physical property," is removed.

§ 34.1615 [Removed]

5. Section 34.1615, "Allowance for depreciation; miscellaneous physical property," is removed.

6. Section 34.1625, "Nonregulated investments," is added to read as follows:

§ 34.1625 Nonregulated investments.

(a) This account shall include the net investment in nonregulated activities when they are not conducted through a separate corporate entity. It shall include all assets and liabilities used exclusively in nonregulated activities including investment in physical property, either in service, under construction or in stock, together with related allowance for depreciation. It shall include the amount of all assessments for the construction of public improvements levied against nonregulated physical property. This account shall include receivables and payables with nonregulated activities that are settled on a current basis. It shall include, as a receivable, costs including taxes incurred on behalf of nonregulated operations, and, as a payable, costs incurred by nonregulated operations on behalf of regulated business. This account shall also reflect net income or loss on nonregulated activity. (See § 34.03–17.)

(b) This account shall be subdivided as follows:

1625:01 Permanent investment.
1625:02 Receivables and payables settled on a current basis.
1625:03 Current net income or loss.

7. Paragraphs (a) and (f) of § 34.1795, "Material and supplies," are revised to read as follows:

§ 34.1795 Material and supplies.

(a) This account shall include the cost (consideration being given to the adjustments outlined in paragraphs (b), (c), (d), and (e) of this section) of unapplied material and supplies held for use in the carrier's regulated operations or in common with its nonregulated operations (including plant supplies, unissued small tools, fuel, stationery, and other supplies) and of material and articles of the carrier in process of manufacture for supply stock.

* * * * *

(f) This account shall be subdivided as follows:

1795:01 Material held for use in the carrier's regulated operations or in common with its nonregulated operations.
1795:02 Material in process of conversion.
1795:03 Undistributed supply expense.

8. Section 34.1–1, "Purpose and content of operated plant accounts," paragraph (a) is revised to read as follows:

§ 34.1–1 Purpose and content of operated plant accounts.

(a) The operated plant accounts are designed to show the original cost of the carrier's plant having a service life of more than 1 year, whether used by the carrier or others in its regulated operations or in common with its nonregulated operations. (Account 1400, "Plant held for future communication use," shall also be classified according to the titles and texts provided for the several operated plant accounts.) (See also 34.03–8.)

* * * * *

9. Section 34.1–6, "Operated plant retired," paragraph (c) is revised to read as follows:

§ 34.1–6 Operated plant retired.

* * * * *

(c) Land: The cost of land retired shall be credited to account 11, "Land." If the land is sold or transferred completely to nonregulated operations, the difference between the cost of the land and the consideration received less commissions and other expenses of making the sale, shall be charged to account 4999, "Other operating revenue deductions," or credited to account 3899, "Miscellaneous nontransmission revenue," as appropriate. (See also §§ 34.3899 and 34.4999.)

* * * * *

10. Section 34.1–7 "Transfers of plant," paragraph (b) is revised to read as follows:

§ 34.1–7 Transfers of plant.

* * * * *

(b) When depreciable operated plant is transferred entirely to nonregulated operations, the transfer shall be accounted for by crediting the appropriate plant accounts and charging account 1515, "Allowance for depreciation: radiotelegraph plant," with the cost of the plant transferred. Account 1515 shall then be credited and account 1625, "Nonregulated investments," shall be charged, for the fair value of the plant transferred. (See also § 34.1625.)

§ 34.40 [Amended]

11. Section 34.40, "Control apparatus," NOTE C is removed

12. Section 34.41 "Equipment on customer's premises," is amended by designating the present NOTE as NOTE A and adding a new NOTE B. As redesignated, the notes read as follows:

§ 34.41 Equipment on customer's premises.

* * * * *

Note A.—The cost of outside wiring shall be included in account 26, "Control lines."

Note B.—See also § 34.1625.

§ 34.30–99 [Amended]

13. Section 34.30–99, "Contemplated form of income and earned surplus statement," under the "Ordinary Income-Noncommunication" category is amended to add account 5111, "Income from nonregulated investments," and remove accounts 5110, "Income from miscellaneous physical property," and 5115, "Income from merchandising jobbing and contracting."

§ 34.4932 [Amended]

14. Section 34.4932 "Other taxes: operating," NOTE D is removed.

15. Section 34.4999, "Other operating revenue deductions," is revised to read as follows:

§ 34.4999 Other operating revenue deductions.

This account shall include losses on the sale of plant or the transfer of plant to nonregulated operations and other operating deductions that are not includible elsewhere. (See § 34.1–6.)

§ 34.5110 [Removed]

16. Section 34.5110, "Income from miscellaneous physical property," is removed.

17. Section 34.5111, "Income from nonregulated investments," is added to read as follows:

§ 34.5111 Income from nonregulated investments.

(a) This account shall include the earnings or losses from nonregulated activities, both ordinary and extraordinary.

(b) All revenues earned and expenses (including taxes) incurred in nonregulated operations shall be recorded on separate books of account for such operations. Only the net of the total revenues and total expenses shall be recorded in this account, with an appropriate offsetting entry in account 1624, "Nonregulated investments."

§ 34.515 [Removed]

18. Section 34.5115, "Income from merchandising, jobbing, and contracting," is removed.

19. Section 34.5250, "Miscellaneous taxes," paragraph (a), is revised to read as follows:

§ 34.5250 Miscellaneous taxes.

(a) This account shall include the amounts for taxes not provided for elsewhere.

* * * * *

§ 34.6199 [Amended]

20. Section 34.6199, "Other extraordinary income credits," is amended under the ITEMS list to remove the following: "Profits derived from the sale of property the cost of which is includible in account 1610, 'Miscellaneous physical property.' Profits from the sale of plant. (See also § 34.1–6.)"

§ 34.6299 [Amended]

21. Section 34.6299, "Other extraordinary income charges," is amended under the ITEMS list to remove the following: Losses on the sale of plant. (See also § 34.1–6) Losses resulting from the sale, destruction, or retirement of property the cost of which is includible in account 1610, "Miscellaneous physical property."

22. Section 34.3899, "Miscellaneous nontransmission revenue," is revised to read as follows:

§ 34.3899 Miscellaneous nontransmission revenue.

This account shall include profits from sale of plant or plant transferred to carrier's nonregulated operations and carrier's portion of other revenue from nontransmission services not provided for elsewhere, such as revenue from frequency measuring, code registration, and errand service. (See 34.1–6.)

23. Section 34.41–8, "Expenses of nonregulated operations," is added to read as follows:

§ 34.41–8 Expenses of nonregulated operations.

(a) Operating expenses incurred by the carrier on behalf of its nonregulated operations and initially charged to prescribed operating expense accounts shall be transferred to nonregulated operations by debiting account 1625, "Nonregulated investments," and crediting the prescribed operating expense accounts. (See § 34.1625(b).)

(b) Operating expenses incurred by the nonregulated operations of a carrier on behalf of its regulated business and initially charged to the accounts of the nonregulated operation shall be transferred to regulated operations by debiting the prescribed operating expense accounts and crediting account 1625, "Nonregulated investments." (See § 34.1625(b).)

§ 34.4115 [Amended]

24. Section 34.4115, "Maintenance of real estate," NOTE B is removed.

Appendix B

PART 35—[AMENDED]

Part 35, Uniform system of Accounts for Wire-Telegraph and Ocean-Cable Carriers is amended as follows:

1. Section 35.02–1, "Restrictive use of certain terms," is amended by revising the definition for "operated plant" to read as follows:

§ 35.02–1 Restrictive use of certain terms.

* * * * *

"Operated plant" means physical plant used solely for regulated "wire-telegraph service" and "ocean-cable service" or in common with nonregulated operations together with associated intangible items.

* * * * *

2. Section 35.03–17, "Apportioning amounts among accounts," the section heading is revised and paragraph (d) is added to read as follows:

§ 35.03–17 Apportioning amounts among accounts including amounts between regulated and nonregulated operations.

* * * * *

(d) All subject carriers must submit detailed allocation procedures by account to be used to separate those costs incurred by the carrier that are common to both the carrier's operations and its affiliates's operations or common to both the carrier's regulated and nonregulated operations. These procedures and any revisions must be filed with the Commission 90 days prior to their implementation. Unless notified within 90 days by the Commission of its objections, the procedures will become the basis for the allocation of common costs between regulated and nonregulated activity. (See §§ 35.1625 and 35.1749.)

§ 35.10–99 [Amended]

3. Section 35.10–99, "Contemplated form of balance sheet," under the "Investments and funds" category is amended to add account 1625, "Nonregulated investments," and remove accounts 1610, "Miscellaneous physical property," and 1615, "Allowance for depreciation; miscellaneous physical property."

§ 35.1610 [Removed]

4. Section 35.1610, "Miscellaneous physical property," is removed.

§ 35.1615 [Removed]

5. Section 35.1615, "Allowance for depreciaton; miscellaneous physical property," is removed.

6. Section 35.1625, "Nonregulated investments," is added to read as follows:

§ 35.1625 Nonregulated investments.

(a) This account shall include the net investment in nonregulated activities when they are not conducted through a separate corporate entity. It shall include all assets and liabilities used exlusively in nonregulated activities including investment in physical property, either in service, under construction or in stock, together with related allowance for depreciation. It shall include the amount of all assessments for the construction of public improvements levied against nonregulated physical property. This account shall include receivables and payables with nonregulated activities that are settled on a current basis. It shall include, as a receivable, costs including taxes incurred on behalf of nonregulated operations, and, as a payable, costs incurred by nonregulated operations, and, as a payable, costs incurred by nonregulated operations on behalf of regulated business. This account shall also reflect net income or loss on nonregulated activity. (See § 35.03–17.)

(b) This account shall be subdivided as follows:

1625:01 Permanent investment.
1625:02 Receivables and payables settled on a current basis.
1625:03 Current net income or loss.

7. Paragraphs (a) and (f) of § 35.1795, "Material and supplies," are revised to read as follows:

§ 35.1795 Material and supplies.

(a) This account shall include the cost (consideration being given to the adjustments outlined in paragraphs (b), (c), (d), and (e) of this section) of unapplied material and supplies held for use in the carrier's regulated operations or in common with nonregulated operations (including plant supplies, unissued small tools, fuel, stationery, and other supplies) and of material and articles of the carrier in process of manufacture for supply stock.

* * * * *

(f) This account shall be subdivided as follows:

1795:01 Material held for use in the carrier's regulated operations, or in common with its nonregulated operations.
1795:02 Material in process.
1795:03 Undistributed supply items. (See § 35.90–2.)

8. Section 35.1–1, "Purpose and content of operated plant accounts," paragraph (a) is revised to read as follows:

§ 35.1-1 Purpose and content of operated plant accounts.

(a) The operated plant accounts are designed to show in detail the cost of the several classifications of the carrier's wire-telegraph and ocean-cable plant that has a service life of more than 1 year, whether used by the carrier or by others in its regulated operations or in common with its nonregulated operations.

* * * * *

9. Section 35.1-6, "Additions, retirements, and replacements of operated plant," paragraph (j)(4) is revised, as follows:

§ 35.1-6 Additions, retirements, and replacements of operated plant.

* * * * *

(j) * * *

(4) The amount remaining in account 92 applicable to such plant upon the completion of the foregoing entries shall be transferred to account 3899, "Miscellaneous nontransmission revenue," or account 4999, "Other operating-revenue deductions," as appropriate.

* * * * *

10. Section 35.1-7 "Transfers of plant," paragraph (b) is revised to read as follows:

§ 35.1-7 Transfers of plant.

* * * * *

(b) When depreciable operated plant is transferred entirely to nonregulated operations, the transfer shall be accounted for by crediting the appropriate plant accounts and charging account 1515, "Allowance for depreciation; wire-telegraph and ocean-cable plant," with the cost of the plant transferred. Account 1515 shall then be credited and account 1625, "Nonregulated investments," shall be charged for the fair value of the plant transferred. (See also § 35.1625.)

§ 35.41 [Amended]

11. Section 35.41, "Message transmitting and receiving equipment," NOTE is removed.

§ 35.47 [Amended]

12. Section 35.47, "Time-service equipment," NOTE B is removed.

§ 35.48 [Amended]

13. Section 35.48, "Ticker and commercial news service equipment," NOTE is removed.

§ 35.30-99 [Amended]

14. Section 35.30-99, "Contemplated form of income and earned surplus statement," under the "Ordinary Income—Noncommunications" category is amended to add account 5111, "Income from nonregulated investments," and remove accounts 5110, "Income from miscellaneous physical property," and 5115, "Income from merchandising, jobbing and contracting."

§ 35.4932 [Amended]

15. Section 35.4932, "Other taxes; operating," NOTE B is removed.

16. Section 35.4999, "Other operating-revenue deductions," is revised to read as follows:

§ 35.4999 Other operating-revenue deductions.

This account shall include losses on the sale of plant or the transfer of plant to nonregulated operations and other operating deductions that are not includible elsewhere. (See § 35.1-6.)

§ 35.5110 [Amended]

17. Section 35.5110, "Income from miscellaneous physical property," paragraph (a) is removed.

18. Section 35.5111, "Income from nonregulated investments," is added to read as follows:

§ 35.5111 Income from nonregulated investments.

(a) This account shall include the earnings or losses from nonregulated activities, both ordinary and extraordinary.

(b) All revenues earned and expenses (including taxes) incurred in nonregulated operations shall be recorded on separate books of account for such operations. Only the net of the total revenues and total expenses shall be recorded in this account, with an appropriate offsetting entry in account 1625, "Nonregulated investments."

§ 35.5115 [Removed]

19. Section 35.5115, "Income from merchandising, jobbing and contracting," is removed.

20. Section 35.5250, "Miscellaneous taxes," paragraph (a) is revised to read as follows:

§ 35.5250 Miscellaneous taxes.

(a) This account shall include the amounts for taxes not provided for elsewhere.

* * * * *

§ 35.6110 [Amended]

21. Section 35.6110, "Extraordinary current income credits," is amended under the ITEMS list to remove the following: "Profits derived from the sale of property the cost of which is includible in account 1610, "Miscellaneous physical property." Profits derived from the sale of plant. (See also 35.1-6(j).)"

§ 35.6120 [Amended]

22. Section 35.6120, "Extraordinary current income charges," is amended under the ITEMS list to remove the following: "Losses on the sale of plant. (See also 35.1-6(j).) Losses resulting from the sale, destruction, or retirement of property the cost of which is includible in account 1610, 'Miscellaneous physical property.' "

23. Section 35.3899, "Miscellaneous nontransmission revenue," is revised to read as follows:

§ 34.3899 Miscellaneous nontransmission revenue.

This account shall include profits from the sale of plant or plant transferred to carrier's nonregulated operations and the carrier's portion of revenue from nontransmission services not provided for elsewhere, such as revenue from frequency measuring, code registration, and time service. (See § 34.1-6.)

24. Section 35.41-8, "Expenses of nonregulated operations," is added to read as follows:

§ 35.41-8 Expenses of nonregulated operations.

(a) Operating expenses incurred by the carrier on behalf of its nonregulated operations and initially charged to prescribed operating expense accounts shall be transferred to nonregulated operations by debiting account 1625, "Nonregulated investments," and crediting the prescribed operating expense accounts. (See § 35.1625(b).)

(b) Operating expenses incurred by the nonregulated operations of a carrier on behalf of its regulated business and initially charged to the accounts of the nonregulated operation shall be transferred to regulated operations by debiting the prescribed operating expense accounts and crediting account 1625, "Nonregulated investments." (See § 35.1625(b).)

§ 35.4150 [Amended]

25. Section 35.4150, "Maintenance of real estate," NOTE B is removed.

Note.—Appendices C, D, and E will not appear in the Code of Federal Regulations.

BILLING CODE 6712-01-M

Annual Report Of — Appendix C — Year ended December 31, 19

SCHEDULE 100. COMPARATIVE BALANCE SHEET - ASSET SIDE

Line No.	Particulars (a)	Account Number	Balance At Beginning of Year (b)	Balance At Close of Year (c)	Increase (Decrease) Over Last (d)
1	**Communication Plant**				
2	1000 Operated plant in carrier's service	101	$	$ -	$
3	1100 Operated plant leased to others				
4	1200 Imp. & rep. of optd. plt. leased fm. others				
5	1300 Plant under construction				
6	1400 Plant held for future communication use				
7	1510 Plant acquisition adjustments				
8	TOTAL (lines 2 to 7, inclusive)				
9	1515 Allowance for Depreciation	106			
10	1520 Allowance for Amortization	108			
11	Line 8 minus lines 9 and 10				
12	+1530 Telephone, wire-teleg.& ocean-cable plant	101			
13	*1530 Telephone and radiotelegraph plant	101			
14	1535 Allow. for deprn. & amort.--Account 1530	105			
15	Line 12 or line 13 minus line 14				
16	*1540 Plant in process of reclassification				
17	*1545 Plant adjustments				
18	1599 Foreign investment in communication plant				
19	TOTAL COMM.-Plant (lines 11,15,16,17, & 18)				
20	**Investments and Funds**				
21	1620 Investments in affiliates	111			
22	1625 Nonregulated investments				
23	1629 Other investments	111			
24	1630 Debt-redemption funds	111			
25	1635 Employees' provident funds	338c			
26	1640 Insurance funds	111			
27	1645 Miscellaneous funds held by trustees	111			
28	1659 Other miscellaneous funds	111			
29	Lines 21 to 28, inclusive				
30	1658 Amortized disc.& prem. on invest. securities				
31	Lines 29 and 30				
32	1639 Allowance for doubtful investments	111			
33	Line 31 minus line 32				
34	TOTAL Invest. & funds (lines 21 and 33)				
35	**Current Assets**				
36	1710 Cash				
37	1715 Special cash deposits	130			
38	1720 Working cash advances	131			
39	1725 Temporary investments	132			
40	TOTAL (lines 36 to 39 inclusive)				
41	+1730 Operating revenues receivable from users				
42	*1730 Receivables from customers				
43	1742 Traffic settlements., rec., from affiliates	133			
44	1749 Other receivables from affiliates	133			
45	(Receivables from nonaffiliates)				
46	1751 Notes receivable	134			
47	1752 Traffic settlements receivable				
48	1753 Matured interest receivable				
49	1754 Declared dividends receivable				
50	1755 Matured rents receivable				
51	1759 Other accounts receivable				
52	TOTAL (lines 41 to 51, inclusive)				
53	1765 Allowance for uncollectible receivables	135			
54	Line 52 minus line 53				

+Applicable only to radiotelegraph carriers.
*Applicable only to wire-telegraph and ocean-cable carriers.

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SCHEDULE 100. COMPARATIVE BALANCE SHEET - ASSET SIDE (cont.)

Line No.	Particulars (a)	Ref. Page	Balance At Beginning of Year (b)	Balance At Close of Year (c)	Increase (Decrease) Over Last (d)
55	1770 Unmatured accrued receivables				
56	1775 Subscriptions to capital stock	240			
57	1780 Deposits on subscriptions to capital stock	240			
58	Line 56 minus 57				
59	1785 Subscriptions to bonds	201			
60	1790 Deposits on subscriptions to bonds	201			
61	Line 59 minus 60				
62	1795 Material and supplies	140			
63	1799 Other current assets	141			
64	TOTAL Current Assets				
65	Lines 40, 54, 55, 58, 61, 62, & 63				
66	**Prepayments**				
67	1810 Prepaid insurance				
68	1815 Prepaid rents				
69	1820 Prepaid taxes	143			
70	1899 Other prepayments	141			
71	TOTAL Prepayments				
72	**Deferred Charges**				
73	1910 Extraordinary maintnce.,deprn.&retirents.	150			
74	1915 Capital-stock expense	240			
75	1920 Long-term debt expense	201			
76	1925 Discount on capital stock	240			
77	1930 Unamortized discount on debt	201			
78	1935 Prelim. survey & investigation charges				
79	1940 Debit balances in clearing accounts	153			
80	1999 Other deferred charges	154			
81	TOTAL Deferred Charges				
82	TOTAL - ASSET SIDE -				

NOTE A. In accordance with Sections 34.10-16 or 35.10-16 of the Commission's Rules and Regulations state whether any particulars as to contingent assets existing at the end of the year appear in accompanying Schedule 8, which schedule shall be considered as an integral part of the balance sheet. YES ☐ NO ☐

NOTE B. Irrevocably devoted trust funds held by put-aside trustees shall be excluded from the balance sheet. The amounts in such funds at the end of the year should be stated here. Give full particulars on Schedule 338c.

IRREVOCABLY DEVOTED TRUST FUNDS		
	Class of Funds	Amount
1.	Pension funds	$
2.		
3.		
4.		

Annual Report Of — Appendix D — Year ended December 31, 19 — Page 1 of 2

SCHEDULE 300. INCOME AND EARNED SURPLUS STATEMENT

Line No.	Particulars (a)	Ref. Acct. No.	Amount applicable to the year (b)	Increase or decrease over last year (c)
1	INCOME			
2	Ordinary Income - Communication			
3	3000 Operating revenues	301	$	$
4	(Operating-Revenue Deductions)			
5	4000 Operating expenses	330		
6	4910 Depreciation	360		
7	4915 Amortization-Intangible operated plant	360		
8	4920 Amortization of plant-acquisition adjustments			
9	4925 Extraordinary plant losses			
10	4931 Social security taxes-Operating	143		
11	4932 Other taxes--Operating	143		
12	4935 Uncollectible revenues			
13	+4940 Rent for lease of operated plant	362		
14	+4945 Telep., wire-teleg. & ocean-cable operating revenue deductions			
15	*4945 Telephone & radiotelegraph operating-revenue ded.			
16	4950 Revenue-contract payments	363		
17	4999 Other operating-revenue deductions	371		
18	TOTAL (lines 5 to 17, inclusive)			
19	Net operating revenues (line 3 minus line 18)			
20	(Other Communication Income)			
21	5010 Income from operated plant leased to others			
22	+5015 Income from telep.,wire-teleg. & ocean-cable plant leased to others			
23	*5015 Income from telephone & radiotelegraph plant leased to others			
24	5020 Profit from general services, licenses, and royalties	336		
25	5089 Income from foreign operations			
26	5099 Other communication income	371		
27	Operating income (lines 19 to 26, inclusive)			
28	Ordinary Income - Noncommunication			
29	5111 Income from nonregulated investments			
30	5120 Dividend income	368		
31	5125 Interest income	368		
32	5135 Income from debt-redemption and other funds	368		
33	5140 Gain or loss on foreign currency exchange			
34	5199 Other noncommunication income	371		
35	TOTAL (lines 29 to 34, inclusive)			
36	Gross ordinary income (lines 27 and 35)			
37	Deductions from Ordinary Income			
38	*5205 Rent for lease of operated plant	362		
39	5210 Interest on long-term debt	369		
40	5215 Interest on indebtedness to affiliates	369		
41	5220 Amortization of debt discount	369		
42	5225 Interest charged to construction - Cr.	369		
43	5230 Amortization of debt premium - Cr.	369		
44	*5233 Interest on past-due tax assessments	369		
45	5235 Other interest charges	369		
46	5240 Taxes assumed on interest	369		
47	5245 Amortization of debt expense			
48	5250 Miscellaneous taxes	143		
49	5255 Amortization of plant acquisition adjustments			
50	5260 Revenue-contract payments	363		
51	5299 Other deductions from ordinary income	371		
52	TOTAL (lines 38 to 51, inclusive)			
53	Net ordinary income (line 36 minus line 52)			

*Applicable only to wire-telegraph and ocean-cable carriers.
+Applicable only to radiotelegraph carriers

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SCHEDULE 300. INCOME AND EARNED SURPLUS STATEMENT (Cont'd.)

Line No.	Particulars (a)	Ref. Acct. No.	Amount applicable to the year (b)	Increase or decrease over last year (c)
54	Extraordinary Income - Credits			
55	+6110 Delayed income credits	374		
56	*6110 Extraordinary current income credits	370		
57	+6199 Other extraordinary income credits	370		
58	*6210 Delayed income credits	374		
59	TOTAL (lines 55 to 58, inclusive)			
60	Extraordinary Income - Charges			
61	*6120 Extraordinary current income charges	370		
62	+6210 Delayed income charges	374		
63	*6220 Delayed income charges	374		
64	+6299 Other extraordinary income charges	370		
65	TOTAL (lines 61 to 64, inclusive)			
66	Net income accounted for during year (lines 53 & 59 less line 65)			
67	Deductions from Net Income			
68	7009 Investment credits -- Net (see Note)	255.37[1]		
69	+7010 Taxes on net income	143		
70	*7010 Income taxes	143		
71	7099 Other deductions from net income	371		
72	TOTAL (lines 68 to 71, inclusive)			
73	Income balance transferred to Earned Surplus (line 66 minus line 72)			
74	EARNED SURPLUS			
75	Unappropriated earned surplus (at beginning of year)	200		
76	Earned Surplus - Credits			
77	8110 Balance transferred from income accounts (fm line 73)			
78	8199 Miscellaneous credits to earned surplus	372		
79	TOTAL (lines 75 to 78, inclusive)			
80	Earned Surplus - Charges			
81	8299 Miscellaneous charges to earned surplus	372		
82	Earned surp. avail. for reservat'n or appropn. (line 79 minus line 81)			
83	8310 Contractual appropriations of earned surplus	373		
84	8315 Earned surplus employed in reacquisition of capital stock			
85	8320 Miscellaneous appropriations of earned surplus	373		
86	TOTAL (lines 83 to 85, inclusive)			
87	Line 82 minus line 86			
88	8399 Dividend appropriations of earned surplus	240		
89	2699 Unappropriated earned surplus (at end of year) (line 87 minus line 88)			

NOTE: Investment Credits — Amount of Credit

Give amount of investment credits realized that were given immediate flow through treatment ... $

*Applicable only to wire-telegraph and ocean-cable carriers.
+Applicable only to radiotelegraph carriers.

Form 903

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Card Type	Card Number	Item Field Number		Item
				SELECTED INCOME ITEMS
B	1	1	1	Operating revenues §§34.3000 & 35.3000
				Operating Revenue Deductions
				Operating expenses:
B	1	2	2	Maintenance §§34.4110-4199 & 35.4101-4199
B	1	3	3	Conducting operations §§34.4210-4299 & 35.4211-4299
B	1	4	4	Administrative expenses §§34.4310-4399 & 35.4410-4499
B	1	5	5	General expenses §§34.4410-4430, 4445-4499 & 35.4311-4325, 4341-4399
B	2	1	6	Relief and pensions §§34.4435 & 35.4327
B	2	2	7	Total §§34.4000 & 35.4000 (Items 2-6, Incl.)
B	2	3	8	Depreciation §§34.4910 & 35.4910
B	2	4	9	Amortization §§34.4915, 4920 & 35.4915, 4920
B	2	5	10	Extraordinary plant losses §§34.4925 & 35.4925
B	3	1	11	Operating taxes §§34.4931 & 35.4931-4932
B	3	2	12	Uncollectible revenues §§34.4935 & 35.4935
B	3	3	13	Rent for lease of operated plant §34.4940
B	3	4	14	Telephone, wire telegraph and ocean cable operating revenue deductions §§34.4945 & 35.4945
B	3	5	15	All other operating revenue deductions §§34.4999 & 35.4999
B	4	1	16	Earth station expenses §§34.4946 & 35.4946
B	4	2		16.1 Earth station expenses §§34.4946 & 35.4946
B	4	3		16.2 Earth station depreciation §§34.4946 & 35.4946
B	4	4	17	Total operating-revenue deductions (Items 7 to 16 incl.)
B	4	5	18	Net operating revenues (Item 1 less item 17)
				Other Income Items
B	5	1	19	Other communication income §§34.5010-5099 & 35.5010-5099
B	5	2	20	Operating Income (Item 18 plus item 19)
B	5	3	21	Noncommunication income §§34.5111-5199 & 35.5111-5199
B	5	4	22	Gross ordinary income (Item 20 plus item 21)
B	5	5	23	Interest §§34.5210, 5220, 5230 & 35.5210, 5220, 5230

Form 903

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Card Type	Card Number	Item Field Number		Item
				SELECTED BALANCE SHEET ITEMS - Cont'd.
C	2	5	3.1	Telephone and radiotelegraph plant §§34.1530 & 35.1530
C	3	1	3.2	Allowance for depreciation and amortization telephone and radiotelegraph plant §§34.1535 & 35.1535
C	3	2	4.0	Satellite earth stations §§34.1500 & 35.1500
C	3	3	4.1	Earth station depreciation and amortization reserve §§34.1521 & 35.1521
C	3	4	5	Net communication plant (1.7, 3.1, 4.0 less 2.1, 2.2, 3.2, 4.1)
C	3	5	6	Other plant accounts §§34.1599 & 35.1540-1599
C	4	1	7	Nonregulated investments §§34.1625 & 35.1625
C	4	2	8	Other investment and fund accounts §§34.1620-1699 excl. 1625 & 35.1620-1699 excl. 1625
C	4	3	9	Current assets §§34.1710-1799 & 35.1710-1799
C	4	4	10	Other deferred charges §§34.1910-1999 & 35.1910-1999
C	4	5	11	Current liabilities §§34.2110-2199 & 35.2101-2199
C	5	1	12	Long term debt §§34.2010-2099 & 35.201'
C	5	2	13	Deferred credits §§34.2310-2399 & 35.2310-2399
C	5	3	14	Capital stock §§34.2410-2425 & 35.241.
C	5	4	15	Retained earnings §§34.2510-2599, 2610-2699 & 35.2510-2599, 2610-2699
C	5	5	15.1	Capital §§34.2510-2599 & 35.2510-2599
C	6	1	15.2	Retained earnings §§34.2610-2699 & 35.2610-2699

Card Type	Card Number	Item Field Number		SELECTED INCOME ITEMS
B	1	1	1	Operating revenues (3000)
				Operating Revenue Deductions
				Operating expenses:
B	1	2	2	Maintenance expenses (4101-4199)
B	1	3	3	Conducting operations expenses (4211-4299)
B	1	4	4	Relief and pensions (4327)
B	1	5	5	Administrative expenses (4410-4499)
B	2	1	6	General expenses (4311-4325, 4341-4399)
B	2	2	7	Total operating expenses (4000) (Items 2-6)
B	2	3	8	Depreciation (4910)
B	2	4	9	Operating taxes (4931, 4932)
B	2	5	10	Uncollectible revenues (4935)
B	3	1	11	All other operating revenue deductions (4915-4925, 4945-4999)
B	3	2	12	Total operating revenue deductions (Items 7-11)
B	3	3	13	Net operating revenues (Item 1 less 12)
				Other Income Items
B	3	4	14	Other communication income (5010-5099)
B	3	5	15	Operating income (Items 13, 14)
B	4	1	16	Noncommunication income (5111-5199)
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C	1	2		1.1 Research and development (85)
C	1	3	2	Operated plant leased to others (1100)
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C	2	2	6	Plant acquisition adjustment (1510)
C	2	3	7	Total of Items 1 through 6
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C	2	5	9	Allowance for amortization (1520)
C	3	1	10	Telephone and radiotelegraph plant (1530)
C	3	2	11	Allowance for depreciation and amortization; telephone and radiotelegraph plant (1535)
C	3	3	12	Net communication plant (Items 7, 10 less 8, 9, 11)
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LIST OF PUBLIC LAWS

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H.J. Res. 132/Pub. L. 98–96 Designating the week beginning September 25, 1983, as "National Adult Day Care Center Week". (Sept. 27, 1983; 97 Stat. 713) Price $1.50

H.J. Res. 218/Pub. L. 98–97 To designate the month of September of 1983 as "National Sewing Month". (Sept. 27, 1983; 97 Stat. 714) Price: $1.50

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